

1996年海上運送有害有毒物質損害責任及賠償國際公約

1996年5月3日 訂於倫敦

International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 3 May 1996, London

HNS 1996

The States Parties to the present convention,

CONSCIOUS of the dangers posed by the world-wide carriage by sea of hazardous and noxious substances,

CONVINCED of the need to ensure that adequate, prompt and effective compensation is available to persons who suffer damage caused by incidents in connection with the carriage by sea of such substances,

DESIRING to adopt uniform international rules and procedures for determining questions of liability and compensation in respect of such damage,

CONSIDERING that the economic consequences of damage caused by the carriage by sea of hazardous and noxious substances should be shared by the shipping industry and the cargo interests involved,

HAVE AGREED as follows:

CHAPTER I GENERAL PROVISIONS

Article 1 Definitions

For the purposes of this Convention:

1. "Ship" means any seagoing vessel and seaborne craft, of any type whatsoever.
2. "Person" means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions.
3. "Owner" means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, "owner" shall mean such company.
4. "Receiver" means either:
 - (a) the person who physically receives contributing cargo discharged in the ports and terminals of a State Party;

本公約各締約國，

意識到全球海上運送有害有毒物質所造成之危險，

確信需要確保向蒙受此類物質之海上運送事故所致損害之人提供充分、迅速及有效之賠償，

希望採用一致之國際規則及程序確定該類損害之責任及賠償問題，

認為有害有毒物質海上運送所致損害之經濟後果應由航運界及有關貨方共同承擔，

茲達成協議如下：

第I章 總則

第1條 定義

為本公約目的：

1. "船舶"係指任何類型之海船及海上航具。
2. "人"係指任何個人或合夥人或任何公共或私人機構，不論是否為法人，包括國家或其任何組成部分。
3. "所有人"係指登記為船舶所有人之人，或在未登記時，指擁有船舶之人。然如船舶為國家所有並由在該國登記為船舶經營人之公司所經營者，"所有人"應指該公司。
4. "接收人"係指：
 - (a) 實際接收卸於某締約國港口或碼頭之攤款貨物之人；然如於

provided that if at the time of receipt the person who physically receives the cargo acts as an agent for another who is subject to the jurisdiction of any State Party, then the principal shall be deemed to be the receiver, if the agent discloses the principal to the HNS Fund ; or

- (b) the person in the State Party who in accordance with the national law of that State Party is deemed to be the receiver of contributing cargo discharged in the ports and terminals of a State Party, provided that the total contributing cargo received according to such national law is substantially the same as that which would have been received under (a).

5. "Hazardous and noxious substances" (HNS) means:

- (a) any substances, materials and articles carried on board a ship as cargo, referred to in (i) to (vii) below:

(i) oils carried in bulk listed in appendix I of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended ;

(ii) noxious liquid substances carried in bulk referred to in appendix II of Annex II to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended, and those substances and mixtures provisionally categorized as falling in pollution category A, B, C or D in accordance with regulation 3(4) of the said Annex II ;

(iii) dangerous liquid substances carried in bulk listed in Chapter 17 of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, 1983, as amended, and the dangerous products for which the preliminary suitable conditions for the carriage have been prescribed by the Administration and port administrations involved in accordance with paragraph 1.1.3 of the Code ;

(iv) dangerous, hazardous and harmful substances, materials and articles in packaged form covered by the International Maritime Dangerous Goods Code, as amended ;

(v) liquefied gases as listed in Chapter 19 of the International Code for the Construction and Equipment of Ships carrying Liquefied Gases in Bulk, 1983, as amended, and the products for which preliminary suitable conditions for the carriage have been prescribed by the Administration and port administrations involved in accordance with paragraph 1.1.6 of the Code ;

(vi) liquid substances carried in bulk with a flashpoint not exceeding 60deg.C (measured by a closed cup test) ;

(vii) solid bulk materials possessing chemical hazards covered by appendix B of the Code of Safe Practice for Solid Bulk Cargoes, as amended, to the extent that these substances are also subject to the provisions of the International Maritime Dangerous Goods Code when carried in packaged form ; and

接收時實際接收該貨物之人係受任何締約國管轄之另一人之代理人且該代理人向有害有毒物質基金指明該委託人，則該委託人應被視為接收人；或

- (b) 於締約國並依該國法律被視為卸於某締約國港口或碼頭之攤款貨物接收人之人，然依據該國家法律所接收之攤款貨物總量應與依據(a)款所接收之總量基本上相同。

5. "有害及有毒物質"(有害有毒物質)係指：

- (a) 下列(i)至(vii)所述，於船上作為貨物運送之任何物質、物料及物件：

(i) 經修正之經1978年議定書修訂之1973年國際防止船舶造成污染公約附則I之附錄I中所列散裝運送之油類；

(ii) 經修正之經1978年議定書修訂之1973年國際防止船舶造成污染公約附則II之附錄II所列之散裝運送有毒液體物質及依上述附則II第3(4)條被暫定為A、B、C或D污染類別之物質及混合物；

(iii) 經修正之1983年國際散裝危險化學品運送船舶構造及設備規則第17章所列之散裝運送之危險液體物質及主管機關及有關港口管理部門依該規則第1.1.3段對其初步適運條件作出規定之危險產品；

(iv) 經修正之國際海運危險貨物準則所包括之包裝形式之危險、危害及有害物質、材料及物品；

(v) 經修正之1983年國際散裝液化氣體運送船舶構造及設備規則第19章所列之液化氣體及主管機關及有關港口管理部門依該規則第1.1.6段對其初步適運條件作出規定之產品；

(vi) 閃點不超過攝氏60度(由閉杯試驗測量)之散裝運送液體物質；

(vii) 經修正之固體散裝貨物安全操作規則附錄B所包括之具有化學危害之固體散裝材料，然以該類物質在以包裝形式運送時亦應遵守國際海運危險貨物準則之規定為

- (b) residues from the previous carriage in bulk of substances referred to in (a)(i) to (iii) and (v) to (vii) above.
6. "Damage" means:
- (a) loss of life or personal injury on board or outside the ship carrying the hazardous and noxious substances caused by those substances ;
 - (b) loss of or damage to property outside the ship carrying the hazardous and noxious substances caused by those substances ;
 - (c) loss or damage by contamination of the environment caused by the hazardous and noxious substances, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken ; and
 - (d) the costs of preventive measures and further loss or damage caused by preventive measures.
- Where it is not reasonably possible to separate damage caused by the hazardous and noxious substances from that caused by other factors, all such damage shall be deemed to be caused by the hazardous and noxious substances except if, and to the extent that, the damage caused by other factors is damage of a type referred to in Article 4, paragraph 3.
- In this paragraph, "caused by those substances" means caused by the hazardous or noxious nature of the substances.
7. "Preventive measures" means any reasonable measures taken by any person after an incident has occurred to prevent or minimize damage.
8. "Incident" means any occurrence or series of occurrences having the same origin, which causes damage or creates a grave and imminent threat of causing damage.
9. "Carriage by sea" means the period from the time when the hazardous and noxious substances enter any part of the ship's equipment, on loading, to the time they cease to be present in any part of the ship's equipment, on discharge. If no ship's equipment is used, the period begins and ends respectively when the hazardous and noxious substances cross the ship's rail.
10. "Contributing cargo" means any hazardous and noxious substances which are carried by sea as cargo to a port or terminal in the territory of a State Party and discharged in that State. Cargo in transit which is transferred directly, or through a port or terminal, from one ship to another, either wholly or in part, in the course of carriage from the port or terminal of original loading to the port or terminal of final destination shall be considered as contributing cargo only in respect of receipt at the final destination.
11. The "HNS Fund" means the International Hazardous and Noxious Substances Fund established under Article 13.
12. "Unit of account" means the Special Drawing Right as defined by the International Monetary Fund.
13. "State of the ship's registry" means in relation to a registered ship the State of registration of the ship, and in relation to an unregistered ship the State whose flag the ship is entitled to fly.

- 限；及
- (b) 先前散裝運送第(a)項(i)至(iii)及(v)至(vi)款所述物質之殘餘物。
6. "損害"係指：
- (a) 有害有毒物質所造成對運送該物質之船上或船外之人身傷亡；
 - (b) 有害有毒物質所造成對運送該物質之船外財產之毀損滅失；
 - (c) 有害有毒物質所造成對環境污染所致之滅失或損害，然對於不包括環境損害所致營利損失在內之環境損害賠償，應僅限於實際採取或將要採取之合理回復措施之費用；及
 - (d) 預防措施之費用及預防措施所造成新的滅失或損害。
- 於無法合理區分有害有毒物質造成損害與其他因素造成損害時，除其他因素造成損害係第4條第3項所述類型之損害，否則所有該類損害應視為由該有害有毒物質所造成。
- 於本款，"由有害有毒物質造成"係指由此種物質之危害性或毒性所造成。
7. "預防措施係指任何人於事故發生後，為防止或減少損害所採取之任何合理措施。
8. "事故"係指造成損害或形成造成損害之嚴重及緊迫威脅具同一來源之任何一或一系列事件。
9. "海上運送"係指從裝船時有害有毒物質進入船舶設備之任何部分之時起，至卸船時其不再存在於船舶設備之任何部分之時止之期間。如未使用任何船舶設備，則該期間分別起止於有害有毒物質越過船艙之時。
10. "攤款貨物"係指作為貨物，由海上運送至一締約國境內港口或碼頭並卸於該締約國之任何有害有毒物質。從最初裝船港口或碼頭至最後目的地港口或碼頭之運送過程中直接或通過港口或碼頭從一船全部或部分地轉到另一船之轉口貨物，僅應於最後目的地接收時，被視為攤款貨物。
11. "有害有毒物質基金"係指依據第13條設立之國際有害有毒物質基金。
12. "計算單位"係指國際貨幣基金所定義之特別提款權。
13. "船舶登記國"，就已登記之船舶言，係指該船之登記國；就未登記之船舶言，係指該船有權懸掛其國旗之國家。

14. "Terminal" means any site for the storage of hazardous and noxious substances received from waterborne transportation, including any facility situated off-shore and linked by pipeline or otherwise to such site.
15. "Director" means the Director of the HNS Fund.
16. "Organization" means the International Maritime Organization.
17. "Secretary-General" means the Secretary-General of the Organization.

Article 2 Annexes

The Annexes to this Convention shall constitute an integral part of this Convention.

Article 3 Scope of Application

This Convention shall apply exclusively:

- (a) to any damage caused in the territory, including the territorial sea, of a State Party ;
- (b) to damage by contamination of the environment caused in the exclusive economic zone of a State Party, established in accordance with international law, or, if a State Party has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured ;
- (c) to damage, other than damage by contamination of the environment, caused outside the territory, including the territorial sea, of any State, if this damage has been caused by a substance carried on board a ship registered in a State Party or, in the case of an unregistered ship, on board a ship entitled to fly the flag of a State Party ; and
- (d) to preventive measures, wherever taken.

Article 4

1. This Convention shall apply to claims, other than claims arising out of any contract for the carriage of goods and passengers, for damage arising from the carriage of hazardous and noxious substances by sea.
2. This Convention shall not apply to the extent that its provisions are incompatible with those of the applicable law relating to workers' compensation or social security schemes.
3. This Convention shall not apply:
 - (a) to pollution damage as defined in the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended, whether or not compensation is payable in respect of it under that Convention ; and
 - (b) to damage caused by a radioactive material of class 7 either in the International Maritime Dangerous Goods Code, as amended, or in appendix B of the Code of Safe Practice for Solid Bulk Cargoes, as amended.

14. "碼頭"係指存放收到自海上運送之有害有毒物質之任何場所，包括由管道或其他設備與該場地相連之任何離岸設施。
15. "董事"係指有害有毒物質基金之董事。
16. "本組織"係指國際海事組織。
17. "秘書長"係指本組織秘書長。

第2條 附件

本公約各附件應為本公約之組成部分。

第3條 適用範圍

本公約應僅適用於：

- (a) 於締約國領土(包括領海)內造成之任何損害；
- (b) 於締約國依國際法所確定之專屬經濟區造成之環境污染所致之損害；或如締約國未確定該區域，於該國依國際法所確定，於其領海之外並與其領海毗鄰，距離測量其領海寬度之基線向外延伸不超過200浬之區域中造成之該損害；
- (c) 於一締約國登記之船舶或就未登記船舶言，有權懸掛一締約國國旗之船舶運送之物質於任何國家之領域(包括領海)之外造成之非屬環境污染損害之損害；及
- (d) 不論在何處所採取之預防措施。

第4條

1. 本公約應適用於對海上運送有害有毒物質所致損害之求償，但不包括任何貨物或旅客運送契約所引起之求償。
2. 本公約就其規定中，與有關工人賠償或社會保障制度所適用法律之規定不一致之處，不應適用。
3. 本公約不適用於：
 - (a) 經修正之1969年國際油污損害民事責任公約所規定之污染損害，不論依據該公約對此是否應為賠償；及
 - (b) 由經修正之國際海運危險貨物準則或經修正之固體散裝貨物安全操作規則附錄B之第7類放射性物質造成之損害。

4. Except as provided in paragraph 5, the provisions of this Convention shall not apply to warships, naval auxiliary or other ships owned or operated by a State and used, for the time being, only on Government non-commercial service.
5. A State Party may decide to apply this Convention to its warships or other vessels described in paragraph 4, in which case it shall notify the Secretary-General thereof specifying the terms and conditions of such application.
6. With respect to ships owned by a State Party and used for commercial purposes, each State shall be subject to suit in the jurisdictions set forth in Article 38 and shall waive all defences based on its status as a sovereign State.

Article 5

1. A State may, at the time of ratification, acceptance, approval of, or accession to, this Convention, or any time thereafter, declare that this Convention does not apply to ships:
 - (a) which do not exceed 200 gross tonnage ; and
 - (b) which carry hazardous and noxious substances only in packaged form ; and
 - (c) while they are engaged on voyages between ports or facilities of that State.
2. Where two neighbouring States agree that this Convention does not apply also to ships which are covered by paragraph 1(a) and (b) while engaged on voyages between ports or facilities of those States, the States concerned may declare that the exclusion from the application of this Convention declared under paragraph 1 covers also ships referred to in this paragraph.
3. Any State which has made the declaration under paragraph 1 or 2 may withdraw such declaration at any time.
4. A declaration made under paragraph 1 or 2, and the withdrawal of the declaration made under paragraph 3, shall be deposited with the Secretary-General who shall, after the entry into force of this Convention, communicate it to the Director.
5. Where a State has made a declaration under paragraph 1 or 2 and has not withdrawn it, hazardous and noxious substances carried on board ships covered by that paragraph shall not be considered to be contributing cargo for the purpose of application of Articles 18, 20, Article 21, paragraph 5 and Article 43.
6. The HNS Fund is not liable to pay compensation for damage caused by substances carried by a ship to which the Convention does not apply pursuant to a declaration made under paragraph 1 or 2, to the extent that:
 - (a) the damage as defined in Article 1, paragraph 6(a), (b) or (c) was caused in:
 - (i) the territory, including the territorial sea, of the State which has made the declaration, or in the case of neighbouring States which have made a declaration under paragraph 2, of either of them ; or
 - (ii) the exclusive economic zone, or area mentioned in Article 3(b), of the State or States referred to in (i) ;
 - (b) the damage includes measures taken to prevent or minimize such damage.

4. 除第5項規定外，本公約規定不適用於軍艦、海軍輔助船或由國家所有或營運並於當時專用於政府非商業服務之其他船舶。
5. 締約國可決定將本公約應用於第4項所述之軍艦或其他船舶，於此種情況下，應將其通知秘書長，說明該適用之限制性規定。
6. 對國家所有，用於商業目的之船舶，每一國家均應接受於第38條所規定之管轄範圍內之訴訟，並應放棄其基於主權國地位之所有抗辯。

第5條

1. 一國可於批准、接受、核准或加入本公約時或此後之任何時間，聲明本公約不適用於下列船舶：
 - (a) 不超過200總噸；且
 - (b) 僅運送包裝形式之有害有毒物質；且
 - (c) 其僅從事該國港口或設施間之航行時。
2. 如二相鄰國家商定當第1項(a)及(b)款所涵蓋之船舶從事這些國家港口或設施間之航行時本公約亦不適用，則有關國家可經聲明，依第1項聲明本公約所不適用之船舶亦包括本項所述船舶。
3. 依據第1或2項為聲明之任何國家可隨時撤銷該聲明。
4. 應向秘書長交存依據第1或2項所為之聲明及依據第3項所為之撤銷聲明，秘書長於本公約生效後應將其通知董事。
5. 如一國依據第1或2項為聲明且未予以撤銷，則該項所述船舶運送之有害有毒物質，就第18條、20條、21條5項及43條之適用而言，不應被視為攤款貨物。
6. 有害有毒物質基金於下列情況下不負責對本公約因依據第1或2項所為聲明而不適用之船舶運送物質所造成損害支付賠償金：
 - (a) 第1條6項(a)、(b)或(c)款定義之損害係在下述區域所致：
 - (i) 作出聲明之國家之領域(包括領海)或依據第2項作出聲明之相鄰國家之任一國之領域(包括領海)；或
 - (ii) 第(i)款所述一或多個國家之專屬經濟區或第3條(b)項所述之區域；
 - (b) 損害包括為防止或減少該損害所採取之措施。

Article 6 Duties of State Parties

Each State Party shall ensure that any obligation arising under this Convention is fulfilled and shall take appropriate measures under its law including the imposing of sanctions as it may deem necessary, with a view to the effective execution of any such obligation.

CHAPTER II LIABILITY

Article 7 Liability of The Owner

1. Except as provided in paragraphs 2 and 3, the owner at the time of an incident shall be liable for damage caused by any hazardous and noxious substances in connection with their carriage by sea on board the ship, provided that if an incident consists of a series of occurrences having the same origin the liability shall attach to the owner at the time of the first of such occurrences.
2. No liability shall attach to the owner if the owner proves that:
 - (a) the damage resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character ; or
 - (b) the damage was wholly caused by an act or omission done with the intent to cause damage by a third party ; or
 - (c) the damage was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function ; or
 - (d) the failure of the shipper or any other person to furnish information concerning the hazardous and noxious nature of the substances shipped either
 - (i) has caused the damage, wholly or partly ; or
 - (ii) has led the owner not to obtain insurance in accordance with Article 12 ;provided that neither the owner nor its servants or agents knew or ought reasonably to have known of the hazardous and noxious nature of the substances shipped.
3. If the owner proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the owner may be exonerated wholly or partially from liability to such person.
4. No claim for compensation for damage shall be made against the owner otherwise than in accordance with this Convention.
5. Subject to paragraph 6, no claim for compensation for damage under this Convention or otherwise may be made against:
 - (a) the servants or agents of the owner or the members of the crew ;
 - (b) the pilot or any other person who, without being a member of the crew, performs services for the ship ;

第6條 締約國義務

任一締約國應確保履行本公約規定之義務並依據其法律採取適當措施，包括作出其認為必要之處罰，以有效履行任何該義務。

第II章 責任

第7條 船舶所有人之責任

1. 除第2及3項另規定者外，事故發生時之所有人應對船舶海上運送之任何有害毒物質所造成之損害負責，然如事故係由具有同一起源之一連串事件所構成，則責任應由發生第一個該事件時之所有人承擔。
2. 如所有人能為如下證明，則不承擔任何責任：
 - (a) 損害係由戰爭、敵對行為、內戰、暴動或由特殊、不可避免及不可抗力之自然現象所致；或
 - (b) 損害完全係由第三人故意造成損害之作為或不作為所致；或
 - (c) 損害完全係由負責維護燈塔或其他助航設備之任何政府或其他當局於履行該職責時之疏忽或其他錯誤行為所致；或
 - (d) 託運人或任何其他人士未提供有關所運載物質之危害性及毒性之資訊，因而：
 - (i) 完全或部分地造成損害；或
 - (ii) 使所有人未依第12條取得保險；然以所有人及其受雇人或代理人均不知或合理地不知所運載物質之危害性及毒性為限。
3. 如所有人證明損害之全部或部分係由遭受損害之人故意造成損害之作為或不作為所致，或由此種人之疏忽所致，則可全部或部分地免除所有人對該人之責任。
4. 除依本公約外，不應向所有人提出任何損害求償。
5. 於適用第6項之情況下，不可向下列人提出本公約或非本公約規定之損害求償：
 - (a) 所有人之受雇人或代理人或船員；
 - (b) 引水人或為船舶提供服務然非屬船員之任何其他人士；

- (c) any charterer (howsoever described, including a bareboat charterer), manager or operator of the ship ;
 - (d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority ;
 - (e) any person taking preventive measures ; and
 - (f) the servants or agents of persons mentioned in (c), (d) and (e) ;
- unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.
6. Nothing in this Convention shall prejudice any existing right of recourse of the owner against any third party, including, but not limited to, the shipper or the receiver of the substance causing the damage, or the persons indicated in paragraph 5.

Article 8 Incidents Involving Two or More Ships

1. Whenever damage has resulted from an incident involving two or more ships each of which is carrying hazardous and noxious substances, each owner, unless exonerated under Article 7, shall be liable for the damage. The owners shall be jointly and severally liable for all such damage which is not reasonably separable.
2. However, owners shall be entitled to the limits of liability applicable to each of them under Article 9.
3. Nothing in this Article shall prejudice any right of recourse of an owner against any other owner.

Article 9 Limitation of Liability

1. The owner of a ship shall be entitled to limit liability under this Convention in respect of any one incident to an aggregate amount calculated as follows:
 - (a) 10 million units of account for a ship not exceeding 2,000 units of tonnage ; and
 - (b) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (a):

for each unit of tonnage from 2,001 to 50,000 units of tonnage, 1,500 units of account ;

for each unit of tonnage in excess of 50,000 units of tonnage, 360 units of account ;

provided, however, that this aggregate amount shall not in any event exceed 100 million units of account.
2. The owner shall not be entitled to limit liability under this Convention if it is proved that the damage resulted from the personal act or omission of the owner, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.
3. The owner shall, for the purpose of benefitting from the limitation provided for in paragraph 1, constitute a fund for the total sum representing the limit of liability established in accordance with paragraph 1 with the court or other competent authority of any one of the States Parties in which action is

- (c) 船舶的任何租傭船人(不論如何定義, 包括光船租船人)、船舶管理人或營運人 ;
 - (d) 經所有人同意或依公共主管當局的指示進行救助作業之任何人 ;
 - (e) 採取預防措施之任何人 ; 及
 - (f) 第(c), (d)及(e)款所述人員之受雇人或代理人 ;
- 然以損害係由故意造成或明知可能造成該損害而毫不在意之個人作為或不作為所致者除外。
6. 本公約之任何規定不應損害所有人對任何第三人(包括但不限於造成損害之物質之託運人或接收人或第5項所載之人)之任何現有追償權利。

第8條 涉兩艘或以上船舶之事故

1. 凡損害係由涉及裝有有害有毒物質之兩艘或以上船舶之事故所致時, 除依據第7條得免除責任外, 任一所有人均應對損害負責。如無法合理區分該損害時, 該所有人應負連帶責任。
2. 然所有人有權主張第9條所規定之適用其任一方之責任限額。
3. 本條任何規定不應損害任一所有人對任何其他所有人之任何追償權利。

第9條 責任限制

1. 船舶所有人有權依據本公約將其對任何一次事故之責任限制為依下述計算所得之累計金額:
 - (a) 不超過2,000噸位之船舶: 1,000萬記帳單位 ; 及
 - (b) 對超過該噸位之船舶, 在(a)項所述金額上加上下列金額:
 - 從2,001至50,000噸之每噸位: 1,500記帳單位 ;
 - 超過50,000噸之每噸位: 360記帳單位 ;
 然該累計金額在任何情況下均不應超過1億記帳單位。
2. 如經證明, 損害係由所有人故意造成或明知可能造成該損害而毫不在意之個人作為或不作為所致, 則所有人無權主張本公約以限制其責任。
3. 為主張第1項所規定之限制, 所有人應於依據第38條於其境內提起訴訟之任一締約國法院或其他主管當局或如未提起訴訟, 於依據第38條能在其境內提起訴訟之任一

brought under Article 38 or, if no action is brought, with any court or other competent authority in any one of the States Parties in which an action can be brought under Article 38. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the law of the State Party where the fund is constituted, and considered to be adequate by the court or other competent authority.

4. Subject to the provisions of Article 11, the fund shall be distributed among the claimants in proportion to the amounts of their established claims.
5. If before the fund is distributed the owner or any of the servants or agents of the owner or any person providing to the owner insurance or other financial security has as a result of the incident in question, paid compensation for damage, such person shall, up to the amount that person has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.
6. The right of subrogation provided for in paragraph 5 may also be exercised by a person other than those mentioned therein in respect of any amount of compensation for damage which such person may have paid but only to the extent that such subrogation is permitted under the applicable national law.
7. Where owners or other persons establish that they may be compelled to pay at a later date in whole or in part any such amount of compensation, with regard to which the right of subrogation would have been enjoyed under paragraphs 5 or 6 had the compensation been paid before the fund was distributed, 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 such person at such later date to enforce the claim against the fund.
8. Claims in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize damage shall rank equally with other claims against the fund.
9.
 - (a) The amounts mentioned in paragraph 1 shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the constitution of the fund referred to in paragraph 3. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State.
 - (b) Nevertheless, a State Party which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 9(a) may, at the time of ratification, acceptance, approval or accession to this Convention or at any time thereafter, declare that the unit of account referred to in paragraph 9(a) shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to

締約國任何法院或其他主管當局，設立一總額依第1項確定之責任限額之基金。設立該基金之方式可以提存現金，亦可以提交依據基金設立締約國之法律可接受，法院或其他主管當局認為足夠之銀行擔保或其他擔保。

4. 於第11條規定之情況下，該基金應依求償人被確認之求償金額於求償人間比例分配。
5. 如於基金分配前所有人或所有人之任何受雇人或代理人或向所有人提供保險或其他財務擔保之任何人已為事故所致之損害支付賠償者，則該人應在其已付金額之範圍內經由代位取得已被如此賠償之人依據本公約本可主張之權利。
6. 第5項所規定之代位權，也可由該項所述以外之其他人就其已支付之任何損害賠償額加以行使，然僅於依據可適用之國內法律允許該代位權行使之範圍內。
7. 如所有人或其他人確認其僅能於一較晚日期全部或部分支付任何如在基金分配前支付便可依據第5或6項對其享有代位權之賠償金額，則基金設立地國法院或其他主管當局可命令將一筆足夠金額予以保留，以使該人能在此較晚日期行使對該基金之求償。
8. 對合理產生之費用或對所有人為預防或減少損害而合理自願作出之犧牲之求償，應與對基金之其他求償具有同等地位。
9.
 - (a) 第1項中所述金額應依第3項所述基金設立之日該貨幣相對於特別提款權價值折算成國家貨幣。就屬於國際貨幣基金成員之締約國而言，其國家貨幣相對於特別提款權之價值應依國際貨幣基金於上述日期於其營業及交易中所適用之現行定價方法計算。非屬國際貨幣基金成員之締約國而言，其國家貨幣相對於特別提款權之價值應依該國所確定之方法計算之。
 - (b) 然非國際貨幣基金成員且其法律不允許適用第9項(a)款規定之締約國，可於批准、接受、核准或加入本公約時或於此後任何時間聲明，第9項(a)款所述之記帳單位等於15金法郎。本款所述金法郎相當於65.5毫克純度為千分之九百之黃金。應

sixty-five-and-a-half milligrammes of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.

- (c) The calculation mentioned in the last sentence of paragraph 9(a) and the conversion mentioned in paragraph 9(b) shall be made in such manner as to express in the national currency of the State Party as far as possible the same real value for the amounts in paragraph 1 as would result from the application of the first two sentences of paragraph 9(a). States Parties shall communicate to the Secretary-General the manner of calculation pursuant to paragraph 9(a), or the result of the conversion in paragraph 9(b) as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.
10. For the purpose of this Article the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.
11. The insurer or other person providing financial security shall be entitled to constitute a fund in accordance with this Article on the same conditions and having the same effect as if it were constituted by the owner. Such a fund may be constituted even if, under the provisions of paragraph 2, the owner is not entitled to limitation of liability, but its constitution shall in that case not prejudice the rights of any claimant against the owner.

Article 10

1. Where the owner, after an incident, has constituted a fund in accordance with Article 9 and is entitled to limit liability:
- (a) no person having a claim for damage arising out of that incident shall be entitled to exercise any right against any other assets of the owner in respect of such claim; and
- (b) the court or other competent authority of any State Party shall order the release of any ship or other property belonging to the owner which has been arrested in respect of a claim for damage arising out of that incident, and shall similarly release any bail or other security furnished to avoid such arrest.
2. The foregoing shall, however, only apply if the claimant has access to the court administering the fund and the fund is actually available in respect of the claim.

Article 11 Death and Injury

Claims in respect of death or personal injury have priority over other claims save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with Article 9, paragraph 1.

依有關國家法律將金法郎折算為國家貨幣。

- (c) 第9項(a)款末句所述之計算及第9項(b)款所述之折算應以使締約國之國家貨幣能表示出與適用第9項(a)款前二段計算所得盡可能相同真實之第1項金額之價值。締約國於交存批准、接受、核准或加入本公約之文件時，或每當計算方法或折算結果有所改變時，應視情將依第9項(a)款確定之計算方法或依第9項(b)款之折算結果通知秘書長。
10. 為本條目的，船舶噸位應為依1969年國際船舶噸位丈量公約附件1所載之噸位丈量規則計算之總噸位。
11. 保險人或提供財務擔保之其他人有權依本條規定設立基金，其條件及效力應與所有人設立基金相同。即使依據第2項規定，所有人無權享有責任限制亦可設立該基金，然於此情況下，基金之設立不應損害向所有人提出求償之任何求償人之權利。

第10條

1. 所有人於事故後依第9條設立基金並有權限制責任時：
- (a) 對該事故所致之損害有求償權之任何人無權因該求償向所有人之任何其他財產行使任何權利；且
- (b) 任何締約國法院或其他主管當局應下令釋放因該事故之損害求償而被假扣押，屬於所有人之任何船舶或財產，並應釋放為避免該假扣押而提供之任何保釋金或其他擔保。
2. 前述規定應僅在求償人具有向管理該基金之法院提出求償之權利且該基金可向該求償實際提供時方予適用。

第11條 人命傷亡

死亡或人身傷害之求償，除其累計金額達到超過依第9條第1項所確定總額之三分之二程度外，否則應優先於其他求償。

Article 12 Compulsory Insurance of The Owner

1. The owner of a ship registered in a State Party and actually carrying hazardous and noxious substances shall be required to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, in the sums fixed by applying the limits of liability prescribed in Article 9, paragraph 1, to cover liability for damage under this Convention.
2. A compulsory insurance certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a State Party has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party such compulsory insurance certificate shall be issued or certified by the appropriate authority of the State of the ship's registry ; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This compulsory insurance certificate shall be in the form of the model set out in Annex I and shall contain the following particulars:
 - (a) name of the ship, distinctive number or letters and port of registry ;
 - (b) name and principal place of business of the owner ;
 - (c) IMO ship identification number ;
 - (d) type and duration of security ;
 - (e) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established ; and
 - (f) period of validity of certificate, which shall not be longer than the period of validity of the insurance or other security.
3. The compulsory insurance certificate shall be in the official language or languages of the issuing State. If the language used is neither English, nor French nor Spanish, the text shall include a translation into one of these languages.
4. The compulsory insurance certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authority of the State issuing or certifying the certificate.
5. An insurance or other financial security shall not satisfy the requirements of this Article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2, before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 4, unless the compulsory insurance certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or security no longer satisfying the requirements of this Article.
6. The State of the ship's registry shall, subject to the provisions of this Article, determine the conditions of issue and validity of the compulsory insurance certificate.
7. Compulsory insurance certificates issued or certified under the

第12條 所有人之強制保險

1. 於締約國登記並實際運送有害有毒物質之船舶所有人，應依適用第9條第1項所述責任限額所確定之金額投保保險或取得其他財務擔保，例如銀行或類似金融機構之擔保，以擔保本公約規定之損害責任。
2. 締約國有關部門於確定符合第1項要求後，應向該船簽發一強制保險證書，證明保險或其他財務擔保依本公約規定為有效。於締約國登記之船舶，應由船舶登記國之有關部門頒發或簽證該強制保險證書；於不在締約國登記之船舶，可由任何締約國之有關部門頒發或簽證該證書。該強制保險證書應採用附件I所列範本格式並載有下列詳細資料：
 - (a) 船名、船舶編號或呼號及登記港；
 - (b) 所有人姓名及主要營業地
 - (c) 國際海事組織船舶識別號；
 - (d) 擔保類型及期間；
 - (e) 保險人或提供擔保之其他人的姓名及主要營業地，及於適當時，出具保險或擔保之營業地；及
 - (f) 證書之效期，該效期應不比保險或其他擔保之效期更長。
3. 強制保險證書應使用發證國之一種或多種官方文字寫成。如所使用之文字不是英文、法文或西班牙文，則條文應包括該其中一種文字之譯文。
4. 強制保險證書應攜備於船上，一份副本應交存保存船舶登記記錄之政府部門，或如非在締約國登記，交存發證或簽證國之政府部門。
5. 保險或其他財務擔保如在向本條第4項所指之政府部門送交終止通知書之日起滿3個月前，因非第2項所述證書上規定之該保險或擔保之效期屆滿原因而終止，則不符合本條要求，然於所述期間內已頒發強制保險證書者除外，上述規定應同樣適用於使保險或擔保不再滿足本條各項要求所為之任何修改。
6. 船舶登記國應以本條規定為準，確定強制保險證書之頒發條件及其效力。
7. 就本公約言，經締約國授權依第2

authority of a State Party in accordance with paragraph 2 shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as compulsory insurance certificates issued or certified by them even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the compulsory insurance certificate is not financially capable of meeting the obligations imposed by this Convention.

8. Any claim for compensation for damage may be brought directly against the insurer or other person providing financial security for the owner's liability for damage. In such case the defendant may, even if the owner is not entitled to limitation of liability, benefit from the limit of liability prescribed in accordance with paragraph 1. The defendant may further invoke the defences (other than the bankruptcy or winding up of the owner) which the owner would have been entitled to invoke. Furthermore, the defendant may invoke the defence that the damage resulted from the wilful misconduct of the owner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the owner against the defendant. The defendant shall in any event have the right to require the owner to be joined in the proceedings.
9. Any sums provided by insurance or by other financial security maintained in accordance with paragraph 1 shall be available exclusively for the satisfaction of claims under this Convention.
10. A State Party shall not permit a ship under its flag to which this Article applies to trade unless a certificate has been issued under paragraph 2 or 12.
11. Subject to the provisions of this Article, each State Party shall ensure, under its national law, that insurance or other security in the sums specified in paragraph 1 is in force in respect of any ship, wherever registered, entering or leaving a port in its territory, or arriving at or leaving an offshore facility in its territorial sea.
12. If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this Article relating thereto shall not be applicable to such ship, but the ship shall carry a compulsory insurance certificate issued by the appropriate authorities of the State of the ship's registry stating that the ship is owned by that State and that the ship's liability is covered within the limit prescribed in accordance with paragraph 1. Such a compulsory insurance certificate shall follow as closely as possible the model prescribed by paragraph 2.

CHAPTER III COMPENSATION BY THE INTERNATIONAL HAZARDOUS AND NOXIOUS SUBSTANCES FUND (HNS FUND)

Article 13 Establishment of The HNS Fund

項頒發或簽證之強制保險證書，應獲得其他締約國之接受並應被其他締約國視為與由其頒發或簽證之強制保險證書具有同樣效力，即使其係對不在該締約國登記之船舶所頒發或簽證者亦同。締約國如認為強制保險證書中所載之保險人或擔保人於財務能力上無法履行本公約規定之義務，則可隨時要求與發證或簽證國磋商。

8. 任何損害之求償可直接向保險人或向為所有人之損害責任提供財務擔保之其他人提出。於此情況，即使所有人無權主張責任限制，被告仍可享有第1項所規定之責任限額。被告另可主張所有人有權行使之抗辯事由(不包括所有人之破產及解散)。此外，被告人亦可主張損害係由所有人之有意不當行為所致之抗辯，然被告人不得主張於所有人向被告所提起之訴訟中，被告有權行使之任何其他抗辯事由。被告於在任何情況下均應有權要求所有人參加訴訟。
9. 依第1項保持之保險或其他財務擔保所提供之任何金額，應專供滿足本公約規定之求償使用。
10. 除依第2或12項頒發證書外，否則締約國不應允許本條所適用懸掛其國旗之船舶從事營運。
11. 於適用本條規定之情況下，任一締約國應依其法律確保第1項所定金額之保險或其他擔保，於任何地方登記、進入或離開其領土、港口或抵達或離開其領海之離岸設施之任何船舶而言，均具效力。
12. 如締約國所擁有之船舶未持有保險或其他財務擔保，則與其有關之本條規定應不適用於該類船舶，然該類船舶應攜帶船舶登記國有關部門頒發之強制保險證書，說明該船係由該國擁有，船舶之責任於第1項規定之限額內可獲得擔保。該強制保險證書應儘量與第2項所載範本相同。

第三章 國際有害及有毒物質基金(有害有 毒物質基金)之補償

第13條 有害有毒物質基金之設立

1. The International Hazardous and Noxious Substances Fund (HNS Fund) is hereby established with the following aims:
 - (a) to provide compensation for damage in connection with the carriage of hazardous and noxious substances by sea, to the extent that the protection afforded by Chapter II is inadequate or not available; and
 - (b) to give effect to the related tasks set out in Article 15.
2. The HNS Fund shall in each State Party be recognized as a legal person capable under the laws of that State of assuming rights and obligations and of being a party in legal proceedings before the courts of that State. Each State Party shall recognize the Director as the legal representative of the HNS Fund.

1. 特此設立國際有害及有毒物質基金(有害有毒物質基金)，其目的為：
 - (a) 於第II章提供之防護不足或無法獲得之情況下，針對與海上運送有害有毒物質有關之損害提供補償；及
 - (b) 執行第15條所列之相關任務。
2. 有害有毒物質基金於每一締約國應被視為依據該國法律能享受權利及承擔義務及能於該國法院之訴訟具訴訟當事人資格之法人。每一締約國應將董事視為有害有毒物質基金之法定代表。

Article 14 Compensation

1. For the purpose of fulfilling its function under Article 13, paragraph 1(a), the HNS Fund shall pay compensation to any person suffering damage if such person has been unable to obtain full and adequate compensation for the damage under the terms of Chapter II:
 - (a) because no liability for the damage arises under Chapter II;
 - (b) because the owner liable for the damage under Chapter II is financially incapable of meeting the obligations under this Convention in full and any financial security that may be provided under Chapter II does not cover or is insufficient to satisfy the claims for compensation for damage; an owner being treated as financially incapable of meeting these obligations and a financial security being treated as insufficient if the person suffering the damage has been unable to obtain full satisfaction of the amount of compensation due under Chapter II after having taken all reasonable steps to pursue the available legal remedies;
 - (c) because the damage exceeds the owner's liability under the terms of Chapter II.
2. Expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize damage shall be treated as damage for the purposes of this Article.
3. The HNS Fund shall incur no obligation under the preceding paragraphs if:
 - (a) it proves that the damage resulted from an act of war, hostilities, civil war or insurrection or was caused by hazardous and noxious substances which had escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the incident, only on Government non-commercial service; or
 - (b) the claimant cannot prove that there is a reasonable probability that the damage resulted from an incident involving one or more ships.
4. If the HNS Fund proves that the damage resulted wholly or partly either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the HNS Fund may be exonerated wholly or partially from its obligation to pay compensation to

第14條 補償

1. 為履行第13條第1項(a)款所規定之職責，有害有毒物質基金應向遭受損害然因下列原因無法依第II章規定取得充分及足夠損害賠償之任何人支付賠償：
 - (a) 依第II章未發生損害責任；
 - (b) 依據第II章對損害負有責任之所有人於經濟上無法完全履行本公約規定之義務且依據第II章所提供之任何財務擔保不包括或不足以滿足損害賠償求償；如受到損失之人於採取一切合理步驟以追償可得之法定補償後，仍無法獲得第II章規定之應付賠償金額之全數賠償，則所有人被視為於經濟上無法履行該義務且財務擔保被視為不足；
 - (c) 損害超過第II章條款規定之所有人責任。
2. 為防止或減少損害而合理產生之費用或所有人為此而合理自願所作出之犧牲，就本條而言應被視為損害。
3. 於下列情況下，有害有毒物質基金不負有上述各項所規定之義務：
 - (a) 經證明損害係由戰爭、敵對行為、內戰或暴亂所致、或係由軍艦或由國家所有或使用且於事故發生時專供政府非商業服務之其他船舶所溢出或排放之有害有毒物質所致；或
 - (b) 求償人無法證明所發生之損害係由涉及一艘或多艘船舶之事故造成之合理可能性。
4. 如有害有毒物質基金證明損害之全部或部分係由遭受損害之人故意造成損害之作為或不作為或該人之疏忽所致，則有害有毒物質基金可全部或部分地免除對該人支

such person. The HNS Fund shall in any event be exonerated to the extent that the owner may have been exonerated under Article 7, paragraph 3. However, there shall be no such exoneration of the HNS Fund with regard to preventive measures.

5.
 - (a) Except as otherwise provided in subparagraph (b), the aggregate amount of compensation payable by the HNS Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and any amount of compensation actually paid under Chapter II for damage within the scope of application of this Convention as defined in Article 3 shall not exceed 250 million units of account.
 - (b) The aggregate amount of compensation payable by the HNS Fund under this Article for damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 250 million units of account.
 - (c) Interest accrued on a fund constituted in accordance with Article 9, paragraph 3, if any, shall not be taken into account for the computation of the maximum compensation payable by the HNS Fund under this Article.
 - (d) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency with reference to the Special Drawing Right on the date of the decision of the Assembly of the HNS Fund as to the first date of payment of compensation.
6. Where the amount of established claims against the HNS Fund exceeds the aggregate amount of compensation payable under paragraph 5, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants. Claims in respect of death or personal injury shall have priority over other claims, however, save to the extent that the aggregate of such claims exceeds two-thirds of the total amount established in accordance with paragraph 5.
7. The Assembly of the HNS Fund may decide that, in exceptional cases, compensation in accordance with this Convention can be paid even if the owner has not constituted a fund in accordance with Chapter II. In such cases paragraph 5(d) applies accordingly.

Article 15 Related Tasks of The HNS Fund

For the purpose of fulfilling its function under Article 13, paragraph 1(a), the HNS Fund shall have the following tasks:

- (a) to consider claims made against the HNS Fund ;
- (b) to prepare an estimate in the form of a budget for each calendar year of:
 - Expenditure:
 - (i) costs and expenses of the administration of the HNS Fund in the relevant year and any deficit from operations in the preceding years ; and
 - (ii) payments to be made by the HNS Fund in the relevant

付賠償金之義務。於任何情況下，有害有毒物質基金應於所有人依第7條第3項獲得免責之情況下為免責。然就預防措施，有害有毒物質基金不應獲得任何免責。

5.
 - (a) 除(b)款另有規定外，有害有毒物質基金依本條應支付之補償之累計金額，對任何一次事故言，應有所限制，以使該金額及依第2章對第3條所規定之本公約適用範圍內之損害實際支付之任何賠償金額之總額不應超過2.5億記帳單位。
 - (b) 有害有毒物質基金依本條對因異常、不可避免及不可抗力之自然現象所致之損害之應付補償金之累計金額不應超過2.5億記帳單位。
 - (c) 依第9條第3項設立之基金之累計利息(如有)不應被計入本條規定之有害有毒物質基金的最大應付補償金之計算中。
 - (d) 本條所述金額，應依有害有毒物質基金大會於第一宗補償支付日期所作決定之日之國家貨幣相對於特別提款權之價值被折算成該貨幣。
6. 如對有害有毒物質基金之確認求償金額超過第5項規定之應付補償之累計金額，則可提供之金額應依下述方式分配，即任何經確認之求償與求償人依據本公約所實際取得之補償金額比例對所有求償人均應是同樣，然人身傷亡求償之累計金額超過依第5項確定之總金額之三分之二時，人身傷亡之求償應優先於其他求償而獲補償。
7. 有害有毒物質基金大會可決定，於特殊情況下，即使所有人未依第II章設立基金，亦可支付本公約規定之賠償。於此種情況下，第5項(d)款應予以適用。

第15條 有害有毒物質基金之有關任務

就履行第13條1項(a)款規定之職責而言，有害有毒物質基金應有下列任務：

- (a) 審議向有害有毒物質基金提出之求償；
- (b) 以預算形式制定每一曆年度之下列預算：
 - 支出：
 - (i) 有害有毒物質基金於有關年度之管理成本及費用及以前年度營業之任何赤字；及
 - (ii) 有害有毒物質基金於有關

- year ;
Income:
(iii) surplus funds from operations in preceding years, including any interest ;
(iv) initial contributions to be paid in the course of the year ;
(v) annual contributions if required to balance the budget ; and
(vi) any other income ;
- (c) to use at the request of a State Party its good offices as necessary to assist that State to secure promptly such personnel, material and services as are necessary to enable the State to take measures to prevent or mitigate damage arising from an incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention ; and
- (d) to provide, on conditions laid down in the internal regulations, credit facilities with a view to the taking of preventive measures against damage arising from a particular incident in respect of which the HNS Fund may be called upon to pay compensation under this Convention.

- 年度應支付之款項 ;
收入 ;
(iii) 以前年度營業之盈餘資金，包括任何利息 ;
(iv) 於該年度應支付之初始攤款 ;
(v) 於需要時，平衡預算之年度攤款 ;
(vi) 任何其他收入 ;
- (c) 應締約國要求，於必要時，盡力協助該國迅速取得必要之人員、器材及服務，使該國能採取措施防止或減輕依本公約可能需由有害有毒物質基金支付賠償之事故損害 ; 及
- (d) 於內部規則規定之條件下提供信用貸款，以便使採取措施防止依本公約可能須由有害有毒物質基金支付賠償之特定事故之損害。

Article 16 General Provisions on Contributions

- The HNS Fund shall have a general account, which shall be divided into sectors.
- The HNS Fund shall, subject to Article 19, paragraphs 3 and 4, also have separate accounts in respect of:
 - oil as defined in Article 1, paragraph 5(a)(i) (oil account) ;
 - liquefied natural gases of light hydrocarbons with methane as the main constituent (LNG) (LNG account) ; and
 - liquefied petroleum gases of light hydrocarbons with propane and butane as the main constituents (LPG) (LPG account).
- There shall be initial contributions and, as required, annual contributions to the HNS Fund.
- Contributions to the HNS Fund shall be made into the general account in accordance with Article 18, to separate accounts in accordance with Article 19 and to either the general account or separate accounts in accordance with Article 20 or Article 21, paragraph 5. Subject to Article 19, paragraph 6, the general account shall be available to compensate damage caused by hazardous and noxious substances covered by that account, and a separate account shall be available to compensate damage caused by a hazardous and noxious substance covered by that account.
- For the purposes of Article 18, Article 19, paragraph 1(a)(i), paragraph 1(a)(ii) and paragraph 1(c), Article 20 and Article 21, paragraph 5, where the quantity of a given type of contributing cargo received in the territory of a State Party by any person in a calendar year when aggregated with the quantities of the same type of cargo received in the same State Party in that year by any associated person or persons exceeds the limit specified in the respective subparagraphs, such a person shall pay contributions in respect of the actual quantity

第16條 攤款之一般規定

- 有害有毒物質基金應有一總帳戶，該總帳戶應分為多項組別。
- 於適用第19條第3及4項之情況下，有害有毒物質基金另應設立有關下列物質之分帳戶：
 - 第1條第5項(a)款(i)目規定之油類(油類帳戶)；
 - 以甲烷為主要成分之輕質烴類液化天然氣(液化天然氣)(液化天然氣帳戶)；及
 - 以丙烷及丁烷為主要成分之輕質烴類液化石油氣(液化石油氣)(液化石油氣帳戶)。
- 應向有害有毒物質基金交納初始攤款及所要求之年度攤款。
- 有害有毒物質基金之攤款應依第18條繳入總帳戶，依第19條繳入分帳戶及依第20條或21條第5項繳入總帳戶或分帳戶。於適用第19條第6項之情況下，總帳戶應用於補償該帳戶規定之有害有毒物質所造成之損害；分帳戶應用於補償該帳戶規定之有害有毒物質所造成之損害。
- 就第18條、19條第1項(a)款(i)目，1項(a)項(ii)目及1項(c)款、20條及21條第5項而言，如任何人於一曆年度中於一締約國領土內收到之某類攤款貨物之數量於與任何一或多個關係人於該年度於同一締約國所收到之同種貨物之數量累計一起時超過其各自款項所規定之限量，則該人應對其收到之實際數

received by that person notwithstanding that that quantity did not exceed the respective limit.

6. "Associated person" means any subsidiary or commonly controlled entity. The question whether a person comes within this definition shall be determined by the national law of the State concerned.

Article 17 General Provisions on Annual Contributions

1. Annual contributions to the general account and to each separate account shall be levied only as required to make payments by the account in question.
2. Annual contributions payable pursuant to Articles 18, 19 and Article 21, paragraph 5 shall be determined by the Assembly and shall be calculated in accordance with those Articles on the basis of the units of contributing cargo received or, in respect of cargoes referred to in Article 19, paragraph 1(b), discharged during the preceding calendar year or such other year as the Assembly may decide.
3. The Assembly shall decide the total amount of annual contributions to be levied to the general account and to each separate account. Following that decision the Director shall, in respect of each State Party, calculate for each person liable to pay contributions in accordance with Article 18, Article 19, paragraph 1 and Article 21, paragraph 5, the amount of that person's annual contribution to each account, on the basis of a fixed sum for each unit of contributing cargo reported in respect of the person during the preceding calendar year or such other year as the Assembly may decide. For the general account, the abovementioned fixed sum per unit of contributing cargo for each sector shall be calculated pursuant to the regulations contained in Annex II to this Convention. For each separate account, the fixed sum per unit of contributing cargo referred to above shall be calculated by dividing the total annual contribution to be levied to that account by the total quantity of cargo contributing to that account.
4. The Assembly may also levy annual contributions for administrative costs and decide on the distribution of such costs between the sectors of the general account and the separate accounts.
5. The Assembly shall also decide on the distribution between the relevant accounts and sectors of amounts paid in compensation for damage caused by two or more substances which fall within different accounts or sectors, on the basis of an estimate of the extent to which each of the substances involved contributed to the damage.

Article 18 Annual Contributions to The General Account

1. Subject to Article 16, paragraph 5, annual contributions to the general account shall be made in respect of each State Party by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of aggregate quantities exceeding 20,000 tonnes of

量支付攤款，即使該數量未超過其限量。

6. "關係人"係指任何附屬或共同管理之實體。某人是否屬於關係人之問題應由有關國家之國內法律決定。

第17條 年度攤款之一般規定

1. 總帳戶及各分帳戶之年度攤款僅應依有關帳戶所需支付之數額徵收。
2. 依第18條、19條及21條第5項支付之年度攤款應由大會確定並應依上一年度或大會確定之不同年度所收到之攤款貨物之單位數量，或就第19條第1項(b)款所述貨物而言，卸船之攤款貨物之單位數量，依第18條、19條及21條第5項計算。
3. 大會應決定向總帳戶及每一分帳戶徵收之年度攤款總額。於作出該決定後，董事應計算每一締約國依第18條、19條第1項及21條第5項應支付攤款之任一人對每一帳戶之年度攤款金額。計算應依所通報之上一曆年度或大會可能決定之不同曆年度該人收到之攤款貨物單位固定金額作出。就總帳戶而言，每一組別攤款貨物之上述單位固定金額，應依本公約附件II之規定計算。就每一分帳戶而言，攤款貨物之上述單位固定金額應依以該帳戶應徵收之年度攤款總額除以該帳戶之攤款貨物總量之方式計算。
4. 大會亦可徵收管理費用之年度攤款並決定該費用於總帳戶各組別及分帳戶間之分配。
5. 大會另應依對被涉及每一物質影響損害之程序估計，決定屬於不同帳戶或組別之兩種或更多物質造成損害支付之補償金額於有關帳戶及組別間之分配。

第18條 總帳戶之年度攤款

1. 於適用第16條5項之情況下，每一締約國之總帳戶年度攤款應由上一曆年度或大會決定之其他年度於該締約國接收累計數量超過20,000噸之屬於下列組別然不屬於

contributing cargo, other than substances referred to in Article 19, paragraph 1, which fall within the following sectors:

- (a) solid bulk materials referred to in Article 1, paragraph 5(a)(vii);
 - (b) substances referred to in paragraph 2; and
 - (c) other substances.
2. Annual contributions shall also be payable to the general account by persons who would have been liable to pay contributions to a separate account in accordance with Article 19, paragraph 1 had its operation not been postponed or suspended in accordance with Article 19. Each separate account the operation of which has been postponed or suspended under Article 19 shall form a separate sector within the general account.

Article 19 Annual Contributions to Separate Accounts

1. Subject to Article 16, paragraph 5, annual contributions to separate accounts shall be made in respect of each State Party:
 - (a) in the case of the oil account,
 - (i) by any person who has received in that State in the preceding calendar year, or such other year as the Assembly may decide, total quantities exceeding 150,000 tonnes of contributing oil as defined in Article 1, paragraph 3 of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, as amended, and who is or would be liable to pay contributions to the International Oil Pollution Compensation Fund in accordance with Article 10 of that Convention; and
 - (ii) by any person who was the receiver in that State in the preceding calendar year, or such other year as the Assembly may decide, of total quantities exceeding 20,000 tonnes of other oils carried in bulk listed in appendix I of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended;
 - (b) in the case of the LNG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, immediately prior to its discharge, held title to an LNG cargo discharged in a port or terminal of that State;
 - (c) in the case of the LPG account, by any person who in the preceding calendar year, or such other year as the Assembly may decide, was the receiver in that State of total quantities exceeding 20,000 tonnes of LPG.
2. Subject to paragraph 3, the separate accounts referred to in paragraph 1 above shall become effective at the same time as the general account.
3. The initial operation of a separate account referred to in Article 16, paragraph 2 shall be postponed until such time as the quantities of contributing cargo in respect of that account during the preceding calendar year, or such other year as the Assembly may decide, exceed the following levels:
 - (a) 350 million tonnes of contributing cargo in respect of the

第19條1項所述物質之攤款貨物之人支付：

- (a) 第1條第5項(a)款(vii)目所規定之固體散裝物質；
 - (b) 第2項所規定之物質；及
 - (c) 其他物質。
2. 總帳戶之年度攤款另應由若非因為某一分帳戶之運作依第19條被延緩或中止本應依第19條1項向該帳戶支付攤款之人支付。依第19條運作已被延緩或中止之每一分帳戶應在總帳戶中形成單獨組別。

第19條 分帳戶之年度攤款

1. 於適用第16條第5項之情況下，每一締約國之分帳戶年度攤款應由下列之人支付：
 - (a) 對油類帳戶：
 - (i) 在上一曆年度或大會決定之其他年度於該締約國接收總量超過150,000噸，由經修正之1971年設立國際油污損害賠償基金國際公約第1條3項定義之攤款油且依該公約第10條應向國際油污損害賠償基金支付攤款之任何人；
 - (ii) 於上一曆年度或大會決定之其他年度於該締約國接收總量超過20,000噸，於經修正之經1978年議定書修訂之1973年國際防止船舶造成污染公約附則I之附錄I所列之其他散裝油類之任何人；
 - (b) 於液化天然氣帳戶，於上一曆年度或大會決定之其他年度於卸船前對於該國港口或碼頭所卸之液化天然氣貨物具有所有權之任何人；
 - (c) 於液化石油氣帳戶，於上一曆年度或大會決定之其他年度於該國接收總量超過20,000噸液化石油氣之任何人。
2. 於適用第3項之情況下，上述1項所述分帳戶應與總帳戶同時生效。
3. 第16條第2項所述分帳戶之初期運作應延緩至在上一曆年度或大會決定之其他年度中該帳戶之攤款貨物數量超過下列水平之時：
 - (a) 於油類帳戶，3.5億噸攤款貨

- oil account ;
 - (b) 20 million tonnes of contributing cargo in respect of the LNG account ; and
 - (c) 15 million tonnes of contributing cargo in respect of the LPG account.
4. The Assembly may suspend the operation of a separate account if:
 - (a) the quantities of contributing cargo in respect of that account during the preceding calendar year fall below the respective level specified in paragraph 3 ; or
 - (b) when six months have elapsed from the date when the contributions were due, the total unpaid contributions to that account exceed ten percent of the most recent levy to that account in accordance with paragraph 1.
 5. The Assembly may reinstate the operation of a separate account which has been suspended in accordance with paragraph 4.
 6. Any person who would be liable to pay contributions to a separate account the operation of which has been postponed in accordance with paragraph 3 or suspended in accordance with paragraph 4, shall pay into the general account the contributions due by that person in respect of that separate account. For the purpose of calculating future contributions, the postponed or suspended separate account shall form a new sector in the general account and shall be subject to the HNS points system defined in Annex II.

Article 20 Initial Contributions

1. In respect of each State Party, initial contributions shall be made of an amount which shall for each person liable to pay contributions in accordance with Article 16, paragraph 5, Articles 18, 19 and Article 21, paragraph 5 be calculated on the basis of a fixed sum, equal for the general account and each separate account, for each unit of contributing cargo received or, in the case of LNG, discharged in that State, during the calendar year preceding that in which this Convention enters into force for that State.
2. The fixed sum and the units for the different sectors within the general account as well as for each separate account referred to in paragraph 1 shall be determined by the Assembly.
3. Initial contributions shall be paid within three months following the date on which the HNS Fund issues invoices in respect of each State Party to persons liable to pay contributions in accordance with paragraph 1.

Article 21 Reports

1. Each State Party shall ensure that any person liable to pay contributions in accordance with Articles 18, 19 or paragraph 5 of this Article appears on a list to be established and kept up to date by the Director in accordance with the provisions of this Article.
2. For the purposes set out in paragraph 1, each State Party shall communicate to the Director, at a time and in the manner to be prescribed in the internal regulations of the HNS Fund, the name and address of any person who in respect of the State is

- 物；
 - (b) 於液化天然氣帳戶，2,000萬噸攤款貨物；及
 - (c) 於液化石油氣帳戶，1,500萬噸攤款貨物。
4. 於下述情況下，大會可中止分帳戶之運作：
 - (a) 於上一曆年度中該帳戶攤款貨物數量低於第3項規定之各自水平；或
 - (b) 於攤款支付日期經過6個月時，該帳戶之未支付攤款總額超過第1項規定之該帳戶最新徵收額之10%。
 5. 大會可恢復依第5項被中止之分帳戶之運作。
 6. 應向其運作依第3項被延緩或依第4項被中止之分帳戶支付攤款之任何人應將其對該分帳戶之到期攤款付入總帳戶。就計算今後之攤款而言，被延緩或中止之分帳戶應構成總帳戶之一新組別並應遵守附件II規定之有害有毒物質點數系統。

第20條 初始攤款

1. 每一締約國之初始攤款，應依據於本公約對該國生效之前一曆年度於該國所接收或就液化天然氣而言，所卸下之攤款貨物之每單位之確定金額(該確定金額對總帳戶之每一分帳戶均相同)，由對依第16條第5項、18條、19條及21條第5項規定應支付攤款之每個人計算所得之金額所構成。
2. 第1項所述該確定金額與總帳戶內不同組別及每一分帳戶之單位應由大會決定。
3. 初始攤款應於向每一締約國依第1項規定應支付攤款之人發出發票之日後三個月內支付。

第21條 報告

1. 每一締約國應確保依第18條、19條或本條第5項應支付攤款之任何人均列入應由董事依本條規定制定及不斷更新之名單中。
2. 為第1項所述目的，每一締約國應依有害有毒物質基金內部規則規定之時間並以該規則規定之方式向董事通報該締約國中依第18

liable to pay contributions in accordance with Articles 18, 19 or paragraph 5 of this Article, as well as data on the relevant quantities of contributing cargo for which such a person is liable to contribute in respect of the preceding calendar year.

3. For the purposes of ascertaining who are, at any given time, the persons liable to pay contributions in accordance with Articles 18, 19 or paragraph 5 of this Article and of establishing, where applicable, the quantities of cargo to be taken into account for any such person when determining the amount of the contribution, the list shall be *prima facie* evidence of the facts stated therein.
4. Where a State Party does not fulfil its obligations to communicate to the Director the information referred to in paragraph 2 and this results in a financial loss for the HNS Fund, that State Party shall be liable to compensate the HNS Fund for such loss. The Assembly shall, on the recommendation of the Director, decide whether such compensation shall be payable by a State Party.
5. In respect of contributing cargo carried from one port or terminal of a State Party to another port or terminal located in the same State and discharged there, States Parties shall have the option of submitting to the HNS Fund a report with an annual aggregate quantity for each account covering all receipts of contributing cargo, including any quantities in respect of which contributions are payable pursuant to Article 16, paragraph 5. The State Party shall, at the time of reporting, either:
 - (a) notify the HNS Fund that that State will pay the aggregate amount for each account in respect of the relevant year in one lump sum to the HNS Fund ; or
 - (b) instruct the HNS Fund to levy the aggregate amount for each account by invoicing individual receivers or, in the case of LNG, the title holder who discharges within the jurisdiction of that State Party, for the amount payable by each of them. These persons shall be identified in accordance with the national law of the State concerned.

條、19條或本條第5項應支付攤款之任何人之姓名及地址及有關該人於上一曆年度應對其支付攤款之攤款貨物之有關數量及資料。

3. 為查明於任何特定時間依第18條、19條或本條第5項規定應支付攤款之人及於適用時，查明於確定攤款金額時對任何該人所計入之貨物數量而言，該名單應是其中所述事實之表面證據。
4. 如締約國未履行向董事通報第2項所述資料之義務從而造成有害有毒物質基金之財務損失，則該締約國應向有害有毒物質基金賠償該損失。經董事建議，大會應確定該賠償是否應由某一締約國支付。
5. 對於從某締約國之某港口或碼頭運至同一締約國之另一港口或碼頭並於其中之一卸下之攤款貨物，締約國有權為下列選擇：向有害有毒物質基金提交一份報告，其中載有每一帳戶中接收之所有攤款貨物之年度累計數量，包括依第16條第5項應支付攤款之任何數量。締約國於報告時應：
 - (a) 通知有害有毒物質基金，該國將向有害有毒物質基金一次全數付清有關年度每一帳戶之累計金額；或
 - (b) 指示有害有毒物質基金以向該締約國管轄範圍內之各個接收人或對於液化天然氣，所卸貨物之所有權人出具每人應付金額之發票方式徵收每一帳戶之累計金額。應依有關國家法律對上述人員作出認定。

Article 22 Non-Payment of Contributions

1. The amount of any contribution due under Articles 18, 19, 20 or Article 21, paragraph 5 and which is in arrears shall bear interest at a rate which shall be determined in accordance with the internal regulations of the HNS Fund, provided that different rates may be fixed for different circumstances.
2. Where a person who is liable to pay contributions in accordance with Articles 18, 19, 20 or Article 21, paragraph 5 does not fulfil the obligations in respect of any such contribution or any part thereof and is in arrears, the Director shall take all appropriate action, including court action, against such a person on behalf of the HNS Fund with a view to the recovery of the amount due. However, where the defaulting contributor is manifestly insolvent or the circumstances otherwise so warrant, the Assembly may, upon recommendation of the Director, decide that no action shall be taken or continued against the contributor.

第22條 未支付攤款

1. 第18條、19條、20條或21條第5項規定之任何到期攤款金額如有拖欠，應產生利息，其利率應依有害有毒物質基金之內部規則確定，但對不同情況可確定不同利率。
2. 如依第18條、19條、20條或21條第5項應支付攤款之人未履行對任何該攤款或其任何部分之義務並拖欠攤款，則董事應代表有害有毒物質基金對該人採取一切適當行動，包括法院訴訟，以收回到期應負款項。然如違約之攤款人經證實已破產，或情況特殊所需，經董事建議，大會可決定不對攤款人採取或繼續採取行動。

Article 23 Optional Liability of States Parties for The Payment of Contributions

1. Without prejudice to Article 21, paragraph 5, a State Party may at the time when it deposits its instrument of ratification, acceptance, approval or accession or at any time thereafter declare that it assumes responsibility for obligations imposed by this Convention on any person liable to pay contributions in accordance with Articles 18, 19, 20 or Article 21, paragraph 5 in respect of hazardous and noxious substances received or discharged in the territory of that State. Such a declaration shall be made in writing and shall specify which obligations are assumed.
2. Where a declaration under paragraph 1 is made prior to the entry into force of this Convention in accordance with Article 46, it shall be deposited with the Secretary-General who shall after the entry into force of this Convention communicate the declaration to the Director.
3. A declaration under paragraph 1 which is made after the entry into force of this Convention shall be deposited with the Director.
4. A declaration made in accordance with this Article may be withdrawn by the relevant State giving notice thereof in writing to the Director. Such a notification shall take effect three months after the Director's receipt thereof.
5. Any State which is bound by a declaration made under this Article shall, in any proceedings brought against it before a competent court in respect of any obligation specified in the declaration, waive any immunity that it would otherwise be entitled to invoke.

Article 24 Organization and Administration

The HNS Fund shall have an Assembly and a Secretariat headed by the Director.

Article 25 Assembly

The Assembly shall consist of all States Parties to this Convention.

Article 26

The functions of the Assembly shall be:

- (a) to elect at each regular session its President and two Vice-Presidents who shall hold office until the next regular session ;
- (b) to determine its own rules of procedure, subject to the provisions of this Convention ;
- (c) to develop, apply and keep under review internal and financial regulations relating to the aim of the HNS Fund as described in Article 13, paragraph 1(a), and the related tasks of the HNS Fund listed in Article 15 ;

第23條 締約國對支付攤款之選擇性責任

1. 於不損害第21條第5項之情況下，締約國可於其交存批准、接受、核准或加入文件時或之後任何時間聲明對於其領土內被接收或卸下之有害有毒物質，由其承擔本公約對依第18條、19條、20條及21條5項應支付攤款之任何人所規定之義務及責任。該聲明應書面為之並指明哪些義務由其承擔。
2. 如第1項所規定之聲明係在本公約依第46條生效前為之，則應交秘書長保存；於本公約生效後，秘書長應將聲明通知董事。
3. 第1項規定之聲明如在本公約生效後為之，則應交董事保存。
4. 經向董事作出書面通知者，有關國家可撤回依本條所作出之聲明。該通知應於董事收到通知3個月後生效。
5. 受本條所為通知約束之任何國家，就聲明中所指明之任何義務向管轄法院所提起之訴訟中，應不享有其於其他情況下有權行使之任何豁免權。

第24條 組織及管理

有害有毒物質基金應設有大會及以董事為首之秘書處。

第25條 大會

大會應由本公約之所有締約國所組成。

第26條

大會之職責為：

- (a) 於每次常會上選舉任期至下次常會的主席及兩位副主席；
- (b) 確定本身之議事規則，然應符合本公約規定；
- (c) 制定、應用及不斷檢查與第13條第1項(a)款所述有害有毒物質基金之目的有關之內部規則及財務規則及第

- (d) to appoint the Director and make provisions for the appointment of such other personnel as may be necessary and determine the terms and conditions of service of the Director and other personnel ;
- (e) to adopt the annual budget prepared in accordance with Article 15(b) ;
- (f) to consider and approve as necessary any recommendation of the Director regarding the scope of definition of contributing cargo ;
- (g) to appoint auditors and approve the accounts of the HNS Fund ;
- (h) to approve settlements of claims against the HNS Fund, to take decisions in respect of the distribution among claimants of the available amount of compensation in accordance with Article 14 and to determine the terms and conditions according to which provisional payments in respect of claims shall be made with a view to ensuring that victims of damage are compensated as promptly as possible ;
- (i) to establish a Committee on Claims for Compensation with at least 7 and not more than 15 members and any temporary or permanent subsidiary body it may consider to be necessary, to define its terms of reference and to give it the authority needed to perform the functions entrusted to it; when appointing the members of such body, the Assembly shall endeavour to secure an equitable geographical distribution of members and to ensure that the States Parties are appropriately represented ; the Rules of Procedure of the Assembly may be applied, *mutatis mutandis* , for the work of such subsidiary body ;
- (j) to determine which States not party to this Convention, which Associate Members of the Organization and which intergovernmental and international non-governmental organizations shall be admitted to take part, without voting rights, in meetings of the Assembly and subsidiary bodies ;
- (k) to give instructions concerning the administration of the HNS Fund to the Director and subsidiary bodies ;
- (l) to supervise the proper execution of this Convention and of its own decisions ;
- (m) to review every five years the implementation of this Convention with particular reference to the performance of the system for the calculation of levies and the contribution mechanism for domestic trade ; and
- (n) to perform such other functions as are allocated to it under this Convention or are otherwise necessary for the proper operation of the HNS Fund.

Article 27

1. Regular sessions of the Assembly shall take place once every calendar year upon convocation by the Director.
2. Extraordinary sessions of the Assembly shall be convened by

15條所列之有害有毒物質基金之有關任務；

- (d) 任命董事及制定有關任命所需之其他人員之規定，確定董事及其他人員之任職條件；
- (e) 通過依第15條(b)項制定之年度預算；
- (f) 必要時審議及核准董事有關攤款貨物界定範圍之任何建議；
- (g) 任命審計人員及核准有害有毒物質基金之帳目；
- (h) 核准對有害有毒物質基金之求償之處理決定，依第14條確定可提供之賠償金額於求償人間之分配，確定以確保損害之受害人儘快得到補償為目的之臨時支付求償之條件；
- (i) 設立由至少7位但不超過15位成員組成之求償委員會及其認為必要之任何臨時或永久性下屬機構，規定其職責範圍，給予履行其被授職責所需之權力；於任命此種機構之成員時，大會應努力確保成員之公平地理分配，確保各締約國得到適當代表；大會議事規則可用於該下屬機構之工作，然細節上可為修正；
- (j) 確定非屬本公約締約國之國家，本組織之聯繫會員及政府間及國際非政府間組織得被允許於無表決權之條件下參加大會及下屬機構之會議；
- (k) 向董事及下屬機構作出有關有害有毒物質基金管理之指示；
- (l) 監督本公約及其自身決議獲得正確執行；
- (m) 每五年對本公約之實施情況作出檢查，特別是徵費計算系統及國內貿易攤款機制運作情況進行審議；及
- (n) 履行本公約賦予之其他職責或有害有毒物質基金正確運作所需之其他職責。

第27條

1. 由董事召集，每一曆年度應舉行一次常會。
2. 大會臨時會議，應至少三分之一大

the Director at the request of at least one-third of the members of the Assembly and may be convened on the Director's own initiative after consultation with the President of the Assembly. The Director shall give members at least thirty days' notice of such sessions.

Article 28

A majority of the members of the Assembly shall constitute a quorum for its meetings.

Article 29 Secretariat

1. The Secretariat shall comprise the Director and such staff as the administration of the HNS Fund may require.
2. The Director shall be the legal representative of the HNS Fund.

Article 30

1. The Director shall be the chief administrative officer of the HNS Fund. Subject to the instructions given by the Assembly, the Director shall perform those functions which are assigned to the Director by this Convention, the internal regulations of the HNS Fund and the Assembly.
2. The Director shall in particular:
 - (a) appoint the personnel required for the administration of the HNS Fund ;
 - (b) take all appropriate measures with a view to the proper administration of the assets of the HNS Fund ;
 - (c) collect the contributions due under this Convention while observing in particular the provisions of Article 22, paragraph 2 ;
 - (d) to the extent necessary to deal with claims against the HNS Fund and to carry out the other functions of the HNS Fund, employ the services of legal, financial and other experts ;
 - (e) take all appropriate measures for dealing with claims against the HNS Fund, within the limits and on conditions to be laid down in the internal regulations of the HNS Fund, including the final settlement of claims without the prior approval of the Assembly where these regulations so provide ;
 - (f) prepare and submit to the Assembly the financial statements and budget estimates for each calendar year ;
 - (g) prepare, in consultation with the President of the Assembly, and publish a report on the activities of the HNS Fund during the previous calendar year ; and
 - (h) prepare, collect and circulate the documents and information which may be required for the work of the Assembly and subsidiary bodies.

Article 31

In the performance of their duties the Director and the staff and

會成員之要求，應由董事召開，亦可由董事提出與大會主席協商後召開。董事應至少於該會議召開三十日發出開會通知。

第28條

會議法定人數應是大會成員之多數。

第29條 秘書處

1. 秘書處應由董事及管理有害有毒物質基金所需之職員組成。
2. 董事應為有害有毒物質基金之法定代表。

第30條

1. 董事應為有害有毒物質基金之首席管理長官。依大會所作出之指示，董事應履行本公約、有害有毒物質基金之內部規則及大會賦予之職責。
2. 特別是，董事應：
 - (a) 任命管理有害有毒物質基金所需之人員；
 - (b) 採取一切適當措施使有害有毒物質基金資產獲得正確管理；
 - (c) 收取本公約規定之到期攤款；同時特別要遵守第22條第2項之規定；
 - (d) 於處理對有害有毒物質基金之求償及履行有害有毒物質基金之其他職責所需範圍內，聘用法律、財務及其他專家之服務；
 - (e) 於有害有毒物質基金內部規則規定之限制及條件下，採取一切適當措施處理對有害有毒物質基金之求償，包括於內部規則有此規定時不經大會事先批准對求償作出最後處理決定；
 - (f) 制定並向大會提交每一曆年度之財務報告及預算概算；
 - (g) 經與大會主席協商後，準備及發表有關上一曆年度中有害有毒物質基金之活動報告；及
 - (h) 制定、收集及分發大會及下屬機構之工作所需之文件及資料。

第31條

於履行職責時，董事及由董事所任命

experts appointed by the Director shall not seek or receive instructions from any Government or from any authority external to the HNS Fund. They shall refrain from any action which might adversely reflect on their position as international officials. Each State Party on its part undertakes to respect the exclusively international character of the responsibilities of the Director and the staff and experts appointed by the Director, and not to seek to influence them in the discharge of their duties.

Article 32 Finances

1. Each State Party shall bear the salary, travel and other expenses of its own delegation to the Assembly and of its representatives on subsidiary bodies.
2. Any other expenses incurred in the operation of the HNS Fund shall be borne by the HNS Fund.

Article 33 Voting

The following provisions shall apply to voting in the Assembly:

- (a) each member shall have one vote ;
- (b) except as otherwise provided in Article 34, decisions of the Assembly shall be made by a majority vote of the members present and voting ;
- (c) decisions where a two-thirds majority is required shall be a two-thirds majority vote of members present ; and
- (d) for the purpose of this Article the phrase "members present" means "members present at the meeting at the time of the vote", and the phrase "members present and voting" means "members present and casting an affirmative or negative vote". Members who abstain from voting shall be considered as not voting.

Article 34

The following decisions of the Assembly shall require a two-thirds majority:

- (a) a decision under Article 19, paragraphs 4 or 5 to suspend or reinstate the operation of a separate account ;
- (b) a decision under Article 22, paragraph 2, not to take or continue action against a contributor ;
- (c) the appointment of the Director under Article 26(d) ;
- (d) the establishment of subsidiary bodies, under Article 26(i), and matters relating to such establishment ; and
- (e) a decision under Article 51, paragraph 1, that this Convention shall continue to be in force.

Article 35 Tax Exemptions and Currency Regulations

1. The HNS Fund, its assets, income, including contributions, and other property necessary for the exercise of its functions

之職員及專家不應徵求或接受任何政府或有害有毒物質基金之外之任何主管機關之指示，其不應從事有損其國際職員地位之任何行動。就其自身而言，每一締約國應承諾尊重董事及由董事所任命之職員及專家責任之專屬國際特徵，不在其履行職責時向其施加任何影響。

第32條 財務

1. 每一締約國承擔會其大會代表團及其下屬機構代表之薪資、旅費及其他費用。
2. 有害有毒物質基金之運作所產生之任何其他費用應由有害有毒物質基金承擔。

第33條 表決

下列規定應適用於大會表決：

- (a) 每一成員應有一票；
- (b) 除第34條另有規定外，大會決議應由出席並參加表決之成員之多數票為之；
- (c) 需三分之二多數之決議事項，應由出席成員之三分之二多數票為之；及
- (d) 就本條而言，"出席成員"係指於表決時出席會議之成員，"出席並參加表決之成員"係指出席並投贊成票或反對票之成員"。表決時棄權之成員應視為未參加表決。

第34條

大會下列決議應需三分之二多數：

- (a) 依第19條第4或5項所作出之有關中止或恢復分帳戶運作之決議；
- (b) 依第22條第2項所作出之有關不對某一攤款人採取或繼續採取行動之決議；
- (c) 依第26條(d)項任命董事；
- (d) 依第26條(i)項設立下屬機構及與設立該機構有關之事項；及
- (e) 依第51條第1項所作出有關本公約應繼續有效之決定。

第35條 免稅與貨幣規定

1. 有害有毒物質基金、其資產、收入(包括攤款)及履行其第13條1項規

as described in Article 13, paragraph 1, shall enjoy in all States Parties exemption from all direct taxation.

2. When the HNS Fund makes substantial purchases of movable or immovable property, or of services which are necessary for the exercise of its official activities in order to achieve its aims as set out in Article 13, paragraph 1, the cost of which include indirect taxes or sales taxes, the Governments of the States Parties shall take, whenever possible, appropriate measures for the remission or refund of the amount of such duties and taxes. Goods thus acquired shall not be sold against payment or given away free of charge unless it is done according to conditions approved by the Government of the State having granted or supported the remission or refund.
3. No exemption shall be accorded in the case of duties, taxes or dues which merely constitute payment for public utility services.
4. The HNS Fund shall enjoy exemption from all customs duties, taxes and other related taxes on articles imported or exported by it or on its behalf for its official use. Articles thus imported shall not be transferred either for consideration or gratis on the territory of the country into which they have been imported except on conditions agreed by the Government of that country.
5. Persons contributing to the HNS Fund as well as victims and owners receiving compensation from the HNS Fund shall be subject to the fiscal legislation of the State where they are taxable, no special exemption or other benefit being conferred on them in this respect.
6. Notwithstanding existing or future regulations concerning currency or transfers, States Parties shall authorize the transfer and payment of any contribution to the HNS Fund and of any compensation paid by HNS Fund without any restriction.

Article 36 Confidentiality of Information

Information relating to individual contributors supplied for the purpose of this Convention shall not be divulged outside the HNS Fund except in so far as it may be strictly necessary to enable the HNS Fund to carry out its functions including the bringing and defending of legal proceedings.

CHAPTER IV CLAIMS AND ACTIONS

Article 37 Limitation of Actions

1. Rights to compensation under Chapter II shall be extinguished unless an action is brought thereunder within three years from the date when the person suffering the damage knew or ought reasonably to have known of the damage and of the identity of the owner.
2. Rights to compensation under Chapter III shall be extinguished unless an action is brought thereunder or a notification has been made pursuant to Article 39, paragraph 7, within three years from the date when the person suffering

定之職責所需之其他財產，應於所有締約國被免除一切直接稅。

2. 於有害有毒物質基金為實現其第13條1項中所述目的而對執行其公務活動所需之動產或不動產或服務為巨額購買且其費用包括直接稅或銷售稅時，所有締約國於可能時應採取適當措施免除或退還該關稅及稅捐款項。除符合契約規定或支持該免除或退還之締約國政府所核准之條件外，否則以上述方式獲得之貨物不應被有價出售或免費贈送。
3. 對於僅構成公共設施服務費之關稅、捐稅或手續費不應給予免除。
4. 對於公務用途而由其或為其進口及出口之物品，有害有毒物質基金應享有對關稅、捐稅及其他有關稅款之免除。以該方式進口之物品，除符合其進口地國政府同意之條件外，否則不應在該國領土中被有償或無償轉讓。
5. 向有害有毒物質基金攤款之人及接收有害有毒物質基金補償之受害者及所有人均應遵守其於其境內應支付稅款之國家財政立法。於此方面其不享有特別之免除或其他優惠。
6. 無論現行或今後之貨幣或轉匯規則為何，締約國不應施加任何限制地允許有害有毒物質基金任何攤款及有害有毒物質基金任何賠償之轉匯及付款。

第36條 資料保密

為本公約之目的而提供有關各攤款人之資料，除為使有害有毒物質基金能履行其職責(包括法律訴訟之提起及辯護在內)所必須者外，不應於有害有毒物質基金之外被洩漏。

第四章 求償及訴訟

第37條 訴訟時效

1. 除自受損害之人知或理應知曉損害及所有人之身份之日起3年內依本條提起訴訟，否則第二章所規定之求償權即應喪失。
2. 除自受損害之人知或理應知曉損害之日起3年內依本條提起訴訟或依第39條第7項為通知，否則第三章所規定之求償權應喪失。

the damage knew or ought reasonably to have known of the damage.

3. In no case, however, shall an action be brought later than ten years from the date of the incident which caused the damage.
4. Where the incident consists of a series of occurrences, the ten-year period mentioned in paragraph 3 shall run from the date of the last of such occurrences.

Article 38 Jurisdiction in Respect of Action Against The Owner

1. Where an incident has caused damage in the territory, including the territorial sea or in an area referred to in Article 3(b), of one or more States Parties, or preventive measures have been taken to prevent or minimize damage in such territory including the territorial sea or in such area, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of any such States Parties.
2. Where an incident has caused damage exclusively outside the territory, including the territorial sea, of any State and either the conditions for application of this Convention set out in Article 3(c) have been fulfilled or preventive measures to prevent or minimize such damage have been taken, actions for compensation may be brought against the owner or other person providing financial security for the owner's liability only in the courts of:
 - (a) the State Party where the ship is registered or, in the case of an unregistered ship, the State Party whose flag the ship is entitled to fly ; or
 - (b) the State Party where the owner has habitual residence or where the principal place of business of the owner is established ; or
 - (c) the State Party where a fund has been constituted in accordance with Article 9, paragraph 3.
3. Reasonable notice of any action taken under paragraph 1 or 2 shall be given to the defendant.
4. Each State Party shall ensure that its courts have jurisdiction to entertain actions for compensation under this Convention.
5. After a fund under Article 9 has been constituted by the owner or by the insurer or other person providing financial security in accordance with Article 12, the courts of the State in which such fund is constituted shall have exclusive jurisdiction to determine all matters relating to the apportionment and distribution of the fund.

Article 39 Jurisdiction in Respect of Action Against The HNS Fund or Taken by The HNS Fund

1. Subject to the subsequent provisions of this Article, any action against the HNS Fund for compensation under Article 14 shall be brought only before a court having jurisdiction under Article 38 in respect of actions against the owner who is liable

3. 然於任何情況下均不應自造成損害之事故發生之日起10年後提起訴訟。
4. 如事故係由一系列事件所構成，則第3項所述之10年期限應從一系列事故之最後一次事件日起算。

第38條 對向所有人之訴訟管轄權

1. 如事故於一或多個締約國領域(包括領海或第3條(b)項所述領區)內造成損害，或於該種領土(包括領海或此種區域)內採取旨在防止或減少損害之預防措施，則僅可在該締約國法院向所有人或為所有人之責任提供財務擔保之其他人提起賠償訴訟。
2. 如事故所造成之損害完全位於任何國家領域(包括領海)之外，且第3條(c)項所列有關適用本公約之條件已獲得滿足或採取旨在防止或減少損害之預防措施，則僅可在下列締約國法院向所有人或為所有人之責任提供財務擔保之其他人提起賠償訴訟：
 - (a) 船舶於其境內登記之締約國或對未登記之船舶，船舶有權懸掛其國旗之締約國；或
 - (b) 所有人之慣居地或主要營業地於其境內之締約國；或
 - (c) 依第9條第3項已在其境內設立基金之締約國。
3. 應對依第1或2項提起之任何訴訟向被告為合理通知。
4. 每一締約國應確保其法院具有受理本公約規定之賠償訴訟之管轄權。
5. 於所有人或保險人或提供財務擔保之其他人依第12條設立第9條規定之基金後，該基金之設立地國法院應具有對與基金之分攤及分配有關之所有事項為判決之專屬管轄權。

第39條 向有害有毒物質基金之訴訟及有害有毒物質基金所提起之訴訟的管轄權

1. 於適用本條下列規定外，依第14條向有害有毒物質基金所提起之任何損害賠償訴訟請求，僅可在依第38條向對有關事故造成損害負有

for damage caused by the relevant incident or before a court in a State Party which would have been competent if an owner had been liable.

2. In the event that the ship carrying the hazardous or noxious substances which caused the damage has not been identified, the provisions of Article 38, paragraph 1, shall apply *mutatis mutandis* to actions against the HNS Fund.
3. Each State Party shall ensure that its courts have jurisdiction to entertain such actions against the HNS Fund as are referred to in paragraph 1.
4. Where an action for compensation for damage has been brought before a court against the owner or the owner's guarantor, such court shall have exclusive jurisdiction over any action against the HNS Fund for compensation under the provisions of Article 14 in respect of the same damage.
5. Each State Party shall ensure that the HNS Fund shall have the right to intervene as a party to any legal proceedings instituted in accordance with this Convention before a competent court of that State against the owner or the owner's guarantor.
6. Except as otherwise provided in paragraph 7, the HNS Fund shall not be bound by any judgement or decision in proceedings to which it has not been a party or by any settlement to which it is not a party.
7. Without prejudice to the provisions of paragraph 5, where an action under this Convention for compensation for damage has been brought against an owner or the owner's guarantor before a competent court in a State Party, each party to the proceedings shall be entitled under the national law of that State to notify the HNS Fund of the proceedings. Where such notification has been made in accordance with the formalities required by the law of the court seized and in such time and in such a manner that the HNS Fund has in fact been in a position effectively to intervene as a party to the proceedings, any judgement rendered by the court in such proceedings shall, after it has become final and enforceable in the State where the judgement was given, become binding upon the HNS Fund in the sense that the facts and findings in that judgement may not be disputed by the HNS Fund even if the HNS Fund has not actually intervened in the proceedings.

Article 40 Recognition and Enforcement

1. Any judgement given by a court with jurisdiction in accordance with Article 38, which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognized in any State Party, except:
 - (a) where the judgement was obtained by fraud ; or
 - (b) where the defendant was not given reasonable notice and a fair opportunity to present the case.
2. A judgement recognized under paragraph 1 shall be enforceable in each State Party as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.
3. Subject to any decision concerning the distribution referred to

責任之所有人提起之訴訟具有管轄權之法院提起或於所有人負有責任時，則應向締約國主管法院起訴。

2. 於無法查明運送造成損害之有害有毒物質之船舶時，第38條第1項規定應適用於對有害有毒物質基金之起訴，然細節上可為必要修改。
3. 每一締約國應確保其法院對受理第1項所述對有害有毒物質基金之訴訟具管轄權。
4. 如對所有人或所有人之擔保人之損害賠償訴訟已於某法院提起，則該法院應對因同一損害向有害有毒物質提起之任何第14條規定之賠償訴訟具有專屬管轄權。
5. 每一締約國應確保有害有毒物質基金有權作為訴訟當事人介入依本公約在該國主管法院對所有人或所有人之擔保人所提起訴訟。
6. 除第7項另有規定外，有害有毒物質基金不受其未作為訴訟當事人之訴訟判決或裁定或其未作為訴訟當事人之任何決定之拘束。
7. 於不損及第5項規定之情況下，如於一締約國之主管法院向所有人或所有人之擔保人提起本公約規定之損害賠償訴訟，則該訴訟之任何一方有權依該國之國家法律將訴訟通知有害有毒物質基金。如依照受理法院之法律所要求之程序為該通知，且通知之時間及方式使有害有毒物質基金實際上能作為訴訟當事人有效介入訴訟主，則法院於該訴訟所作出之任何判決且於判決地國為最終及有執行力之判決時，既使有害有毒物質基金未實際上介入訴訟，如其對訴訟之事實及判決結果無異議，則對有害有毒物質基金具有拘束力。

第40條 承認與執行

1. 具第38條規定之管轄權之法院所作出之判決，如在原判決地國具有執行力，即無需再作普通形式之審究，應於任何締約國獲得承認，然下列情況除外：
 - (a) 判決係欺詐取得者；或
 - (b) 被告未獲得合理通知及無公正機會陳述案情。
2. 依第1項應承認之判決，一經符合該國要求之程序，即應於各締約國具強制執行力。程序上不應允許對案情為重新審理。
3. 除有關第14條第6項所述分配問題

in Article 14, paragraph 6, any judgement given against the HNS Fund by a court having jurisdiction in accordance with Article 39, paragraphs 1 and 3 shall, when it has become enforceable in the State of origin and is in that State no longer subject to ordinary forms of review, be recognized and enforceable in each State Party.

Article 41 Subrogation and Recourse

1. The HNS Fund shall, in respect of any amount of compensation for damage paid by the HNS Fund in accordance with Article 14, paragraph 1, acquire by subrogation the rights that the person so compensated may enjoy against the owner or the owner's guarantor.
2. Nothing in this Convention shall prejudice any rights of recourse or subrogation of the HNS Fund against any person, including persons referred to in Article 7, paragraph 2(d), other than those referred to in the previous paragraph, in so far as they can limit their liability. In any event the right of the HNS Fund to subrogation against such persons shall not be less favourable than that of an insurer of the person to whom compensation has been paid.
3. Without prejudice to any other rights of subrogation or recourse against the HNS Fund which may exist, a State Party or agency thereof which has paid compensation for damage in accordance with provisions of national law shall acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

Article 42 Supersession Clause

This Convention shall supersede any convention in force or open for signature, ratification or accession at the date on which this Convention is opened for signature, but only to the extent that such convention would be in conflict with it ; however, nothing in this Article shall affect the obligations of States Parties to States not party to this Convention arising under such convention.

CHAPTER V TRANSITIONAL PROVISIONS

Article 43 Information on Contributing Cargo

When depositing an instrument referred to in Article 45, paragraph 3, and annually thereafter until this Convention enters into force for a State, that State shall submit to the Secretary-General data on the relevant quantities of contributing cargo received or, in the case of LNG, discharged in that State during the preceding calendar year in respect of the general account and each separate account

之任何決定外，具有第39條第1及3項規定之管轄權之法院對有害有毒物質基金所作出之任何判決，於原判為具有執行力且於該國不再受到普通形式之復查時，應於任一締約國獲得承認並具有強制執行力。

第41條 代位與追償

1. 有害有毒物質基金依第14條第1項支付之任何損害補償金額，有害有毒物質基金得代位取得獲得補償之人得對所有人或所有人之擔保人所得主張之權利。
2. 本公約任何規定不應損及有害有毒物質基金對非屬前項所述之任何人(包括第7條第2(d)項中所述之人)之追償權及代位權及其得主張限責之權力。於任何情況下，有害有毒物質基金對該人之代位權，於優惠程度上不應低於為該人支付賠償之保險人之代位權。
3. 於不損害可能存在之對有害有毒物質基金之任何其他代位權或追償權之條件下，依一國法律規定支付損害賠償之締約國或其代理人代位取得獲得賠償之人依本公約可主張之權利。

第42條 取代條款

本公約應取代在本公約開放供簽署之日已實施或開放供簽署、批准或加入之任何公約，然僅限於該公約與本公約有衝突之範圍。本條任何規定不應影響該公約規定之本公約當事國對非屬本公約締約國之國家之義務。

第V章 過渡規定

第43條 攤款貨物資料

於交存第45條第3項所述文件時及此後於本公約對任一締約國生效前之任一年裡，該締約國應向秘書長提交關於在上一曆年度於該國所接收或對於液化天然氣，卸下之總帳戶及每一分帳戶之攤款貨物之有關數量資料。

Article 44 First Session of The Assembly

The Secretary-General shall convene the first session of the Assembly. This session shall take place as soon as possible after the entry into force of this Convention and, in any case, not more than thirty days after such entry into force.

第44條 大會第一屆會議

大會之第一屆會議應由秘書長召開。該次會議應在本公約生效後儘早召開，於任何情況下不應超過公約生效後30天。

CHAPTER VI FINAL CLAUSES

第VI章 最後條款

Article 45 Signature, Ratification, Acceptance, Approval And Accession

1. This Convention shall be open for signature at the Headquarters of the Organization from 1 October 1996 to 30 September 1997 and shall thereafter remain open for accession.
2. States may express their consent to be bound by this Convention by:
 - (a) signature without reservation as to ratification, acceptance or approval ; or
 - (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval ; or
 - (c) accession.
3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

第45條 簽署、批准、接受、核准及加入

1. 本公約應從1996年10月1日至1997年9月30日於本組織總部開放供簽署，此後開放供加入。
2. 各國可以下列方式表示同意受本公約約束：
 - (a) 簽署並對批准、接受或核准無保留；或
 - (b) 簽署而有待批准、接受或核准，隨後予以批准、接受或核准；或
 - (c) 加入。
3. 批准、接受、核准或加入應通過向秘書長交存有關文件之方式為之。

Article 46 Entry Into Force

1. This Convention shall enter into force eighteen months after the date on which the following conditions are fulfilled:
 - (a) at least twelve States, including four States each with not less than 2 million units of gross tonnage, have expressed their consent to be bound by it, and
 - (b) the Secretary-General has received information in accordance with Article 43 that those persons in such States who would be liable to contribute pursuant to Article 18, paragraphs 1(a) and (c) have received during the preceding calendar year a total quantity of at least 40 million tonnes of cargo contributing to the general account.
2. For a State which expresses its consent to be bound by this Convention after the conditions for entry into force have been met, such consent shall take effect three months after the date of expression of such consent, or on the date on which this Convention enters into force in accordance with paragraph 1, whichever is the later.

第46條 生效

1. 本公約應在下列條件達到之日後18個月生效：
 - (a) 至少12個國家，其中包括擁有不少於200萬總噸位之4個國家，表示同意受其約束；及
 - (b) 秘書長依第43條收到關於該國家依第18條第1項(a)及(c)款應支付攤款之人員於上一曆年度中收到總量至少為4,000萬噸向總帳戶攤款之貨物資料。
2. 對於生效條件達到後表示同意受本公約拘束之國家，該同意應在表示同意之日後3個月或本公約依第1項生效之日生效(以較晚者為準)。

Article 47 Revision And Amendment

1. A conference for the purpose of revising or amending this Convention may be convened by the Organization.

第47條 修正及修訂

1. 本組織可召開修訂或修正本公約之會議。

2. The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of six States Parties or one-third of the States Parties whichever is the higher figure.
3. Any consent to be bound by this Convention expressed after the date of entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

Article 48 Amendment Of Limits

1. Without prejudice to the provisions of Article 47, the special procedure in this Article shall apply solely for the purposes of amending the limits set out in Article 9, paragraph 1 and Article 14, paragraph 5.
2. Upon the request of at least one half, but in no case less than six, of the States Parties, any proposal to amend the limits specified in Article 9, paragraph 1, and Article 14, paragraph 5, shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.
3. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization (the Legal Committee) for consideration at a date at least six months after the date of its circulation.
4. All Contracting States, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.
5. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided in paragraph 4, on condition that at least one half of the Contracting States shall be present at the time of voting.
6. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and, in particular, the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance. It shall also take into account the relationship between the limits established in Article 9, paragraph 1, and those in Article 14, paragraph 5.
7.
 - (a) No amendment of the limits under this Article may be considered less than five years from the date this Convention was opened for signature nor less than five years from the date of entry into force of a previous amendment under this Article.
 - (b) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention increased by six percent per year calculated on a compound basis from the date on which this Convention was opened for signature.
 - (c) No limit may be increased so as to exceed an amount which corresponds to a limit laid down in this Convention multiplied by three.
8. Any amendment adopted in accordance with paragraph 5 shall be notified by the Organization to all Contracting States. The amendment shall be deemed to have been accepted at the end

2. 應6個締約國或三分之一締約國(以數量較大者為準)之要求,秘書長應召開修訂或修正本公約之本公約締約國會議。
3. 於本公約某一修正案生效之日後表示同意受本公約拘束,應視為適用於經修正之本公約。

第48條 限額之修正

1. 於不損害第47條規定之情況下,本條之特別程序應僅適用於對第9條第1項及第14條第5項所列限額之修正。
2. 於至少一半締約國然於任何情況下不少於6個締約國提出請求時,秘書長應將有關修正第9條第1項及第14條第5項所規定之限額之提案分發給本組織之所有會員國及本公約之所有締約國。
3. 依上述規定提議及分發之任何修正案應提交本組織之法律委員會,供在分發之日後至少6個月的某一日期審議。
4. 所有締約國,不論是否為本組織會員國,均有權參加法律委員會審議及通過修正案之工作。
5. 修正案應由於依第4項擴大之法律委員會中出席並參加表決之締約國之三分之二多數通過,然於投票時應至少有一半締約國出席。
6. 於對修正限額之提案為作為時,法律委員會應考慮到事故之經驗,尤其是事故造成之損害金額、幣值變動及提議之修正案對保險費用之影響,另應考慮第9條第1項規定之限額與第14條第5項規定限額間之關係。
7.
 - (a) 自從本公約開放供簽署之日起算不足5年及從本條規定之前一修正案生效之日起算不足5年時,不應審議本條規定之任何限額修正案。
 - (b) 任何限額不可增加至超過將本公約所規定之限額自本公約開放供簽署之日起依複利計算每年增加6%所得之數額。
 - (c) 任何限額不可增加至超過本公約規定限額3倍之數額。
8. 依第5項所通過之任何修正案應由本組織向所有締約國為通知。該修正案應於通知之日後18個月期限

of a period of eighteen months after the date of notification, unless within that period no less than one-fourth of the States which were Contracting States at the time of the adoption of the amendment have communicated to the Secretary-General that they do not accept the amendment, in which case the amendment is rejected and shall have no effect.

9. An amendment deemed to have been accepted in accordance with paragraph 8 shall enter into force eighteen months after its acceptance.
10. All Contracting States shall be bound by the amendment, unless they denounce this Convention in accordance with Article 49, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.
11. When an amendment has been adopted but the eighteen month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 8. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Convention enters into force for that State, if later.

Article 49 Denunciation

1. This Convention may be denounced by any State Party at any time after the date on which it enters into force for that State Party.
2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.
3. Denunciation shall take effect twelve months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General.
4. Notwithstanding a denunciation by a State Party pursuant to this Article, any provisions of this Convention relating to obligations to make contributions under Articles 18, 19 or Article 21, paragraph 5 in respect of such payments of compensation as the Assembly may decide relating to an incident which occurs before the denunciation takes effect shall continue to apply.

Article 50 Extraordinary Sessions Of The Assembly

1. Any State Party may, within ninety days after the deposit of an instrument of denunciation the result of which it considers will significantly increase the level of contributions from the remaining States Parties, request the Director to convene an extraordinary session of the Assembly. The Director shall convene the Assembly to meet not less than sixty days after receipt of the request.
2. The Director may take the initiative to convene an extraordinary session of the Assembly to meet within sixty days after the deposit of any instrument of denunciation, if the Director considers that such denunciation will result in a significant increase in the level of contributions from the

屆滿時視為已被接受，然於該期限內有不少於四分之一於通過該修正案時為締約國之國家向秘書長作出不接受該修正案之通知，於此種情況下該修正案即被拒絕並屬無效。

9. 依第8項被視為已被接受之修正案應在其被接受18個月後生效。
10. 所有締約國均應受該修正案之拘束，然其依第49條第1及2項於該修正案生效前至少6個月退出本公約者除外。該退出應在該修正案生效時生效。
11. 於修正案已通過然接受所需18個月期限尚未屆滿期間成為締約國之國家，如該修正案生效，則應受其拘束。於該期限後成為締約國之國家應受依第8項被接受之修正案之拘束。於本項所述各種情況下，於修正案生效時或於本公約對一國生效時(如後者晚於前者)，該國應受該修正案之約束。

第49條 退出

1. 任何締約國於本公約對其生效之日後，可隨時退出本公約。
2. 退出應透過向秘書長交存退出文件之方式為之。
3. 退出應在向秘書長交存退出文件後12個月或退出文件中可能規定之更長期限後生效。
4. 不論某國依本條退出，大會可能對退出生效前發生之事故所決定之補償付款而言，本公約有關支付第18條、19條或20條規定之攤款義務之任何規定仍應繼續適用。

第50條 大會特別會議

1. 任何締約國如認為某一退出會嚴重提高其餘締約國之攤款水平，則應於該退出文件被交存後之90天內要求董事召開大會特別會議。董事應在收到該要求後不少於60天內開會。
2. 董事如認為任何退出會造成其餘締約國攤款水平之嚴重提高，則可於該退出文件被交存後60天內主動召開大會特別會議。

remaining States Parties.

3. If the Assembly, at an extraordinary session, convened in accordance with paragraph 1 or 2 decides that the denunciation will result in a significant increase in the level of contributions from the remaining States Parties, any such State may, not later than one hundred and twenty days before the date on which the denunciation takes effect, denounce this Convention with effect from the same date.

Article 51 Cessation

1. This Convention shall cease to be in force:
 - (a) on the date when the number of States Parties falls below 6; or
 - (b) twelve months after the date on which data concerning a previous calendar year were to be communicated to the Director in accordance with Article 21, if the data shows that the total quantity of contributing cargo to the general account in accordance with Article 18, paragraphs 1(a) and (c) received in the States Parties in that preceding calendar year was less than 30 million tonnes.

Notwithstanding (b), if the total quantity of contributing cargo to the general account in accordance with Article 18, paragraphs 1(a) and (c) received in the States Parties in the preceding calendar year was less than 30 million tonnes but more than 25 million tonnes, the Assembly may, if it considers that this was due to exceptional circumstances and is not likely to be repeated, decide before the expiry of the abovementioned twelve month period that the Convention shall continue to be in force. The Assembly may not, however, take such a decision in more than two subsequent years.

2. States which are bound by this Convention on the day before the date it ceases to be in force shall enable the HNS Fund to exercise its functions as described under Article 52 and shall, for that purpose only, remain bound by this Convention.

Article 52 Winding Up Of The HNS Fund

1. If this Convention ceases to be in force, the HNS Fund shall nevertheless:
 - (a) meet its obligations in respect of any incident occurring before this Convention ceased to be in force; and
 - (b) be entitled to exercise its rights to contributions to the extent that these contributions are necessary to meet the obligations under (a), including expenses for the administration of the HNS Fund necessary for this purpose.
2. The Assembly shall take all appropriate measures to complete the winding up of the HNS Fund including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the HNS Fund.
3. For the purposes of this Article the HNS Fund shall remain a legal person.

Article 53 Depositary

3. 如大會依第1或2項召開之特別會議上確定該退出會造成其餘締約國攤款水平之嚴重提高，則任何該國家可在不遲於該退出生效之日前120天退出本公約並於同一日期生效。

第51條 終止

1. 本公約應於下列日期失效：
 - (a) 於締約國數目少於6個之日；或
 - (b) 如有關上一曆年度之資料顯示該上一曆年度於各締約國所收到之第18條第1項(a)及(c)款之總帳戶攤款貨物總量不足3,000萬噸，於依第21條應將該資料向董事為通報之日12個月後。

無論(b)款規定為何，如於上一曆年度於各締約國所接收之第18條第1項(a)及(c)款規定之總帳戶攤款貨物總量少於3,000萬噸然多於2,500萬噸，而大會認為此係因特殊情況所致且不會再次出現，則大會可在上述12個月期限結束前決定本公約應繼續有效，然大會不可在多於兩個連續年度中作出該決定。

2. 於本公約失效之日前一天受本公約拘束之國家，應使基金能夠履行第52條規定之職責，且僅就該目的而言，應仍受本公約之拘束。

第52條 有害有毒物質基金之解散

1. 如本公約失效，有害有毒物質基金仍應：
 - (a) 履行其對於本公約失效前發生之任何事故之義務；及
 - (b) 於攤款係為履行(a)款規定之責任(包括為此目的所需之有害有毒物質基金之管理費用)所需範圍內有權行使其攤款權利。
2. 大會應採取一切適當措施完成有害有毒物質基金之解散工作，包括向有害有毒物質基金交付攤款之人之間公平分配任何剩餘資產。
3. 為本條目的，有害有毒物質基金應仍然是法人。

第53條 保存人

1. This Convention and any amendment adopted under Article 48 shall be deposited with the Secretary-General.
2. The Secretary-General shall:
 - (a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:
 - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof ;
 - (ii) the date of entry into force of this Convention ;
 - (iii) any proposal to amend the limits on the amounts of compensation which has been made in accordance with Article 48, paragraph 2 ;
 - (iv) any amendment which has been adopted in accordance with Article 48, paragraph 5 ;
 - (v) any amendment deemed to have been accepted under Article 48, paragraph 8, together with the date on which that amendment shall enter into force in accordance with paragraphs 9 and 10 of that Article ;
 - (vi) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect ; and
 - (vii) any communication called for by any Article in this Convention ; and
 - (b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.
3. As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 54 Languages

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE at London this third day of May one thousand nine hundred and ninety-six.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Convention.

1. 本公約及依第48條所通過之任何修正案，應交由秘書長保存。
2. 秘書長應：
 - (a) 將下列事項通知簽署或加入本公約之所有國家及本組織之所有會員國：
 - (i) 任一新的簽署或批准、接受、核准或加入文件之交存及其日期；
 - (ii) 本公約之生效日期；
 - (iii) 依第48條第2項所為之有關修正賠償限額之任何提案；
 - (iv) 依第48條第5項所通過之任何修正案；
 - (v) 依第48條第8項視為已獲接受之任何修正案及該修正案依該條第9及10項生效之日期；
 - (vi) 本公約之任何退出文件之交存及收到日期及退出生效日期；及
 - (vii) 本公約任何要求之任何通知；及
 - (b) 將本公約核證無誤副本交送簽署或加入本公約之所有國家。
3. 本公約一經生效，保存人即應依聯合國憲章第102條規定，將其核證無誤之副本送交聯合國秘書長，以供登記及公佈。

第 54 條 文字

本公約正本一份，用阿拉伯文、中文、英文、法文、俄文及西班牙文寫成，各文本具有同等效力。

1996年5月3日訂於倫敦。

下列具名者，均經各自政府正式授權，特簽署本公約，以昭信守。

ANNEX I

Certificate of Insurance or Other Financial Security in Respect of Liability for Damage Caused by Hazardous and Noxious Substances (HNS)

Issued in accordance with the provisions of Article 12 of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996

Name of ship	Distinctive number or letters	or	IMO ship identification number	Port of registry	Name and full address of the principal place of business of the owner

This is to certify that there is in force in respect of the abovenamed ship a policy of insurance or other financial security satisfying the requirements of Article 12 of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996.

Type of security

Duration of security

Name and address of the insurer(s) and/or guarantor(s)

Name

Address

This certificate is valid until

Issued or certified by the Government of
(Full designation of the State)

At on
(Place) (Date)

.....
(Signature and title of issuing or certifying official)

Explanatory notes :

1. If desired, the designation of the State may include a reference to the competent public authority of the country where the certificate is issued.
2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
3. If security is furnished in several forms, these should be enumerated.
4. The entry "Duration of the Security" must stipulate the date on which such security takes effect.
5. The entry "Address" of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.

附件 I

有害有害物質損害責任保險或其他財務擔保證書

依照1996年國際海上運送有害有毒物質損害責任及賠償公約第12條的規定頒發。

船名	船舶編號或呼號	國際海事組織識別號碼	船籍港	所有人名稱及主要營業地之完整地址

茲證明上述船舶具有符合1996年國際海上運送有害有毒物質損害責任及賠償公約第12條要求的有效保險單或其他財務擔保。

擔保類別.....

擔保期限.....

保險人及/或擔保人的名稱及地址

名稱.....

地址.....

本證書的有效期至.....止

由哪國政府頒發或簽證.....

(國家全稱)

頒發地點：..... 頒發日期：.....

.....
(發證或簽證官員的簽字及職務)

附註：

1. 如需要，國家名稱可包括發證國家主管部門之名稱。
2. 如擔保總額係由一以上來源所提供，應列明每一來源所提供之金額。
3. 如擔保係以多種方式提供，應將各種方式一一列舉。
4. 填寫"擔保期限"時必須註明擔保之生效日期。
5. 保險人及(或)擔保人之"地址"欄必須註明保險人及(或)擔保人的主要營業地，如適當時，應註明提供保險或其他擔保之營業地。

ANNEX II

Regulations for The Calculation of Annual Contributions to The General Account

Regulation 1

1. The fixed sum referred to in article 17, paragraph 3 shall be determined for each sector in accordance with these regulations.
2. When it is necessary to calculate contributions for more than one sector of the general account, a separate fixed sum per unit of contributing cargo shall be calculated for each of the following sectors as may be required:
 - (a) solid bulk materials referred to in Article 1, paragraph 5(a)(vii) ;
 - (b) oil, if the operation of the oil account is postponed or suspended ;
 - (c) LNG, if the operation of the LNG account is postponed or suspended ;
 - (d) LPG, if the operation of the LPG account is postponed or suspended ;
 - (e) other substances.

Regulation 2

1. For each sector, the fixed sum per unit of contributing cargo shall be the product of the levy per HNS point and the sector factor for that sector.
2. The levy per HNS point shall be the total annual contributions to be levied to the general account divided by the total HNS points for all sectors.
3. The total HNS points for each sector shall be the product of the total volume, measured in metric tonnes, of contributing cargo for that sector and the corresponding sector factor.
4. A sector factor shall be calculated as the weighted arithmetic average of the claims/volume ratio for that sector for the relevant year and the previous nine years, according to this regulation.
5. Except as provided in paragraph 6, the claims/volume ratio for each of these years shall be calculated as follows:
 - (a) established claims, measured in units of account converted from the claim currency using the rate applicable on the date of the incident in question, for damage caused by substances in respect of which contributions to the HNS Fund are due for the relevant year ; divided by
 - (b) the volume of contributing cargo corresponding to the relevant year.
6. In cases where the information required in paragraphs 5(a) and (b) is not available, the following values shall be used for the claims/volume ratio for each of the missing years:
 - (a) solid bulk materials referred to in Article 1, paragraph

附件II

總帳戶年度攤款之計算規則

規則一

1. 應依本規則為每一組別確定第17條第3項中所述的固定金額。
2. 在需要計算總帳戶多個組別的攤款時，應依據要求計算下列每一組別各自的每單位攤款貨物的固定金額：
 - (a) 第1條第5項(a)項(vii)目所載之固體散裝物質；
 - (b) 油類(如油類帳戶之運作被延緩或中止)；
 - (c) 液化天然氣(如液化天然氣帳戶之運作被延緩或中止)；
 - (d) 液化石油氣(如液化石油氣帳戶之運作被延緩或中止)；
 - (e) 其他物質。

規則二

1. 就每一組別而言，每單位攤款貨物之固定金額應為每一有害有毒物質點數之徵收額與該組別之組別係數之乘積。
2. 每有害有毒物質點數之徵收額應為應被徵收到向總帳戶之年度攤款總額除以所有組別之有害有毒物質總點數之商。
3. 每一組別之有害有毒物質總點數應為該組別之攤款貨物總數量(以公噸計)乘以相應組別係數之乘積。
4. 組別係數應依本條以有關年度及前9年該組別之求償/數量比率之加權算術平均數加以計算。
5. 除第6項規定外，上述每一年度之求償/數量比率應依下列方式計算：
 - (a) 將在有關年度應交納有害有毒物質基金攤款之物質所致損害之確認求償(以使用有關事故發生之日的適用匯率將求償貨幣折算出之計算單位數值表示)除以
 - (b) 有關年度之相應攤款貨物數量。
6. 於無法取得第5項(a)及(b)款所要求之資料時，應以下列數值作為每一無此資料之年度之求償/數量比率：
 - (a) 第1條第5項(a)項(vii)目所載之

- | | | | |
|---|--------|---------------------------|--------|
| 5(a)(vii) | 0 | 的固體散裝物質 | 0 |
| (b) oil, if the operation of the oil account is postponed | 0 | (b) 油類(如油類帳戶運作被延緩) | 0 |
| (c) LNG, if the operation of the LNG account is postponed | 0 | (c) 液化天然氣(如液化天然氣帳戶之運作被延緩) | 0 |
| (d) LPG, if the operation of the LPG account is postponed | 0 | (d) 液化石油氣(如液化石油氣帳戶之運作被延緩) | 0 |
| (e) other substances | 0.0001 | (e) 其他物質 | 0.0001 |
7. The arithmetic average of the ten years shall be weighted on a decreasing linear scale, so that the ratio of the relevant year shall have a weight of 10, the year prior to the relevant year shall have a weight of 9, the next preceding year shall have a weight of 8, and so on, until the tenth year has a weight of 1.
7. 該10年之算術平均數應依某一遞減之線性比例加權，使有關年度之比率的加權值為10，有關年度之上一年度的加權值為9，再上一年度的加權值為8，以此類推，直止第10個年度的加權值為1。
8. If the operation of a separate account has been suspended, the relevant sector factor shall be calculated in accordance with those provisions of this regulation which the Assembly shall consider appropriate.
8. 如分帳戶之運作被中止，則有關組別係數應依大會認為本條中適當之規定計算。