

1996年海上運送有害有毒物質損害責任及賠償國際公約之 2010年修正議定書

2010年5月4日 訂於倫敦

Protocol of 2010 to The International Convention on Liability and Compensation for Damage in Connection with The Carriage of Hazardous and Noxious Substances by Sea, 1996

4 May 2010, London

HNS 2010

THE STATES PARTIES TO THIS PROTOCOL,

RECOGNIZING the significant contribution which can be made by the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (hereinafter referred to as the "Convention"), to the adequate, prompt and effective compensation of persons who suffer damage caused by incidents in connection with the carriage of hazardous and noxious substances by sea, as well as to the preservation of the marine environment,

RECOGNIZING ALSO that, over many years, a large number of States have consistently expressed their determination to establish a robust and effective compensation regime for the maritime carriage of hazardous and noxious substances based on a system of shared liability and have worked towards a uniform implementation of the Convention,

ACKNOWLEDGING, HOWEVER, that certain issues have been identified as inhibiting the entry into force of the Convention and, consequently, the implementation of the international regime contained therein,

DETERMINED to resolve these issues without embarking on a comprehensive revision of the Convention,

AWARE OF the need to take into account the possible impact on developing countries, as well as the interests of those States which have already ratified the Convention or have almost completed the ratification process,

RECALLING the principles enshrined in IMO resolution A.998(25) "Need for capacity-building for the development and implementation of new, and amendments to existing, instruments", adopted on 29 November 2007,

CONSIDERING that these objectives may best be achieved by the conclusion of a Protocol to the Convention,

本議定書各締約國，

承認「1996年海上運送有害有毒物質損害責任及賠償國際公約」(以下稱「公約」)有助於充分、迅速及有效地賠償遭受海上運送有害有毒物質事故造成損害之人並保護海洋環境，

另承認多年來許多國家一直表示，其決定為海上運送有害有毒物質建立一以分擔責任為基礎之確實有效之賠償機制，並為統一公約之實施而努力，

然亦承認某些問題被確定為公約生效之障礙且為公約實施規定國際機制之障礙，

決定在不針對公約進行全面修訂之前提下解決這些問題，意識需要顧及對發展中國家可能的影響及已批准公約及處於批准程序最後階段國家之利益，

另回顧國際海事組織大會2007年11月29日所通過之“關於制定及實施新公約及現有公約修正案能力建設需要”之第A.998(25)號決議所體現之原則，考量最好透過締結公約相關議定書以實現此一目的，

HAVE AGREED as follows:

Article 1 Definitions

For the purposes of this Protocol:

1. "Convention" means the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996.
2. "Organization" means the International Maritime Organization.
3. "Secretary-General" means the Secretary-General of the Organization.

Article 2 General obligations

The Parties to this Protocol shall give effect to the provisions of this Protocol and the provisions of the Convention, as amended by this Protocol.

Article 3

1. Article 1, paragraph 5, of the Convention is replaced by the following text:

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, as defined in regulation 1 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, as defined in regulation 1.10 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 X, Y or Z in accordance with regulation 6.3 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, 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 1.1.6 of the Code;
 - (iv) dangerous, hazardous and harmful substances,

茲協議如下：

第1條 定義

為本議定書之目的：

1. “公約”係指「1996年海上運送有害有毒物質損害責任及賠償國際公約」。
2. “本組織”係指國際海事組織。
3. “秘書長”係指本組織秘書長。

第2條 一般義務

本議定書各締約國須實施本議定書規定及經本議定書修正之公約之規定。

第3條

1. 公約第1條第5項由下列文字所取代：

- 5“有害及有毒物質(HNS)”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錄I第1條定義所列之散裝運送之油類；
 - (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第1.10條定義之散裝運送有毒液體物質及依照附則II第6.3條臨時確定為X、Y或Z類的物質及混合物；
 - (iii) 經修訂之國際散裝運輸危險化學品船舶建造及設備規則第17章所列之散裝運送危險液體物質及有關主管機關及港口管理部門依該規則第1.1.6款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

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, 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 60°C (measured by a closed-cup test);

(vii) solid bulk materials possessing chemical hazards covered by the International Maritime Solid Bulk Cargoes Code, as amended, to the extent that these substances are also subject to the provisions of the International Maritime Dangerous Goods Code in effect in 1996, when carried in packaged form; and

(b) residues from the previous carriage in bulk of substances referred to in (a)(i) to (iii) and (v) to (vii) above.

2 The following text is added as article 1, paragraphs 5bis and 5ter, of the Convention:

5bis "Bulk HNS" means any hazardous and noxious substances referred to in article 1, paragraph 5(a)(i) to (iii) and (v) to (vii) and paragraph 5(b).

5ter "Packaged HNS" means any hazardous and noxious substances referred to in article 1, paragraph 5(a)(iv).

3 Article 1, paragraph 10, of the Convention is replaced by the following text:

10. "Contributing cargo" means any bulk HNS which is 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.

Article 4

Article 3(d) is replaced by the following text:

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) 經修正之國際海事固體散裝貨物規則所包括之具有化學危害之固體散裝材料，但僅限於在有包裝運輸時也受1996年實施的國際海運危險貨物準則拘束之此類物質；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。

2. 增訂下列文字為公約第1條第5bis及5ter項：

5bis “散裝有害有毒物質”係指第1條第5(a)(i)至(iii)及(v)至(vii)款及第5(b)款所述之有害有毒物質。

5ter “具包裝之有害有毒物質”係指第1條第5(a)(iv)款所述之任何有害有毒物質。

3. 公約第1條第10款由下列文字所取代：

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散裝有害有毒物質。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。

第4條

公約第3條d項為下列文字所取代：

(d) to preventive measures, wherever taken, to prevent or minimize such damage as referred to in (a), (b) and (c) above.

(d)無論於何處所採取之防止或減少a、b及c項所述損害之預防措施。

Article 5

第5條

Article 4, paragraph 3(b), is replaced by the following text:

第4條3項(b)款為下列文字所取代：

3(b) to damage caused by a radioactive material of class 7 either in the International Maritime Dangerous Goods Code, as amended, or in the International Maritime Solid Bulk Cargoes Code, as amended.

3(b)由經修正之國際海運危險貨物準則或經修正之國際固體散裝貨物規則之第 7 類放射性物質造成之損害。

Article 6

第6條

Article 5, paragraph 5, of the Convention is deleted, and paragraph 6 becomes paragraph 5.

刪除公約第5條第5項，第6項成為第5項。

Article 7

第7條

Article 9, paragraph 1, of the Convention is replaced by the following text:

公約第9條第1項為下列文字所取代：

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:

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) Where the damage has been caused by bulk HNS:

(a)如損害係由散裝有害有毒物質所致：

(i) 10 million units of account for a ship not exceeding 2,000 units of tonnage; and

(i)對不超過2,000噸之船舶，1,000萬記帳單位；及

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

(ii)對超過該噸位之船舶，第(i)款所述數額再加上下列數額：

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

從2,001至50,000噸之每噸位：1,500記帳單位；

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

超過50,000噸之每噸位：360記帳單位；

provided, however, that this aggregate amount shall not in any event exceed 100 million units of account.

然該累計金額在任何情況下均不應超過1億記帳單位。

(b) Where the damage has been caused by packaged HNS, or where the damage has been caused by both bulk HNS and packaged HNS, or where it is not possible to determine whether the damage originating from that ship has been caused by bulk HNS or by packaged HNS:

(b)如損害係由具包裝之有害有毒物質所致，或係由散裝及具包裝之有害有毒物質一起所致，或無法確定該船舶所致損害係由散裝有害有毒物質或具包裝之有害有毒物質所致：

(i) 11.5 million units of account for a ship not exceeding 2,000 units of tonnage; and

(i)對不超過2,000噸之船舶，11,500萬記帳單位；及

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

(ii)對超過該噸位之船舶，第(i)款所述數額再加上下列數額：

for each unit of tonnage from 2,001 to 50,000 units of tonnage, 1,725 units of account;
for each unit of tonnage in excess of 50,000 units of tonnage, 414 units of account;
provided, however, that this aggregate amount shall not in any event exceed 115 million units of account.

從2,001至50,000噸之每噸位：1,725記帳單位；
超過50,000噸之每噸位：414記帳單位；
然該累計金額在任何情況下均不應超過1.15億記帳單位。

Article 8

第8條

In article 16, paragraph 5, of the Convention, the reference to "paragraph 1(c)" is replaced by a reference to "paragraph 1(b)".

於公約第16條第5項，述及“第1項(c)款”改為述及“第1項(b)款”。

Article 9

第9條

1. Article 17, paragraph 2, of the Convention is replaced by the following text:

1. 公約第17條第2項為下列文字所取代：

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 during the preceding calendar year or such other year as the Assembly may decide.

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，依第18條、19條及21條第5項計算。

2. In article 17, paragraph 3, of the Convention, a reference to "and paragraph 1bis," is inserted immediately after the words "article 19, paragraph 1".

2. 於公約第17條第3項，述及“第19條第1項”之後加上“及第1bis項”。

Article 10

第10條

In article 18, paragraphs 1 and 2, of the Convention a reference to "and paragraph 1bis," is inserted immediately after the words "article 19, paragraph 1" in both paragraphs.

於公約第18條第1及第2項，述及“第19條第1項”之後加上“及第1bis項”。

Article 11

第11條

1. In article 19, paragraph 1(b) is deleted and paragraph 1(c) becomes paragraph 1(b).

1. 於第19條，刪除第1項(b)款，第1項(c)款成為第1項(b)款。

2. In article 19 of the Convention, after paragraph 1, a new paragraph is inserted as follows:

2. 於公約第19條第1項之後，增加下列新一項：

1bis

(a) In the case of the LNG account, subject to article 16, paragraph 5, annual contributions to the LNG account shall be made in respect of each State Party 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 any quantity of LNG.

1bis

(a) 有關液化天然氣帳戶，於適用第16條第5項規定之情況下，各締約國年度攤款須由上一歷年或大會可能決定之任何一年中該國任何數量之液化天然氣之任何接收人繳納。

(b) However, any contributions shall be made by the person who, immediately prior to its discharge, held title to an LNG cargo discharged in a port or terminal of that State (the titleholder) where:

(i) the titleholder has entered into an agreement with the receiver that the titleholder shall make such contributions; and

(ii) the receiver has informed the State Party that such an agreement exists.

(c) If the titleholder referred to in subparagraph (b) above does not make the contributions or any part thereof, the receiver shall make the remaining contributions. The Assembly shall determine in the internal regulations the circumstances under which the titleholder shall be considered as not having made the contributions and the arrangements in accordance with which the receiver shall make any remaining contributions.

(d) Nothing in this paragraph shall prejudice any rights of recourse or reimbursement of the receiver that may arise between the receiver and the titleholder under the applicable law.

3. In article 19, paragraph 2, of the Convention a reference to "and paragraph 1bis" is inserted immediately after the words "paragraph 1".

Article 12

Article 20, paragraph 1, of the Convention is replaced by the following text:

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 in that State during the calendar year preceding that in which this Convention enters into force for that State.

Article 13

1. Article 21, paragraph 4, of the Convention is replaced by the following text:

4. If in a State Party there is no person liable to pay contributions in accordance with articles 18, 19 or paragraph 5 of this article, that State Party shall, for the purposes of this Convention, inform the Director of the HNS Fund thereof.

2. Article 21, paragraph 5(b), of the Convention is replaced

(b) 然於下列情況下，須由於卸貨之前對在該國港口或碼頭卸下之液化天然氣之所有權人(所有人)繳納任何攤款：

(i) 所有權人與接收人已達成協定，由所有權人繳納該攤款；及

(ii) 接收人已告知締約國有該協議之存在。

(c) 如第(b)項所述之所有權人未繳納攤款或任何部分攤款，接收人須繳納剩餘之攤款。大會須在內部條例中決定所有權人被視為未繳納攤款之情況及接收人繳納剩餘攤款所應適用之之安排。

(d) 本項不影響接收人與所有權人間依據所適用之法律可能產生之接收人之任何追償權及受償權。

3. 於公約第 19 條第 2 項，述及“第 1 項”之後加上“及第 1bis 項”。

第12條

公約第20條第1項為下列文字所取代：

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。

第13條

1. 公約第21條第4項為下列文字所取代：

4. 如於某締約國，無人應依據第18條、第19條或本條第5項規定負擔繳納攤款之責任，為本公約之目的，該締約國應將此情況通知有害有毒物質基金之董事。

2. 公約第21條第5項(b)款為下列文字

by the following text:

5(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 if article 19, paragraph 1bis(b) is applicable, for the amount payable by each of them. If the titleholder does not make the contributions or any part thereof, the HNS Fund shall levy the remaining contributions by invoicing the receiver of the LNG cargo. These persons shall be identified in accordance with the national law of the State concerned.

Article 14

The following text is added as article 21bis of the Convention:

Non-reporting

Article 21bis

1. Where a State Party does not fulfil its obligations under article 21, 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, upon recommendation of the Director, decide whether such compensation shall be payable by a State.
2. No compensation for any incident shall be paid by the HNS Fund for damage in the territory, including the territorial sea of a State Party in accordance with article 3(a), the exclusive economic zone or other area of a State Party in accordance with article 3(b), or damage in accordance with article 3(c) in respect of a given incident or for preventive measures, wherever taken, in accordance with article 3(d), until the obligations under article 21, paragraphs 2 and 4, have been complied with in respect of that State Party for all years prior to the occurrence of an incident for which compensation is sought. The Assembly shall determine in the internal regulations of the HNS Fund the circumstances under which a State Party shall be considered as not having fulfilled these obligations.
3. Where compensation has been denied temporarily in accordance with paragraph 2, compensation shall be denied permanently if the obligations under article 21, paragraphs 2 and 4, have not been fulfilled within one year after the Director has notified the State Party of its failure to fulfil these obligations.
4. Any payments of contributions due to the HNS Fund shall be set off against compensation due to the debtor, or the debtor's agents.
5. Paragraphs 2 to 4 shall not apply to claims in respect of death or personal injury.

所取代：

5(b). 指示有害有毒物質基金以向該締約國管轄範圍內之各接收人，或對於液化天然氣，於第19條第1 bis項(b)款適用時，任一人所應支付之數額。如所有權人未繳納攤款或任何部分攤款，有害有毒物質基金應透過向液化天然氣接收人開出發票徵收剩餘之攤款。應依有關國家法律對上述人員作出認定。

第14條

增加公約第21bis條文字如下：

未通報

第21bis條

1. 如某締約國未履行第21條第2項義務，且造成有害有毒物質基金之經濟損失，該締約國應賠償有害有毒物質基金該損失。大會應依據董事之建議決定該締約國是否應負擔該賠償。
2. 除該締約國於發生謀求賠償之任何事件之前之所有年份業已完全履行第21條第2項及第4項規定之義務外，有害有毒物質基金將不會就於其領域內，包括符合公約第3(a)條之領海內、符合公約第3(b)條之專屬經濟區或其他區域內或符合公約第3(c)條對某一特定事件或依據公約第3(d)條於任何地方所採取之預防措施之任何損害為賠償。大會應於有害有毒物質基金內部規範中確認締約國於何情況下應被視為未履行前述義務。
3. 於依據第2項暫時拒絕賠償之情況下，如基金董事通知該締約國未履行其義務後之一年內，第21條第2及4項義務仍未履行者，即永遠拒絕賠償。
4. 欠繳有害有毒物質基金之任何攤款，應從欠款人或其代理人可得獲得之賠償中予以扣除。
5. 第2至4項不適用於人員傷亡之求償。

Article 15

Article 23, paragraph 1, of the Convention is replaced by the following text:

1. Without prejudice to article 21, paragraph 5, a State Party may, at the time when it signs without reservation as to ratification, acceptance or approval, or 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 in the territory of that State. Such a declaration shall be made in writing and shall specify which obligations are assumed.

Article 16

Article 43 of the Convention is deleted, and article 44 is renumbered as article 43.

Article 17

The model certificate set out in Annex I of the Convention is replaced by the model annexed to this Protocol.

Article 18 Interpretation and application

1. The Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.
2. Articles 1 to 44 and Annexes I and II of the Convention, as amended by this Protocol and the annex thereto, together with articles 20 to 29 of this Protocol (the final clauses), shall *mutatis mutandis* constitute and be called the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 2010 (2010 HNS Convention). Articles 20 to 29 of this Protocol shall be renumbered sequentially with the preceding articles of the Convention. References within the final clauses to other articles of the final clauses shall be renumbered accordingly.

Article 19

In chapter VI, the following text is inserted as article 44bis of the Convention:

第15條

公約第23條第1項為下列文字所取代：

1. 於不損害第21條第5項之情況下，締約國可於其無保留地簽署批准、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。

第16條

公約第43條予以刪除，第44條更動條序為第43條。

第17條

以本議定書附錄之證書範本取代公約附錄之證書範本。

第18條 解釋與適用

1. 於本議定書之締約國間，公約及本議定書應被理解及解釋為單一法律文件。
2. 公約第1至第44條及附錄I及II，本議定書所修正者及其附錄，以及本議定書第20至第29條(亦即最後條款)應被準用並稱為2010年海上運送有害有毒物質損害責任及賠償國際公約(簡稱2010有害有毒物質公約)。本議定書第20條至第29條應依公約為重新定條序。於最後條款中述及最後條款中之其他條款者，應同樣重新定條序。

第19條

於第六章，增加公約第44bis條，文字如下：

Article 44bis

Final clauses of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 2010

The final clauses of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea 2010 shall be the final clauses of the Protocol of 2010 to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996.

FINAL CLAUSES

Article 20 Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open for signature at the Headquarters of the Organization from 1 November 2010 to 31 October 2011 and shall thereafter remain open for accession.
2. Subject to the provisions in paragraphs 4 and 5, States may express their consent to be bound by this Protocol 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.
4. An expression of consent to be bound by this Protocol shall be accompanied by the submission to the Secretary-General of data on the total quantities of contributing cargo liable for contributions received in that State during the preceding calendar year in respect of the general account and each separate account.
5. An expression of consent which is not accompanied by the data referred to in paragraph 4 shall not be accepted by the Secretary-General.
6. Each State which has expressed its consent to be bound by this Protocol shall annually thereafter on or before 31 May until this Protocol enters into force for that State, submit to the Secretary-General data on the total quantities of contributing cargo liable for contributions received in that State during the preceding calendar year in respect of the general account and each separate account.
7. A State which has expressed its consent to be bound by this Protocol and which has not submitted the data on contributing cargo required under paragraph 6 for any relevant years shall, before the entry into force of the Protocol for that State, be

第44bis條

2010年海上運送有害有毒物質損害責任及賠償國際公約最後條款

2010年海上運送有害有毒物質損害責任及賠償國際公約最後條款應為1996年海上運送有害有毒物質損害責任及賠償國際公約之2010年修正議定書之最後條款。

最後條款

第20條 簽署、批准、接受、核准及加入

1. 本議定書從2010年11月1日至2011年10月31日於本組織總部開放供簽署，此後開放供加入。
2. 於適用第4及第5項之前提下，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。
4. 同意受本議定書約束之表述，須隨附提交給秘書長關於有義務向總帳戶及各分設帳戶繳納攤款於上一歷年收到之攤款貨總量之資料。
5. 對沒有隨附第4項所述資料同意受約束之表述，秘書長不得接受。
6. 表示同意受本議定書約束之締約國須在此後每年5月31日或之前，向秘書長提交關於有義務向總帳戶及各分設帳戶繳納攤款於上一歷年所收到之攤款貨總量之資料，直到本議定書生效。
7. 表示同意受本議定書約束但未提交第6項所要求之任何相關年份之攤款貨資料之締約國，須在本議定書對該國生效之前，暫時中止其成

temporarily suspended from being a Contracting State until it has submitted the required data.

8. A State which has expressed its consent to be bound by the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 shall be deemed to have withdrawn this consent on the date on which it has signed this Protocol or deposited an instrument of ratification, acceptance, approval or accession in accordance with paragraph 2.

Article 21 Entry into force

1. This Protocol 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 20, paragraphs 4 and 6, that those persons in such States who would be liable to contribute pursuant to article 18, paragraphs 1(a) and (c), of the Convention, as amended by this Protocol, 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 Protocol 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 Protocol enters into force in accordance with paragraph 1, whichever is the later.

Article 22 Revision and amendment

1. A conference for the purpose of revising or amending the Convention, as amended by this Protocol, may be convened by the Organization.
2. The Secretary-General shall convene a conference of the States Parties to this Protocol, for revising or amending the Convention, as amended by this Protocol, at the request of six States Parties or one third of the States Parties, whichever is the higher figure.
3. Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to the Convention, as amended by this Protocol, shall be deemed to apply to the Convention as amended.

Article 23 Amendment of limits

1. Without prejudice to the provisions of article 22, the special procedure in this article shall apply solely for the purposes of

為締約國，直到其提交所要求之資料。

8. 曾表示同意受1996年海上運送有害有毒物質損害責任及賠償國際公約約束之締約國，應於其依照第2項簽署議定書或交存批准、接受、核准或加入議定書文書之日被視為撤銷其同意受公約約束。

第21條 生效

1. 本議定書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20條第4項及第6項收到關於該國家依本議定書所修正之公約第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約束之國家，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)。

第22條 修正與修訂

1. 本組織可召開修訂或修正本議定書所修正之本公約之會議。
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議定書所修正之本公約之公約締約國會議。
3. 於本議定書所修正之本公約某一修正案生效之日後表示同意受本公約約束，應視為適用於經修正之本公約。

第23條 限額之修正

1. 於不損害第22條規定之情況下，本條之特別程序應僅適用於對本議

amending the limits set out in article 9, paragraph 1, and article 14, paragraph 5, of the Convention, as amended by this Protocol.

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, of the Convention, as amended by this Protocol, shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.
3. Any amendment proposed and circulated in accordance with paragraph 2 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, 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, of the Convention, as amended by this Protocol.
7.
 - (a) No amendment of the limits under this article may be considered less than five years from the date this Protocol 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 Protocol increased by six per cent per year calculated on a compound basis from the date on which this Protocol 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 Protocol 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 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.

定書所修正之公約第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本議定書所修正之公約第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所有會員國及經本議定書修正之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，另應考慮本議定書所修正之公約第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) 自從本議定書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議定書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議定書規定限額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. 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 Protocol in accordance with article 24, 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 Protocol enters into force for that State, if later.

Article 24 Denunciation

1. This Protocol may be denounced by any State Party at any time after the expiry of one year following the date on which this Protocol comes into force for that State.
2. Denunciation shall be effected by the deposit of an instrument to that effect with the Secretary-General.
3. A denunciation shall take effect twelve months, or such longer period as may be specified in the instrument of denunciation, following its receipt by the Secretary-General.
4. Notwithstanding a denunciation by a State Party pursuant to this article, any provisions of this Protocol relating to obligations to make contributions under articles 18, 19 or article 21, paragraph 5, of the Convention, as amended by this Protocol, 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 25 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 remaining States Parties.

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24條第1及2項於該修正案生效前至少6個月退出本議定書者除外。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議定書對一國生效時(如後者晚於前者)，該國應受該修正案之約束。

第24條 退出

1. 任何締約國於本議定書對其生效之日後，可隨時退出本議定書。
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，本議定書所修正之公約有關支付第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25條 大會的特別會議

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。

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 Protocol with effect from the same date.

Article 26 Cessation

1. This Protocol shall cease to be in force:

- (a) on the date when the number of States Parties falls below six; 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, of the Convention, as amended by this Protocol, if the data show that the total quantity of contributing cargo to the general account in accordance with article 18, paragraphs 1(a) and (c), of the Convention, as amended by this Protocol, received in the States Parties in that preceding calendar year was less than 30 million tonnes.

Notwithstanding subparagraph (b), if the total quantity of contributing cargo to the general account in accordance with article 18, paragraphs 1(a) and (c), of the Convention, as amended by this Protocol, 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 above-mentioned twelve-month period that the Protocol 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 Protocol 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 27 and shall, for that purpose only, remain bound by this Protocol.

Article 27 Winding up of the HNS Fund

1. If this Protocol ceases to be in force, the HNS Fund shall nevertheless:

- (a) meet its obligations in respect of any incident occurring before this Protocol 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. 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天退出本議定書並於同一日期生效。

第26條 終止

1. 本議定書應於下列日期失效：

- (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本議定書所修正之公約第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本議定書所修正之公約第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議定書應繼續有效，然大會不可在多於兩個連續年度中作出該決定。

2. 於本議定書失效之日前一天受議定書拘束之國家，應使基金能夠履行第27條規定之職責，且僅就該目的而言，應仍受本議定書之拘束。

第27條 有害有毒物質基金之解散

1. 如本議定書失效，有害有毒物質基金仍應：

- (a) 履行其對於本議定書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. For the purposes of this article the HNS Fund shall remain a legal person.

Article 28 Depositary

1. This Protocol and any amendment adopted under article 23 shall be deposited with the Secretary-General.

2. The Secretary-General shall:

(a) inform all States which have signed this Protocol 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 and data on contributing cargo submitted in accordance with article 20, paragraph 4;

(ii) data on contributing cargo submitted annually thereafter, in accordance with article 20, paragraph 6, until the date of entry into force of this Protocol;

(iii) the date of entry into force of this Protocol;

(iv) any proposal to amend the limits on the amounts of compensation which has been made in accordance with article 23, paragraph 2;

(v) any amendment which has been adopted in accordance with article 23, paragraph 5;

(vi) any amendment deemed to have been accepted under article 23, paragraph 8, together with the date on which that amendment shall enter into force in accordance with article 23, paragraph 9;

(vii) the deposit of any instrument of denunciation of this Protocol together with the date on which it is received and the date on which the denunciation takes effect; and

(viii) any communication called for by any article in this Protocol; and

(b) transmit certified true copies of this Protocol to all States that have signed this Protocol or acceded thereto.

3. As soon as this Protocol 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 29 Languages

This Protocol 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 thirtieth day of April two thousand and ten.

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

3. 為本條目的，有害有毒物質基金應仍然是法人。

第28條 保存人

1. 本議定書及依第23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議定書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，以及依第20條第4項所述攤款貨物之資料；

(ii) 此後每年依第20條第6項所提交有關攤款貨物之資料，直至本議定書之生效之日；

(iii) 本議定書之生效日期；

(iv) 依第23條第2項所為之有關修正賠償限額之任何提案；

(v) 依第23條第5項所通過之任何修正案；

(vi) 依第23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項生效之日期；

(vii) 本議定書之任何退出文件之交存及收到日期及退出生效日期；及

(viii) 本議定書任何要求之任何通知；及

(b) 將本議定書核證無誤副本交送簽署或加入本議定書之所有國家。

3. 本議定書一經生效，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29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, 2010

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, 2010.

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2010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2010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。