

2001 年燃油污染損害民事責任國際公約

2001 年 3 月 23 日 訂於倫敦，2008 年 11 月 21 日生效

International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001

London, 23 March 2001 ; Enter into Force on 21 November 2008

Bunker 2001

生效門檻：18 國 (5 國 \geq 1,000,000 GRT) + 1 年

(2019.3)締約國數：92 國

簡介：燃油屬重油，其污染通常難以清除。另由於 CLC 及 HNS 公約等僅規範「貨油」及「有毒有害物質」，並不包括「燃油」，IMO 因此於 2001 年參仿 1969 年 CLC 公約之規定及架構訂定燃油污染損害民事責任國際公約。

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THE STATE PARTIES TO THIS CONVENTION:

RECALLING article 194 of the United Nations Convention on the Law of the Sea 1982, which provides that States shall take all measures necessary to prevent, reduce and control pollution of the marine environment,

RECALLING ALSO article 235 of that Convention, which provides that, with the objective of assuring prompt and adequate compensation in respect of all damage caused by pollution of the marine environment, States shall co-operate in the further development of relevant rules of international law,

NOTING the success of the International Convention on Civil Liability for Oil Pollution Damage, 1992 and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 in ensuring that compensation is available to persons who suffer damage caused by pollution resulting from the escape or discharge of oil carried in bulk at sea by ships,

NOTING ALSO the adoption of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 in order to provide adequate, prompt and effective compensation for damage caused by incidents in connection with the carriage by sea of hazardous and noxious substances,

RECOGNIZING the importance of establishing strict liability for all forms of oil pollution which is linked to an appropriate limitation of the level of that liability,

CONSIDERING that complementary measures are necessary to ensure the payment of adequate, prompt and effective compensation for damage caused by pollution resulting from the escape or discharges of bunker oil from ships,

DESIRING to adopt uniform international rules and procedures for determining questions of liability and providing adequate compensation in such cases,

HAVE AGREED as follows:

ARTICLE 1 Definitions

For the purposes of this Convention:

1. "Ship" means any sea-going vessel and seaborne craft, of any

本公約締約國，

鑑於 1982 年聯合國海洋法公約第 194 條規定各國應採取防止、減少及控制海洋環境污染之所有必要措施，

鑑於該公約第 235 條規定，就確保海洋環境污染所致所有損失能立即且適當補償的目標，各國對國際法相關規則的未來發展應予合作，

注意到 1992 年油污染損害民事責任國際公約及 1992 年設置油污染損害補償國際基金國際公約在確保給予船舶海上運載散裝貨油洩漏或排出所致污染而蒙受損害之人有效補償的成功性，

注意到採用 1996 年有關海上運送危險及有害物質損害責任及補償國際公約所提供海上運送危險有毒物質有關事故所致損害之適當、立即及有效的補償，

體認到必須建立油污染所有類型與責任限制適當水平相配合之嚴格責任之重要性，

慮及必須採行適當措施以確保船上燃油洩漏或排出所致污染而生損害之適當、立即及有效補償支應之必須性，

期欲訂立統一之國際法規及程序，俾在前述情況發生時以決定責任問題，並提供合理之賠償，

爰經協議如次：

第 1 條 定義

為本公約目的：

1. 船舶：指不論任何類型之所有海船及

- 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. "Shipowner" means the owner, including the registered owner, bareboat charterer, manager and operator of the ship.
 4. "Registered 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, "registered owner" shall mean such company.
 5. "Bunker oil" means any hydrocarbon mineral oil, including lubricating oil, used or intended to be used for the operation or propulsion of the ship, any residues of such oil.
 6. "Civil Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage 1992, as amended.
 7. "Preventive measures" means any reasonable measures taken by any person after an incident has occurred to prevent or minimize pollution damage.
 8. "Incident" means any occurrence or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing such damage.
 9. "Pollution damage" means:
 - (a) loss or damage caused outside the ship by contamination resulting from the escape or discharge of bunker oil from the ship, wherever such escape or discharge may occur, 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
 - (b) the costs of preventive measures and further loss or damage caused by preventive measures.
 10. "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.
 11. "Gross tonnage" means gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 of the International Convention on Tonnage Measurement of Ships, 1969.
 12. "Organization" means the International Maritime Organization.
 13. "Secretary-General" means the Secretary-General of the Organization.
- 海上載具。
2. 人：指任何個人、合夥、或不論是否為公司之公私法人，包括國家或其所屬之任何組成機關。
 3. 船舶所有人：指所有人，包括登記所有人、光船租船人、船舶經理人及營運人。
 4. 登記所有人：指登記為船舶之所有人之一人或數人，或於未登記之情況下，為擁有船舶之一人或數人。如船舶為某國家所有且為在該國登記為船舶營運人之某公司所營運者，則登記所有人為該公司。
 5. 燃油：指用於或意圖用於船舶操作或推動之任何碳氫礦油，包括潤滑油，及其任何殘餘物。
 6. 民事責任公約：指 1992 年油污染責任民事責任公約及其修訂。
 7. 防止措施：指任何人於事故發生後為避免或減輕污染損害所採取之任何合理措施。
 8. 事故：指任何具有同一來源足致污染損害或會造成污染之重大且立即威脅之任一事件或一系列之事件。
 9. 污染損害：指
 - (a) 由船舶所洩漏或排出之燃油造成污損所生本船以外之損失或損害，而不論該洩漏或排出於何地發生，但有關營利損失以外之環境損害之賠償，應僅限於實際採取或將採取之合理回復措施之費用，及
 - (b) 防止措施費用及防止措施所致生之額外損失或損害。
 10. 船舶登記國：對已經登記之船舶言，指船舶登記之國家；對未經登記之船舶言，指使船舶有權懸掛其國旗之國家。
 11. 總噸位：指依照 1969 年船舶噸位丈量國際公約附錄一所規定之噸位測量規則計算而得之總噸位。
 12. 組織：指國際海事組織。
 13. 秘書長：指國際海事組織之秘書長。

ARTICLE 2 Application

This Convention shall apply exclusively:

- (a) to pollution damage caused:
 - (i) in the territory, including the territorial sea, of a Contracting State, and
 - (ii) 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

第 2 條 適用

本公約應僅適用於

- (a) 於下列地點所致之污染損害：
 - (i) 於締約國領域，包括領海，及
 - (ii) 於締約國依國際法所確定之專屬經濟區，或如該締約國尚未確定此區域時，則為該國依國際法所確定，於其領海以外且與領海毗鄰，距測量其領海寬度的基線向外延伸不超過

the baselines from which the breadth of its territorial sea is measured;

- (b) to preventive measures, wherever taken, to prevent or minimize such damage.

200 哩的區域；

- (b) 為避免或減輕該損害，無論於何處所採取之防止措施。

ARTICLE 3 Liability of the Shipowner

1. Except as provided in paragraphs 3 and 4 of this article, the shipowner at the time of an incident shall be liable for pollution damage caused by any bunker oil on board or originating from the ship, provided that, if an incident consists of a series of occurrences having the same origin, the liability shall attach to the shipowner at the time of the first of such occurrences.
2. Where more than one person is liable in accordance with paragraph 1, their liability shall be joint and several.
3. No liability for pollution damage shall attach to the shipowner if it is proven 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.
4. If the shipowner proves that the pollution damage resulted wholly or partially 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 shipowner may be exonerated wholly or partially from liability to such person.
5. No claim for compensation for pollution damage shall be made against the shipowner otherwise than in accordance with this Convention.
6. Nothing in this Convention shall prejudice any right of recourse of the shipowner which exists independently of this Convention.

ARTICLE 4 Exclusions

1. This Convention shall not apply to pollution damage as defined in the Civil Liability Convention, whether or not compensation is payable in respect of it under that Convention.
2. Except as provided in paragraph 3, 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.
3. A State Party may decide to apply this Convention to its warships or other ships described in paragraph 2, in which case it shall notify the Secretary-General thereof specifying the terms and conditions of such application.
4. 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 9 and shall waive all defences based on its status as a sovereign State.

第 3 條 船舶所有人責任

1. 除本條第 3 項及第 4 項另有規定者外，事故發生時之船舶所有人應負責因其船上或來自於該船舶之任何燃油所致之污染損害，但如某事故係由同一事件之一系列事故所構成，則應由一系列事故中首次事故發生時之船舶所有人負責。
2. 依第 1 項應負責之人超過一人者，這些人應負連帶責任。
3. 如經證明事故為下列原因所致者，船舶所有人不負擔任何污染損害責任：
 - (a) 損害係由於戰爭行為、敵對行為、內戰、暴亂、或由於特殊且無法避免及不可抗力性質之自然現象所造成者；或
 - (b) 損害完全係因第三者故意之作為或不作為所致；或
 - (c) 損害完全係因負有維護燈光或其他助航設施責任之政府或其他主管機關於執行其任務時之過失或錯誤行為所致。
4. 如船舶所有人證明污染損害之全部或一部係由於受損害者故意之作為或不作為或過失所致，船舶所有人得被免除對該人之全部或一部賠償責任。
5. 污染損害賠償除依本公約規定外，不得向船舶所有人請求之。
6. 本公約之任何規定不得妨礙船舶所有人對第三人之任何追償求償權。

第 4 條 除外適用

1. 無論是否可依民事責任公約請求賠償，本公約均不適用於民事責任公約所定義之污染損害。
2. 除第 3 項另有規定外，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使用於政府非商業服務的其他船舶。
3. 締約國可決定將公約適用於第 2 項所述之軍艦或其他船舶，於此種情況下，其應將此及該特別適用之條件或條款通知秘書長。
4. 對於為締約國所有且用於商業用途之船舶，每一締約國均應接受於第 9 條所規定之管轄範圍內之起訴，且應放棄其基於主權國地位之所有抗

辯。

ARTICLE 5 Joint and several liability of owners of two or more ships

When an incident involving two or more ships occurs and pollution damage results therefrom, the shipowners of all the ships concerned, unless exonerated under article 3, shall be jointly and severally liable for all such damage which is not reasonably separable.

ARTICLE 6 Limitation of liability

Nothing in this Convention shall affect the right of the shipowner and the person or persons providing insurance or other financial security to limit liability under any applicable national or international regime, such as the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.

ARTICLE 7 Compulsory insurance or financial security

1. The registered owner of a ship having a gross tonnage greater than 1000 registered in a State Party shall be required to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, to cover the liability of the registered owner for pollution damage in an amount equal to the limits of liability under the applicable national or international limitation regime, but in all cases, not exceeding an amount calculated in accordance with the Convention on Limitation for Maritime Claims, 1976, as amended.
2. A 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 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 certificate shall be in the form of the model set out in the annex to this Convention and shall contain the following particulars:
 - (a) name of ship, distinctive number or letters and port of registry;
 - (b) name and principal place of business of the registered 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;
 - (f) period of validity of certificate which shall not be longer than the period of validity of the insurance or other security.
3. (a) A State Party may authorize either an institute or an

第 5 條 二或二艘以上船舶所有人之連帶責任

當二艘或二艘以上發生事故，而該事故造成污染損害時，如是項污染損害無法合理分辨係由何船舶所致，所有船舶之船舶所有人，除具有第 3 條之免責原因外，應共負連帶賠償責任。

第 6 條 責任限制

本公約不應影響船舶所有人及提供保險或其他財務擔保之人或數人得依任何可適用之各國或國際體制有關責任限制之權利，例如 1976 年海事求償責任限制公約及其修訂。

第 7 條 強制保險或財務擔保

1. 登記船舶所有人以其船舶於任一締約國內註冊且為 1,000 噸以上者，應被要求投保保險或提供其他財務擔保，例如銀行或類似財務機構之擔保，以保障登記船舶所有人因本公約規定所生，等同於國內或國際限責體制所適用之責任限制之賠償責任額度，惟在任何情況下，不應超過 1976 年海事求償責任限制公約及其修訂計算所得之數額。
2. 締約國有關機關於確定第 1 項要求已符合者，應簽發船舶已依本公約規定而為有效保險或其他財務擔保之證書之證明。對於在締約國登記之船舶，應由船舶登記國有關機關頒發或簽發該證明；對於不在締約國登記之船舶，則可由任一締約國之有關機關頒發或簽發該證書。該證書應採用附件一所列範本格式並記載左列事項：
 - (a) 船名、船舶編號或符號及船籍港；
 - (b) 船舶登記所有人之姓名及其主營業所所在地；
 - (c) 國際海事組織船舶識別號碼；
 - (d) 擔保類型及期間；
 - (e) 保險人或其他提供擔保人之姓名及其主營業所所在地，及於適當時，記載訂立保險或提供擔保之營業所在地；
 - (f) 證書之有效期間；不得超過保險或其他擔保之有效期間。
3. (a) 締約國得授權任一協會或該協