

1969 年油污損害民事責任國際公約

1969 年 11 月 29 日 布魯塞爾，1975 年 6 月 19 日生效

綜合文本 (1969~2000)

(含 1976、1992 及 2000 年修正，不含 1984 年修正)

International Convention on Civil Liability for Oil Pollution Damage

Brussels, 29 November, 1969 ; Entered into Force on 19 June, 1975

Consolidated Texts (1969~2000)

(Including 1976, 1992 and 2000 Prots, not include 1984 年修正)

CLC 綜合文本 (1969~2000)

	1969 年公約	1976 年議定書	1984 年議定書	1992 年議定書	2000 年修正
生效門檻：	8 國(5 國 ≥ 1m tons) + 90 日	8 國(5 國 ≥ 1m tons) + 90 日	10 國(6 國 ≥ 1m tons) + 12 月	10 國(4 國 ≥ 1m tons) + 12 月	
生效日期：	1975.06.19	1981.04.08	不生效	1996.05.30	2003.11.1
締約國數(2017.1)：	34	53	***	138	***

簡介：1967 年 Torrey Canyon 油污案發生後，除前述 MARPOL、INTERVENTION、OPRC 外，有關船舶或貨物所有人之海上油污事故之損害賠償責任基礎及範圍為何？為另一重要課題。本公約係為規定載運貨油之船舶發生污染事故時，「船舶所有人」之民事責任及其限額。公約全文 21 條，採次嚴格責任。1969 年 CLC 公約迄今有四次議定書修正：1976 年議定書修正幣值(金法郎 → SDR)、1984 年議定書增加責任限額(因生效門檻及美國不支持而無法生效)、1992 年議定書提高責任限額至 59.7 百萬 SDR，以及 2000 年修正再次將限額提供 50%。

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The States Parties to the present Convention,
Conscious of the dangers of pollution posed by the worldwide maritime carriage of oil in bulk,
Convinced of the need to ensure that adequate compensation is available to persons who suffer damage caused by pollution resulting from the escape or discharge of 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 I

For the purposes of this Convention:

1. "Ship" means any sea-going vessel and sea-borne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo, provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard. ¹⁹⁹²
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. "State of the ship's registry" means in relation to registered ships the State of registration of the ship, and in relation to

本公約締約國，
鑑於全球性海上運載散裝油料引起污損之危險，
確認此種船舶所洩漏或排出之油料所造成之污染損害，有必要對受害者給予適當賠償，
期欲訂立統一國際法規及程序，俾在前述情況發生時能決定責任問題，並提供合理之賠償，
爰經協議如次：

第 1 條

為本公約目的：

1. “船舶”係指為運送散裝油類貨物而建造或改建之任何類型之海船及海上航具；然能運送油類及其他貨物之船舶，僅在其實際運送散裝油類貨物，及於該運送之後之任何航程(已證明船上無該散裝油類運送之殘餘物者除外)期間，始應視為船舶。
2. “人”指任何個人、合夥、或不論是否為法人之任何公民營團體。包括國家或其所屬之任何組成部門。
3. “所有人”指登記船舶為其所有人之一人或數人，或未經登記者，則指擁有該船舶之一人或數人。如船舶為國家所有，然於該國登記為營運人之公司營運者，所有人為該公司。
4. “船舶登記國”對已登記之船舶言，指其船籍國；對未登記之船舶言，指該船

- unregistered ships the State whose flag the ship is flying.
5. "Oil" means any persistent hydrocarbon mineral oil such as crude oil, fuel oil, heavy diesel oil and lubricating oil, whether carried on board a ship as cargo or in the bunkers of such a ship. 1992
 6. "Pollution damage" means: 1992
 - (a) loss or damage caused outside the ship by contamination resulting from the escape or discharge of 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;
 - (b) the costs of preventive measures and further loss or damage caused by preventive measures.
 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. 1992
 9. "Organization" means the International Maritime Organization. 1992
 10. "1969 Liability Convention" means the International Convention of Civil Liability for Oil Pollution Damage, 1969. For States Parties to the Protocol of 1976 to that Convention, the term shall be deemed to include the 1969 Liability Convention as amended by that Protocol. 1992

Article II 1992

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 Contracting State, established in accordance with international law, or, if a Contracting State 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;
- (b) to preventive measures, wherever taken, to prevent or minimize such damage.

Article III

1. Except as provided in paragraphs 2 and 3 of this Article, the owner of a ship at the time of an incident, or, where the incident consists of a series of occurrences, at the time of the first such

船已懸掛其國旗之國家。

5. “油類”係指任何持久性烴類礦物油，如原油、燃料油、重柴油及潤滑油，不論是位於船上作為貨物運送或是位於該船舶之燃料艙中。
6. “污染損害”係指：
 - (a) 油類從船上溢出或排放所致之污染於該船之外造成之滅失或損害，無論該溢出或排放發生於何處；然對環境損害(不包括該損害之營利損失)之賠償，應限於已實際採取或即將採取之合理恢復措施之費用；
 - (b) 預防措施費用及預防措施所造成之進一步滅失或損害。
7. “防止措施”指事故發生後，為防止或減少污損，任何人所採取之合理措施。
8. “事故”係指具同一起源之造成污染損害或形成造成該損害之嚴重及緊迫威脅之任一或一系列事件。
9. “本組織”係指國際海事組織。
10. “1969 年責任公約”係指 1969 年國際油污損害民事責任公約。就該公約之 1976 年議定書締約國而言，該詞應視為包括經該議定書修正之 1969 年責任公約。

第 2 條

本公約僅適用於：

- (a) 於下列區域所造成之污染損害：
 - (i) 締約國之領土，包括領海；及
 - (ii) 締約國依據國際法設立之專屬經濟區。如締約國尚未設立該區域，則為該國依據國際法所確定並與其領海毗連之區域以外，自該國測量其領海寬度之基線算起，外延不超過 200 浬；
- (b) 為預防或減輕該損害而於任何地點採取之預防措施。

第 3 條

1. 除本條第 2 項及第 3 項另有規定外，於事件發生時，或如該事件包括一系列事故，則在其第一次事故發生時，

occurrence, shall be liable for any pollution damage caused by the ship as a result of the incident. ¹⁹⁹²

2. No liability for pollution damage shall attach to the owner if he proves that the damage:
 - (a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character, or
 - (b) was wholly caused by an act or omission done with intent to cause damage by a third party, or
 - (c) 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.
3. If the owner 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 owner may be exonerated wholly or partially from his liability to such person.
4. No claim for compensation for pollution damage may be made against the owner otherwise than in accordance with this Convention. Subject to paragraph 5 of this Article, no claim for compensation for pollution damage under this Convention or otherwise may be made against: ¹⁹⁹²
 - (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;
 - (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;
 - (f) all servants or agents of persons mentioned in subparagraphs (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.
5. Nothing in this Convention shall prejudice any right of recourse of the owner against third parties.

Article IV ¹⁹⁹²

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

Article V

1. The owner of a ship shall be entitled to limit his liability under

船舶所有人應對該船因該事件所致之任何污染損害負責賠償。

2. 船舶所有人如能舉證證明損害為下列事項所致者，則不負污損責任：
 - (a) 損害係因戰爭行為、敵對行為、內戰、暴亂、或因特殊無法避免不可抗力之意外自然現象所致；
 - (b) 損害完全係因第三者故意作為或不作為所致；
 - (c) 損害完全係因負有維護航行、燈光或其他導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。
3. 如船舶所有人證明污損之全部或部分係因受害者故意之作為或不作為或過失所致者，船舶所有人得被免除其對該受害人全部或部分之賠償責任。
4. 除依本公約規定外，不得對船舶所有人提出污染損害賠償求償。除本條第5項另有規定外，不論依據本公約與否，不得對下列人等提出污染損害賠償求償：
 - (a) 船舶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之非屬船員之任何其他人士；
 - (c) 任何租僱船人(任何類型之租僱船人，包括光船租船人)、船舶經理人或營運人；
 - (d) 經船舶所有人同意或依據有關主管機關之命令進行救助作業之任何人；
 - (e) 採取預防措施之任何人；
 - (f) 第(c)、(d)、(e)款所提及之人之受雇人或代理人；然損害如係因其本人有意造成該損害或是明知可能造成該損害而毫不在意之作為或不作為所致者除外。
5. 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請求權。

第4條

於發生涉及兩艘或以上船舶之事件並造成污染損害時，所有有關船舶之所有人，除依第3條得主張免責外，應對所有無法合理區分之該損害負連帶賠償責任。

第5條

1. 船舶所有人有權依本公約將其對任一

- this Convention in respect of any one incident to an aggregate amount calculated as follows:
- (a) 4.51 million units of account for a ship not exceeding 5,000 units of tonnage;
- (b) for a ship with a tonnage in excess thereof, for each additional unit of tonnage, 631 units of account in addition to the amount mentioned in subparagraph (a);
- provided, however, that this aggregate amount shall not in any event exceed 89.77 million units of account. ~~1976~~ ~~1992~~ 2000
2. The owner shall not be entitled to limit his liability under this Convention if it is proved that the pollution damage resulted from his personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result. 1992
 3. For the purpose of availing himself of the benefit of limitation provided for in paragraph 1 of this Article the owner shall constitute a fund for the total sum representing the limit of his liability with the Court or other competent authority of any one of the Contracting States in which action is brought under Article IX or, if no action is brought, with any Court or other competent authority in any one of the Contracting States in which an action can be brought under Article IX. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the legislation of the Contracting State where the fund is constituted, and considered to be adequate by the Court or other competent authority. 1992
 4. 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 his servants or agents or any person providing him insurance or other financial security has as a result of the incident in question, paid compensation for pollution damage, such person shall, up to the amount he 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 of this Article may also be exercised by a person other than those mentioned therein in respect of any amount of compensation for pollution damage which he may have paid but only to the extent that such subrogation is permitted under the applicable national law.
 7. Where the owner or any other person establishes that he may be compelled to pay at a later date in whole or in part any such amount of compensation, with regard to which such person would have enjoyed a right of subrogation under paragraphs 5 or 6 of this Article, 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 his claim against the fund.
 8. Claims in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize pollution damage shall rank equally with other claims
- 事件之賠償責任限於依下列方法計算出之總額：
- (a) 不超過 5,000 噸位單位之船舶為 451 萬記帳單位；
- (b) 超過該噸位之船舶，除第(a)款所述數額外，每增加一噸位單位，增加 631 記帳單位；
- 然該總額於任何情況下不得超過 8,977 萬記帳單位。
2. 如經證明污染損害係因船舶所有人本人有意造成該損害或是明知可能造成該損害而毫不在意之作為或不作為所致，船舶所有人無權依本公約限制其責任。
 3. 為主張本條第 1 項所規定之責任限制權利，船舶所有人應於依第 9 條提起訴訟之任一締約國法院或其他主管機關設立相當於其責任限額總額之基金；如未提起訴訟，則應在可依第 9 條提起訴訟之任一締約國之任一法院或其他主管機關設立該基金。設立該基金時可將其總額以現金提存，或設立基金之締約國法律可接受，法院或其他主管機關認為合適之銀行擔保或其他擔保。
 4. 基金應依所有求償人各別求償之總額，比例分配之。
 5. 基金分配前，船舶所有人或其任何受僱人或代理人，或其他對該所有人提供保險，或其他財務擔保之任何人，就有關事故業已就污損支付賠償者，則該人應就其支付數額之限額內依本公約規定請求享有代位求償之權利。
 6. 本條第 5 項規定之代位求償權利亦得由該項所指以外之任何人就其為污損支付之賠償額行使其，惟以該項代位求償權利不得逾越該國法律規定為限。
 7. 船舶所有人或其他任何人確認其日後可能被迫給予該污損賠償額之全部或一部時，而依本條第 5 項或第 6 項之規定享有代位求償權利，如於基金分配前業已給付賠償者，基金設立國之法院或其他主管機關得命令暫時由基金中撥出足夠款額，以供日後該人對該基金強制求償。
 8. 船舶所有人為防止或減少污損自願花費之合理費用，或自願所作出之合理犧牲，與其他之求償對於基金享有同