

# 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，尚未生效

## 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 , Not yet in force

### 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.

## Article 5

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

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.

## Article 6

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

## Article 7

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

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) Where the damage has been caused by bulk HNS:
    - (i) 10 million units of account for a ship not exceeding 2,000 units of tonnage; and
    - (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):
      - 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.
  - (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:
    - (i) 11.5 million units of account for a ship not exceeding 2,000 units of tonnage; and
    - (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

(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。

## 第5條

**第4條3項(b)款為下列文字所取代：**

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。

## 第6條

**刪除公約第5條第5項，第6項成為第5項。**

## 第7條

**公約第9條第1項為下列文字所取代：**

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)如損害係由散裝有害有毒物質所致：
    - (i)對不超過2,000噸之船舶，1,000萬記帳單位；及
    - (ii)對超過該噸位之船舶，第(i)款所述數額再加上下列數額：
      - 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。
  - (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)對不超過2,000噸之船舶，1,150萬記帳單位；及
    - (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

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

## 第8條

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

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

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.

## 第9條

**1. 公約第17條第2項為下列文字所取代：**

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

**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.**

## 第10條

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

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

## 第11條

**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。