

1976年海事求償責任限制公約之1996年議定書

1996年5月2日訂於倫敦，2004年5月13日生效

Convention on Limitation of Liability for Maritime Claims 1976, as amended by the 1996 Protocol

Signed at London, May 2, 1996, Entered into force May, 13, 2004

LLMC 1996

THE PARTIES TO THE PRESENT PROTOCOL,

CONSIDERING that it is desirable to amend the Convention on Limitation of Liability for Maritime Claims, done at London on 19 November 1976, to provide for enhanced compensation and to establish a simplified procedure for updating the limitation amounts,

HAVE AGREED as follows:

Article 1

For the purposes of this Protocol:

1. "Convention" means the Convention on Limitation of Liability for Maritime Claims, 1976.
2. "Organization" means the International Maritime Organization.
3. "Secretary-General" means the Secretary-General of the Organization.

Article 2

Article 3, subparagraph (a) of the Convention is replaced by the following text:

- (a) claims for salvage, including, if applicable, any claim for special compensation under article 14 of the International Convention on Salvage 1989, as amended, or contribution in general average;

Article 3

Article 6, paragraph 1 of the Convention is replaced by the following text:

1. The limits of liability for claims other than those mentioned in article 7, arising on any distinct occasion, shall be calculated as follows:

本議定書各當事國，

考量需要針對1976年11月19日於倫敦簽署之海事求償責任限制公約進行修訂，以規範更高的賠償額，並建立更新責任限額及更為簡化之程序，

謹協議如下：

第1條

於本議定書：

1. “公約”係指1976年海事求償責任限制公約。
2. “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

下列條文取代公約第3條(a)款：

- (a) 有關救助之求償，包括依1989年國際海難救助公約第14條特別補償金之任何求償，或共同海損分擔之求償；

第3條

下列條文取代公約第6條第1項：

1. 除第7條規定外，任一事故所致求償之責任限額依下列計算之：

- (a) in respect of claims for loss of life or personal injury,
 - (i) 2 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,
 - (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):
 - for each ton from 2,001 to 30,000 tons, 800 Units of Account;
 - for each ton from 30,001 to 70,000 tons, 600 Units of Account; and
 - for each ton in excess of 70,000 tons, 400 Units of Account,
- (b) in respect of any other claims,
 - (i) 1 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,
 - (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):
 - for each ton from 2,001 to 30,000 tons, 400 Units of Account;
 - for each ton from 30,001 to 70,000 tons, 300 Units of Account; and
 - for each ton in excess of 70,000 tons, 200 Units of Account.

- (a) 有關人命傷亡之求償，
 - (i) 不超過 2000 噸者，每船 2,000,000 記帳單位，
 - (ii) 船舶噸位超過前述所載，第 (1) 款以外應再加上下列數額：
 - 2,001 至 30,000 噸，每噸 800 記帳單位；
 - 30,001 至 70,000 噸，每噸 600 記帳單位；
 - 超過 70,000 噸，每噸 400 記帳單位，
- (b) 有關任何其它求償，
 - (i) 不超過 2,000 噸者，每船 1,000,000 記帳單位，
 - (ii) 船舶噸位超過前述所載，第 (i) 款以外應再加上下列數額：
 - 2,001 至 30,000 噸，每噸 400 記帳單位；
 - 30,001 至 70,000 噸，每噸 300 記帳單位；
 - 超過 70,000 噸，每噸 200 記帳單位；

Article 4

Article 7, paragraph 1 of the Convention is replaced by the following text:

In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 175,000 Units of Account multiplied by the number of passengers which the ship is authorized to carry according to the ship's certificate.

第 4 條

下列條文取代公約第 7 條第 1 項：

對於客輪任一事件所致人命傷亡之求償，船舶所有人之責任限制額應為該輪船舶證書可搭載人數乘以 175,000 記帳單位之總額。

Article 5

Article 8, paragraph 2 of the Convention is replaced by the following text:

2. Nevertheless, those States which are not members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 may, at the time of signature without reservation as to ratification, acceptance or approval or at the time of ratification, acceptance, approval or accession or at any time thereafter, declare that the limits of liability provided for in this Convention to be applied in their territories shall be fixed as follows:
 - (a) in respect of article 6, paragraph 1 (a), at an amount of
 - (i) 30 million monetary units for a ship with a tonnage not exceeding 2,000 tons;

第 5 條

下列條文取代公約第 8 條第 2 項：

2. 如締約國非國際貨幣基金會會員國且該國法律不承認本條第 1 項之適用時，該締約國得於不附任何保留地簽署批准、接受或批准當時、或於嗣後批准、接受、認可、或加入當時、或於其後任何時間，聲明本公約所規定之責任限制應以下列方式適用於該國境內：
 - (a) 有關第 6 條第 1(a) 款之求償
 - (i) 不超過 2,000 噸者，每船 30,000,000 貨幣單位；

- (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):
 - for each ton from 2,001 to 30,000 tons, 12,000 monetary units;
 - for each ton from 30,001 to 70,000 tons, 9,000 monetary units; and
 - for each ton in excess of 70,000 tons, 6,000 monetary units; and
- (b) in respect of article 6, paragraph I (b), at an amount of:
 - (i) 15 million monetary units for a ship with a tonnage not exceeding 2,000 tons;
 - (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):
 - for each ton from 2,001 to 30,000 tons, 6,000 monetary units;
 - for each ton from 30,001 to 70,000 tons, 4,500 monetary units; and
 - for each ton in excess of 70,000 tons, 3,000 monetary units; and
- (c) in respect of article 7, paragraph 1, at an amount of 2,625,000 monetary units multiplied by the number of passengers which the ship is authorized to carry according to its certificate.

Paragraphs 2 and 3 of article 6 apply correspondingly to subparagraphs (a) and (b) of this paragraph.

Article 6

The following text is added as paragraph *3bis* in article 15 of the Convention:

3bis Notwithstanding the limit of liability prescribed in paragraph 1 of article 7, a State Party may regulate by specific provisions of national law the system of liability to be applied to claims for loss of life or personal injury to passengers of a ship, provided that the limit of liability is not lower than that prescribed in paragraph I of article 7. A State Party which makes use of the option provided for in this paragraph shall inform the Secretary-General of the limits of liability adopted or of the fact that there are none.

Article 7

Article 18, paragraph 1 of the Convention is replaced by the following text:

1. Any State may, at the time of signature, ratification, acceptance, approval or accession, or at any time thereafter, reserve the right:
 - (a) to exclude the application of article 2, paragraphs 1(d) and (e);
 - (b) to exclude claims for damage within the meaning of the

- (ii) 船舶噸位超過前述所載，第 (i) 款以外應再加上下列數額：
 - 2,001 至 30,000 噸，每噸 12,000 貨幣單位；
 - 30,001 至 70,000 噸，每噸 9,000 貨幣單位；
 - 超過 70,000 噸，每噸 6,000 貨幣單位；
- (b) 有關第 6 條第 1(b) 款之求償：
 - (i) 不超過 2,000 噸者，每船 15,000,000 貨幣單位；
 - (ii) 船舶噸位超過前述所載，第 (i) 款以外應再加上下列數額：
 - 2,001 至 30,000 噸，每噸 6,000 貨幣單位；
 - 30,001 至 70,000 噸，每噸 4,500 貨幣單位；
 - 超過 70,000 噸以上，每噸 3,000 貨幣單位；
- (c) 第 7 條第 1 款應為該輪船舶證書上可搭載人數乘以 2,625,000 貨幣單位之總額。

第 6 條第 2 及第 3 項規定適用本項第 a 及 b 款規定。

第 6 條

插入下列條文，作為公約第 15 條第 3 項之一：

第 3 項之一：無論第 7 條第 1 項責任限制規定為何，締約國均得以其國內法特別規定適用船上旅客人命傷亡求償之責任限制，然該限責規定不應低於第 7 條第 1 項所定之數額。締約國欲依本項規定為之時，應將其國內立法所採用的責任限制或不為如是採用之事實通知公約存放處。

第 7 條

下列條文取代公約第 18 條第 1 項：

1. 任何國家於簽署、批准、接受、核准或加入當時保留下列事項之權利：
 - (a) 排除第 2 條第 1 項(d) 款及(e) 款之適用；
 - (b) 排除 1996 年海上運送危險及

International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 or of any amendment or protocol thereto.

No other reservations shall be admissible to the substantive provisions of this Convention.

有毒物質損害賠償責任公約或該公約之任何修訂或議定書所定義之損害之求償。

本公約其他實質性規定不得予以保留。

Article 8 Amendment of limits

1. Upon the request of at least one half, but in no case less than six, of the States Parties to this Protocol, any proposal to amend the limits specified in article 6, paragraph 1, article 7, paragraph 1 and article 8, paragraph 2 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.
2. 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.
3. All Contracting States to the Convention as amended by this Protocol, 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.
4. Amendments shall be adopted by a two-thirds majority of the Contracting States to the Convention as amended by this Protocol present and voting in the Legal Committee expanded as provided for in paragraph 3, on condition that at least one half of the Contracting States to the Convention as amended by this Protocol shall be present at the time of voting.
5. 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.
6.
 - (a) No amendment of the limits under this article may be considered less than five years from the date on which 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 the limit laid down in the Convention as amended by 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 the limit laid down in the Convention as amended by this Protocol multiplied by three.
7. Any amendment adopted in accordance with paragraph 4 shall be notified by the Organization to all Contracting States. The

第 8 條 限責額之修訂

1. 經不少於二分之一，然最低不少於六個締約國之請求，秘書長應向本組織所有會員國及所有締約國分發有關修正經本議定書修正之公約第 6 條第 1 項、第 7 條第 1 項及第 8 條第 2 項規定之責任限額之任何提案。
2. 提出並依上述方式分發之任何修正案，應提交本組織法律委員會，供在分發之日後至少六個月之某一日期審議。
3. 經本議定書修正之公約所有締約國，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。
4. 修正案應在依照第 3 項規定所擴大召開之法律委員會上，由出席並參加表決之締約國之三分之二多數通過，但表決時至少應有半數締約國出席。
5. 對修正限額提案為討論時，法律委員會應考慮以往事故，特別是其所造成之損害金額、幣值變動及所提修正案對保險費用的影響。
6.
 - (a) 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 年期間，不應審議本條規定之任何限額修正案。
 - (b) 任何限額不可增加到超過將本議定書規定的限額自本議定書開放供簽署之日起按複利計算每年增加 6% 所得之金額。
 - (c) 任何限額不可增加到超過本議定書規定之限額 3 倍之金額。
7. 依據第 4 項通過之任何修正案，應由本組織通知所有締約國。該修正案在

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 not less than one-fourth of the States that 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.

8. An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force eighteen months after its acceptance.
9. All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with paragraphs 1 and 2 of article 12 at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.
10. 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 7. 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 9

1. The Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.
2. A State which is Party to this Protocol but not a Party to the Convention shall be bound by the provisions of the Convention as amended by this Protocol in relation to other States Parties hereto, but shall not be bound by the provisions of the Convention in relation to States Parties only to the Convention.
3. The Convention as amended by this Protocol shall apply only to claims arising out of occurrences which take place after the entry into force for each State of this Protocol.
4. Nothing in this Protocol shall affect the obligations of a State which is a Party both to the Convention and to this Protocol with respect to a State which is a Party to the Convention but not a Party to this Protocol.

FINAL CLAUSES

Article 10 Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open for signature at the Headquarters

通知之日後之十八個月期限結束時，應視為已獲接受，除非在此期限內，有不少於四分之一在通過該修正案時為締約國之國家通知本組織不接受該修正案，在此情況下，該修正案即被拒絕，並屬無效。

8. 依據第 7 項視為已獲得接受之修正案，應在獲得接受後十八個月開始生效。
9. 所有締約國均應受該修正案之拘束，除非其已依據第 16 條第 1 項及第 2 項規定於該修正案生效之前至少六個月退出本議定書。而此退出，應在該修正案生效時生效。
10. 於某項修正案已通過，然十八個月接受期限尚未屆滿，如該修正案生效前，於此期間內成為締約國之國家應受其約束。在此期限之後成為締約國的國家，應受依據第 7 項獲得接受之修正案之拘束。在本項所述情況下，締約國應在修正案生效時，或在本議定書對該國生效時(如遲於前者)，受該修正案之拘束。

第 9 條

1. 公約及本議定書於本議定書會員國間應讀作並解釋為單一文件。
2. 為本議定書締約國，但非公約締約國之國家，與本議定書其他締約國之間，仍應本議定書所修正之公約之拘束，然其與僅為公約締約國之間，則不受本議定書規定之拘束。
3. 本議定書所修正之公約應僅適用於本議定書對任一國家生效後所生事故之求償案件。
4. 本議定書在任何方面不應影響同為公約及本議定書締約國，以及僅為公約締約國然非本議定書締約國之有關義務。

最後條款

第 10 條 簽署、批准、接受、核准及加入

1. 本公約自 1996 年 10 月 1 日起至 1997