

1971 年海上運輸核子物質民事責任公約

1971 年 12 月 17 日 訂於布魯塞爾，1975 年 7 月 15 日生效

Convention Relating to Civil Liability in The Field of Maritime Carriage of Nuclear Material, 1971

Signed at Brussels, December 17, 1971, Entered into force July, 15, 1975

Nuclear Material 1971

生效門檻：5 國+90 日

(2019.3)締約國數：17 國

簡介：1960 年代國際間即制定若干與核子動力船舶營運人及核子設施營運人之責任等相關公約(例如 1960 年巴黎公約及 1963 年維也納公約等)，為有效區分，IMO 於 1971 年聯合國國際原子能總署及經濟合作發展組織下之歐盟原子能源總署所召開之聯席會議而制定，目的在規範海上運送核子物質之民事責任事項。

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The High Contracting Parties,

Considering that the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy and its Additional Protocol of 28 January 1964 (hereinafter referred to as "the Paris Convention") and the Vienna Convention of 21 May 1963 on Civil Liability for Nuclear Damage (hereinafter referred to as "the Vienna Convention") provide that, in the case of damage caused by a nuclear incident occurring in the course of maritime carriage of nuclear material covered by such Conventions, the operator of a nuclear installation is the person liable for such damage,

Considering that similar provisions exist in the national law in force in certain States,

Considering that the application of any preceding international Convention in the field of maritime transport is however maintained,

Desirous of ensuring that the operator of a nuclear installation will be exclusively liable for damage caused by a nuclear incident occurring in the course of maritime carriage of nuclear material,

Have agreed as follows:

Article 1

Any person who by virtue of an international convention or national law applicable in the field of maritime transport might be held liable for damage caused by a nuclear incident shall be exonerated from such liability:

- (a) if the operator of a nuclear installation is liable for such damage under either the Paris or the Vienna Convention, or
- (b) if the operator of a nuclear installation is liable for such damage by virtue of a national law governing the liability for such damage, provided that such law is in all respects as favourable to persons who may suffer damage as either the Paris or the Vienna Convention.

Article 2

1. The exoneration provided for in Article 1 shall also apply in respect of damage caused by a nuclear incident:
 - (a) to the nuclear installation itself or to any property on the site of

各締約國，

慮及 1960 年 7 月 29 日核能領域中第三方責任巴黎公約及其 1964 年 1 月 28 日補充議定書(下稱“巴黎公約”)，及 1963 年 5 月 21 日核損害民事責任維也納公約(下稱“維也納公約”)之規定，於上述各公約所適用之海上核材料運輸過程中發生核事故造成核損害時，核裝置營運人應對此損害負責，

慮及某些國家所實施之國內法中存有類似規定，

慮及先前海上運輸領域之國際公約之適用仍然維持，

希望確保海上核材料運輸過程中引起之核事故所致之損害僅由核裝置營運人負責，茲達成協議如下：

第 1 條

依據海上運輸領域所適用之國際公約或國內法規定，可能必須針對核事故所造成之損害負責之任何人，於下列情況下，應免除其是項責任：

- (a) 依據巴黎公約或維也納公約，如核裝置營運人須對該損害負責者，或
- (b) 依據規範是項損害責任之國內法，核裝置營運人應對該損害負責者，然以該法律於各方面等同於巴黎公約或維也納公約一樣有利於可能遭受損害之人者為限。

第 2 條

1. 第 1 條所規定之免責，亦適用於下列核事故所造成之損害：
 - (a) 對核裝置本身或在其現場與該

that installation which is used or to be used in connexion with that installation, or

(b) to the means of transport upon which the nuclear material involved was at the time of the nuclear incident, for which the operator of the nuclear installation is not liable because his liability for such damage has been excluded pursuant to the provisions of either the Paris or the Vienna Convention, or, in cases referred to in Article 1(b), by equivalent provisions of the national law referred to therein.

2. The provisions of paragraph 1 shall not, however, affect the liability of any individual who has caused the damage by an act of omission done with intent to cause damage.

Article 3

No provision of the present Convention shall affect the liability of the operator of a nuclear ship in respect of damage caused by a nuclear incident involving the nuclear fuel of or radioactive products or waste produced in such ship.

Article 4

The present Convention shall supersede any international Conventions in the field of maritime transport which, at the date on which the present Convention is opened for signature, are in force or open for signature, ratification or accession but only to the extent that such Conventions would be in conflict with it; however, nothing in this Article shall affect the obligations of the Contracting Parties to the present Convention to non-Contracting States arising under such international Conventions.

Article 5

1. The present Convention shall be opened for signature in Brussels and shall remain open for signature in London at the Headquarters of the Inter-Governmental Maritime Consultative Organization (hereinafter referred to as "the Organization") until 31 December 1972 and shall thereafter remain open for accession.
2. States Members of the United Nations or any of the Specialized Agencies or of the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice may become Parties to the present Convention by:
 - (a) signature without reservation as to ratification, acceptance or approval;
 - (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 a formal instrument to that effect with the Secretary-General of the Organization.

Article 6

裝置有關已使用或即將被使用之任何財產造成之損害，或

(b) 於核事故發生時對載運有關核材料之運輸工具造成之損害。因核裝置營運人對此種損害之賠償責任，依據巴黎公約或維也納公約之規定，或於第 1 條(b)款情況下，依據該款所述國內法之同樣規定而被免除，而對該損害不負賠償責任。

2. 本條第 1 項規定無論如何均不應妨礙任何人對有意造成損害之行為或不行為所致生損害而應負之責任。

第 3 條

本公約之任何規定不影響核動力船舶營運人對有關該船之核燃料或放射性產物或產生之廢料之核事故引起之損害所應承擔之賠償責任。

第 4 條

本公約取代於其開放供簽字期間，已生效或處於開放供簽字、批准或加入狀態之任何海上運輸之國際公約，然以與本公約相抵觸之範圍為限。然本條規定，不應影響本公約締約國對非締約國根據該國際公約所應承擔之義務。

第 5 條

1. 本公約於 1972 年 12 月 31 日前，於布魯塞爾開放供簽字，並在政府間海事協商組織（下稱“本組織”）總部倫敦繼續開放供簽字。此後繼續開放供加入。
2. 聯合國或其任何專門機構或國際原子能機構之會員國，或國際法院規約之參加國，可透過下列方式成為本公約參加國：
 - (a) 簽字並對批准、接受或核准不作保留；
 - (b) 簽字但有待批准，接受或核准，並隨後批准，接受或核准，或
 - (c) 加入。
3. 批准、接受、核准或加入本公約，應向本組織秘書長提交一份相應的正式文書。

第 6 條

1. The present Convention shall enter into force on the ninetieth day following the date on which five States have either signed it without reservation as to ratification, acceptance or approval or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization.
2. For any State which subsequently signs the present Convention without reservation as to ratification, acceptance or approval, or deposits its instrument of ratification, acceptance, approval or accession, the Convention shall come into force on the ninetieth day after the date of such signature or deposit.

Article 7

1. The present Convention may be denounced by any Contracting Party to it at any time after the date on which the Convention comes into force for that State.
2. Denunciation shall be effected by a notification in writing delivered to the Secretary-General of the Organization.
3. A denunciation shall take effect one year, or such longer period as may be specified in the notification, after its receipt by the Secretary-General of the Organization.
4. Notwithstanding a denunciation by a Contracting Party pursuant to this Article the provisions of the present Convention shall continue to apply to any damage caused by a nuclear incident occurring before the denunciation takes effect.

Article 8

1. The United Nations where it is the administering authority for a territory, or any Contracting Party to the present Convention responsible for the international relations of a territory, may at any time by notification in writing to the Secretary-General of the Organization declare that the present Convention shall extend to such territory.
2. The present Convention shall, from the date of receipt of the notification or from such other date as may be specified in the notification, extend to the territory named therein.
3. The United Nations, or any Contracting Party which had made a declaration under paragraph 1 of this Article may at any time after the date on which the Convention has been so extended to any territory declare by notification in writing to the Secretary-General of the Organization that the present Convention shall cease to extend to any such territory named in the notification.
4. The present Convention shall cease to extend to any territory mentioned in such notification one year, or such longer period as may be specified therein, after the date of receipt of the notification by the Secretary-General of the Organization.

Article 9

1. A Conference for the purpose of revising or amending the present Convention may be convened by the Organization.
2. The Organization shall convene a Conference of the Contracting

1. 本公約自五個國家於公約上簽字並對批准、接受或核准不作保留，或向本組織秘書長提交批准、接受、核准或加入書之日起，九十天後生效。
2. 對此後簽署本公約並對批准、接受或核准不作保留，或提交批准、接受、核准或加入書之任何國家，本公約應自該簽署或文書提交之日起，九十天後生效。

第 7 條

1. 任何締約國可在本公約對其生效之日後之任何時候，退出本公約。
2. 退出本公約，應向本組織秘書長提交一份相應之書面通知。
3. 退出本公約，應自本組織秘書長收到該通知起一年後，或該通知中規定之更長期限後生效。
4. 儘管某一締約國依照本條規定退出本公約，然對在退出生效前所發生之核事故所造成之任何損害，本公約規定仍有適用。

第 8 條

1. 聯合國對其有權管轄之領域，或本公約任何締約國對由其負責國際關係之領域，可在任何時候書面通知本組織秘書長，聲明本公約擴大適用於該領域。
2. 本公約自本組織秘書長收到該通知之日，或該通知中所記載之其他日期起，擴大適用於通知中所指定之領域。
3. 依本條第 1 項規定作出聲明之聯合國或任何締約國，可在本公約擴大適用於上述領域後之任何時候，書面通知組織秘書長，聲明本公約終止對通知中指明之領域之適用。
4. 本公約自本組織秘書長收到通知之日起一年或所特別指定之更長時間後終止適用於該擴大適用之領域。

第 9 條

1. 修訂或修正本公約之會議，可由本組織召開。
2. 經不少於三分之一的締約國請

Parties to the present Convention for revising or amending it at the request of not less than one-third of the Contracting Parties.

求，本組織應召開本公約締約國會議，對本公約進行修訂或修正。

Article 10

A Contracting Party may make reservations corresponding to those which it has validly made to the Paris or Vienna Convention. A reservation may be made at the time of signature, ratification, acceptance, approval or accession.

第 10 條

締約國可對與巴黎公約或維也納公約有效作出保留相對應部分作出保留。保留可在簽署、批准、接受、核准或加入時為之。

Article 11

1. The present Convention shall be deposited with the Secretary-General of the Organization.
2. The Secretary-General of the Organization shall:
 - (a) inform all States which have signed or acceded to the present Convention of:
 - (i) each renew signature and each deposit of an instrument together with the date thereof;
 - (ii) any reservation made in conformity with the present Convention;
 - (iii) the date of entry into force of the present Convention;
 - (iv) any denunciation of the present Convention and the date on which it takes effect;
 - (v) the extension of the present Convention to any territory under paragraph 1 of Article 8 and of the termination of any such extension under the provisions of paragraph 4 of that Article stating in each case the date on which the present Convention has been or will cease to be so extended;
 - (b) transmit certified true copies of the present Convention to all Signatory States and to all States which have acceded to the present Convention.
3. As soon as the present Convention comes into force, a certified true copy thereof shall be transmitted by the Secretary-General of the Organization to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

第 11 條

1. 本公約應由本組織秘書長保存。
2. 本組織秘書長應當：
 - (a) 將下述情況通知已簽署或加入本公約所有國家：
 - (i) 本公約任一新簽署及每一文書之交存及其日期；
 - (ii) 依本公約所作出之任何保留；
 - (iii) 本公約生效日期；
 - (iv) 任何本公約之退出及其生效日期；
 - (v) 依本公約第 8 條第 1 項規定對任何領域之擴大適用，及依該條第 4 項規定對上述領域擴大適用之終止，及本公約擴大與擴大終止之日期。
 - (b) 將經核證無誤之本公約副本分送所有簽字國及已加入本公約之國家。
3. 本公約一經生效，本組織秘書長應根據聯合國憲章第 102 條規定，將一份經核證無誤之副本送交聯合國秘書處，以供登記及公佈。

Article 12

The present Convention is established in a single original in the English and French languages, both texts being equally authentic. Official translations in the Russian and Spanish languages shall be prepared by the Secretariat of the Organization and deposited with the signed original.

In witness whereof the undersigned being duly authorized by their respective Governments for that purpose have signed the present Convention.

Done at Brussels this seventeenth day of December 1971.

第 12 條

本公約正本一份，用英文及法文寫成，兩種文本均具同等效力。本組織秘書處應備妥俄文及西班牙文正式譯本，並同經簽署之正本一併保管。

下列署名者，經各自政府正式授權，簽署本公約，以昭信守。

1971 年 12 月 17 日簽署於布魯塞爾。