

2000 年有害及有毒物質污染事故防備、因應及合作 議定書

2000 年 3 月 15 日 倫敦，2007 年 6 月 14 日生效實施

2000 Protocol on Preparedness, Response and Co-Operation to Pollution Incidents by Hazardous and Noxious Substances

London, 15 March, 2000 ; Entered into Force on 14 June, 2007

OPRC HNS 2000

生效門檻：15 國 + 12 月
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簡介：IMO 於 1996 年針對有毒有害物質制定「關於海上運送有毒有害物質損害責任及補償國際公約」後，即有必要參酌 1990 年油污防備、因應及合作國際公約所展現之污染處理機制，本議定書即將適用範圍擴及「有毒有害物質」之污染事故。

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THE PARTIES TO THE PRESENT PROTOCOL,

BEING PARTIES to the International Convention on Oil Pollution Preparedness, Response and Co-operation, done at London on 30 November 1990,

TAKING INTO ACCOUNT Resolution 10, on the expansion of the scope of the International Convention on Oil Pollution Preparedness, Response and Co-operation 1990, to include hazardous and noxious substances, adopted by the Conference on International Co-operation on Oil Pollution Preparedness and Response 1990,

FURTHER TAKING INTO ACCOUNT that pursuant to Resolution 10 of the Conference on International Co-operation on Oil Pollution Preparedness and Response 1990, the International Maritime Organization has intensified its work, in collaboration with all interested international organizations, on all aspects of preparedness, response and co-operation to pollution incidents by hazardous and noxious substances,

TAKING ACCOUNT of the "polluter pays" principle as a general principle of international environmental law,

BEING MINDFUL of the development of a strategy for incorporating the precautionary approach in the policies of the International Maritime Organization,

MINDFUL ALSO that, in the event of a pollution incident by hazardous and noxious substances, prompt and effective action is essential in order to minimize the damage which may result from such an incident.

HAVE AGREED as follows:

Article 1 General Provisions

(1) Parties undertake, individually or jointly, to take all appropriate measures in accordance with the provisions of this Protocol and

本議定書締約國，

作為 1990 年 11 月 30 日於倫敦簽訂之國際油污防備、因應與合作公約之締約國，

考慮到 1990 年油污防備、因應及合作會議所通過有關擴大「1990 年國際油污防備、因應及合作公約」範圍以納入有毒有害物質之第 10 號決議，

另考慮到依 1990 年油污防備、因應及合作國際會議第 10 號決議，國際海事組織與所有有關國際組織合作，加強其於有毒有害物質污染事故防備、因應及合作之所有問題上之工作，

考慮到「污染者付費」原則為國際環境法之普遍原則，

注意到將風險預防原則引入國際海事組織各項政策的策略發展，

還注意到，一旦發生有毒有害物質污染事故，必須採取迅速和有效的行動將此種事故可能造成的損害減至最低程度，

茲協議如下：

第 1 條 通則

(1) 各締約國承諾，依本議定書及其附件規定，各自或聯合對有害有毒物

the Annex thereto to prepare for and respond to **a pollution incident by hazardous and noxious substances.**

- (2) The Annex to **this Protocol** shall constitute an integral part of **this Protocol** and a reference to **this Protocol** constitutes at the same time a reference to the Annex.
- (3) **This Protocol** shall not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service. However, each Party shall ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with **this Protocol.**

Article 2 Definitions

For the purposes of **this Protocol:**

- (1) **Pollution incident by hazardous and noxious substances (hereinafter referred to as "pollution incident")** means any occurrence or series of occurrences having the same origin, **including fire or explosion,** which results or may result in a discharge, **release or emission of hazardous and noxious substances and** which poses or may pose a threat to the marine environment, or to the coastline or related interests of one or more States, and which requires emergency action or immediate response.
- (2) **Hazardous and noxious substances means any substance other than oil which, if introduced into the marine environment is likely to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.**
- (3) Sea ports and **hazardous and noxious substances handling facilities** mean those **ports or facilities where such substances are loaded into or unloaded from ships.**
- (4) Organization means the International Maritime Organization.
- (5) Secretary-General means the Secretary-General of the Organization.
- (6) **OPRC Convention means the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990.**

Article 3 Emergency Plans and Reporting

- (1) Each Party shall require that ships entitled to fly its flag have on-board **a pollution incident emergency plan and shall require masters or other persons having charge of such ships to follow reporting procedures to the extent required. Both planning requirements and reporting procedures shall be in accordance with applicable provisions of the conventions developed within the Organization which have entered into force for that Party. On-board pollution incident emergency plans for offshore units, including Floating Production, Storage and Offloading Facilities**

質污染事故採取一切適當防備及因應措施。

- (2) **本議定書**附件為**本議定書**組成部分，凡述及**本議定書**者，同時亦構成述及該附件。
- (3) **本議定書**不適用於任何軍艦、軍用輔助船或由國家擁有或使用並於當時專用於政府非商業性服務之其他船舶。然每一締約國應採取不影響由其擁有或使用的此類船舶之作業或作業能力之適當措施，確保此類船舶於合理及可行時，以符合**本議定書**方式為活動。

第 2 條 定義

為**本議定書**之目的：

- (1) **"有害有毒物質之污染事故(以下以"污染事故"稱之)**係指同一事故或一系列事故，**包括失火或爆炸，**所造成或可能造成**有害有毒物質之排放、洩漏或釋放，**對海洋環境或對一或多個國家之海岸線或有關利益構成或可能構成威脅，而需要採取應急措施或其他迅速因應措施之事故。
- (2) **"有毒有害物質"**係指除油類以外，如進入海洋環境便可能對人類健康造成危害、對生物資源及海洋生物造成損害、對宜人環境造成破壞或對海洋之其他合法使用造成干擾之任何物質。
- (3) **"海港及有害有毒物質處理設施"**係指船舶在其中裝入或卸下此種物質的港口或設施。
- (4) **"本組織"**係指國際海事組織。
- (5) **"秘書長"**係指本組織的秘書長。
- (6) **"OPRC 公約"**係指 1990 年國際油污防備、因應與合作公約。

第 3 條 應急計畫及通報

- (1) 任一締約國應要求有權懸掛其國旗之船舶於船上備有一份**污染事故應急計畫，並應要求船長或負責該船舶之其他人員依要求遵守通報程序。計畫要求及通報程序均應符合本組織所訂訂已對該締約國生效之各公約適用要求。包括浮動平台生產、貯存及卸載設施及浮動貯存裝置在內之近海設施之污染**

and Floating Storage Units, should be dealt with under national provisions and/or company environmental management systems, and are excluded from the application of this article.

- (2) Each Party shall require that authorities or operators in charge of sea ports and **hazardous and noxious substances handling facilities** under its jurisdiction as it deems appropriate have pollution incident emergency plans or similar arrangements for **hazardous and noxious substances** that it deems appropriate which are co-ordinated with the national system established in accordance with **article 4** and approved in accordance with procedures established by the competent national authority.
- (3) **When the appropriate authorities of a Party learn of a pollution incident, they shall notify other States whose interests are likely to be affected by such incident.**

Article 4 National and Regional Systems for Preparedness and Response

- (1) Each Party shall establish a national system for responding promptly and effectively to pollution incidents. This system shall include as a minimum:
 - (a) the designation of:
 - (i) the competent national authority or authorities with responsibility **for preparedness for and response to pollution incidents;**
 - (ii) the national operational **contact point or points;** and
 - (iii) an authority which is entitled to act on behalf of the State to request assistance or to decide to render the assistance requested;
 - (b) a national contingency plan for preparedness and response which includes the organizational relationship of the various bodies involved, whether public or private, taking into account guidelines developed by the Organization.
- (2) In addition, each Party within its capabilities either individually or through bilateral or multilateral co-operation and, as appropriate, in co-operation with **the shipping industries and industries dealing with hazardous and noxious substances,** port authorities and other relevant entities, shall establish:
 - (a) a minimum level of pre-positioned **equipment for responding to pollution incidents** commensurate with the risk involved, and programmes for its use;
 - (b) a programme of exercises for **pollution incident** response organizations and training of relevant personnel;
 - (c) detailed plans and communication capabilities for responding to **a pollution incident.** Such capabilities should be continuously available; and
 - (d) a mechanism or arrangement to co-ordinate the response to **a pollution incident** with, if appropriate, the capabilities to mobilize the necessary resources.
- (3) Each Party shall ensure that current information is provided to the Organization, directly or through the relevant regional organization or arrangements, concerning:

事故應急計畫，應根據國家規定及(或)公司環境管理制度予以處理，不在適用本條之列。

- (2) 任一締約國應視要求負責由其管轄之海港及**有毒有害物質裝卸設施**之機關或營運人備有污染事故應急計畫或其認為適當對**有毒有害物質**之類似安排。該計畫或安排應與依**第 4 條**設立的國家體系相協調並為國家主管機關所規定之程序所核准。
- (3) 於任一締約國相關機關得知一污染事故時，應通知那些利益可能受到該事故影響之其他國家。

第 4 條 國家及區域防備及因應系統

- (1) 任一締約國應建立對油污事故採取迅速及有效因應措施之國家體系。此體系至少應包括：
 - (a) 指定：
 - (i) **負責污染事故防備及因應工作之國家主管機關；**
 - (ii) 國家作業聯絡點；及
 - (iii) 有權代表該國請求援助或決定依請求提供援助之機關；
 - (b) 國家防備及因應應急計畫，該計畫包括各種公共或私人機構間之組織關係，考慮到本組織制定的準則。
- (2) 此外，任一締約國於其力所及之範圍內，各自或通過雙邊或多邊合作，並於適當時**與航運業及處理有害有毒物質之業者、港口當局及其他有關實體合作應設立：**
 - (a) 與有關風險相稱之最低水準之預先設置**抗污染事故**之設備及其使用規劃；
 - (b) **污染事故**因應組織之演習及有關人員培訓之規劃；
 - (c) 詳細的**污染事故**因應計畫及具持續運作之通訊能力；及
 - (d) 對**污染事故**因應工作進行協調之機構或安排；於需要時，其應具備調動必要人力及物力之能力。
- (3) 任一締約國應確保直接或透過有關區域性組織或安排，向本組織提供下列最新訊息：

- (a) the location, telecommunication data and, if applicable, areas of responsibility of authorities and entities referred to in paragraph (1)(a);
- (b) information on pollution response equipment and expertise in disciplines related to pollution incident response and marine salvage which may be made available to other States, upon request; and
- (c) its national contingency plan.

- (a)上述第 1(a)款所述機關及團體之地點、通訊資料及(於適當時)其負責區域；
- (b)關於接獲請求時可向它國提供之油污因應設備及污染事故因應及海上救助方面專門技術之資料；及
- (c)其國家應急計畫。

Article 5 International Cooperation in Pollution Response

第 5 條 污染因應作業國際合作

- (1) Parties agree that, subject to their capabilities and the availability of relevant resources, they will co-operate and provide advisory services, technical support and equipment for the purpose of responding to a pollution incident, when the severity of the incident so justifies, upon the request of any Party affected or likely to be affected. The financing of the costs for such assistance shall be based on the provisions set out in the Annex to this Protocol.
- (2) A Party which has requested assistance may ask the Organization to assist in identifying sources of provisional financing of the costs referred to in paragraph (1).
- (3) In accordance with applicable international agreements, each Party shall take necessary legal or administrative measures to facilitate:
 - (a) the arrival and utilization in and departure from its territory of ships, aircraft and other modes of transport engaged in responding to a pollution incident or transporting personnel, cargoes, materials and equipment required to deal with such an incident; and
 - (b) the expeditious movement into, through, and out of its territory of personnel, cargoes, materials and equipment referred to in subparagraph (a).

- (1)各締約國同意，於污染事故嚴重到需要如此為之時，於接獲受到或可能受到污染事故影響任何締約國之請求時，其應依據其能力及具備之有關人力及物力，為污染事故之因應工作進行合作並提供諮詢服務、技術援助及設備。該援助費用之資金應依據本議定書附件所列規定處理。
- (2)請求援助之締約國可要求本組織協助尋求前述(1)項所述費用之臨時資金來源。
- (3)依可適用之國際協定，任一締約國均應採取必要法律及行政措施，為下列事項提供便利：
 - (a)從事污染事故因應工作或運輸處理此種事故所需人員、貨物、材料及設備之船舶、飛機及其他運輸工具抵離其領土及於其領土內使用；及
 - (b)上述(a)款所述人員、貨物、材料及設備迅速進入、通過及離開其領域。

Article 6 Research and Development

第 6 條 研究及開發

- (1) Parties agree to co-operate directly or, as appropriate, through the Organization or relevant regional organizations or arrangements in the promotion and exchange of results of research and development programmes relating to the enhancement of the state-of-the-art of preparedness for and response to pollution incidents, including technologies and techniques for surveillance, containment, recovery, dispersion, clean-up and otherwise minimizing or mitigating the effects of pollution incidents, and for restoration.
- (2) To this end, Parties undertake to establish directly or, as appropriate, through the Organization or relevant regional organizations or arrangements, the necessary links between Parties' research institutions.
- (3) Parties agree to co-operate directly or through the Organization or relevant regional organizations or arrangements to promote, as

- (1)各締約國同意直接且於需要時透過本組織或有關區域性組織或安排，於推廣及交流旨在提高目前污染事故防備及因應最新水準之研究及開發計畫之成果方面進行合作，其中包括監視、圍控、回收、消除、清除及其他減少或減輕污染事故影響及復原技能及技術。
- (2)為此，各締約國承諾直接或於需要時透過本組織或有關區域性組織或安排，於各締約國研究機構間建立必要之聯繫。
- (3)各締約國同意直接或透過本組織或有關區域性組織或安排進行合