

2007 年殘骸移除奈洛比國際公約

2007 年 5 月 18 日 奈洛比

Nairobi International Convention on The Removal of Wrecks, 2007

Nairobi, 18 May 2007

WRC 2007

Preamble

THE STATES PARTIES TO THE PRESENT CONVENTION,

CONSCIOUS of the fact that wrecks, if not removed, may pose a hazard to navigation or the marine environment,

CONVINCED of the need to adopt uniform international rules and procedures to ensure the prompt and effective removal of wrecks and payment of compensation for the costs therein involved,

NOTING that many wrecks may be located in States' territory, including the territorial sea,

RECOGNIZING the benefits to be gained through uniformity in legal regimes governing responsibility and liability for removal of hazardous wrecks,

BEARING IN MIND the importance of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982, and of the customary international law of the sea, and the consequent need to implement the present Convention in accordance with such provisions,

HAVE AGREED as follows:

Article 1 Definitions

For the purposes of this Convention:

1. "Convention area" means the exclusive economic zone of a State Party, established in accordance with international law or, if a State Party has not established such a zone, 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.
2. "Ship" means a seagoing vessel of any type whatsoever and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and floating platforms, except when such platforms are on location engaged in the exploration, exploitation or production of seabed mineral resources.
3. "Maritime casualty" means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it, resulting in material damage or imminent threat of material damage to a ship or its cargo.

序言

本公約各會員國，

意識到如殘骸不予以移除，會造成航行或海洋環境危險之事實，

注意到為確使殘骸之立即有效移除及所涉成本之賠償支付，有採行國際統一規則及程序之需求，

注意到諸多殘骸可能位於各國領域內，包括領海，

瞭解到經由統一規範移除危險殘骸責任義務之法律制度可獲得之優點，

認知到1882 年 12 月 10 日於蒙德哥灣所制訂之聯合國海洋法公約及海洋國際習慣法之重要性，以及依照這些規定以實施現有公約之後續需求，

茲同意如下：

第 1 條 定義

於本公約：

1. 「公約區域」係指一會員國依國際法所劃設之專屬經濟區，或如會員國尚未劃設該區域者，為一領海外，連接領海，由該國依據國際法所決定，從領海基線量起，寬度不超過 200 哩之區域。
2. 「船舶」指任何型式之海船，包括水翼船、氣墊船、潛水船、浮艇及浮動平台，然該平台處於固定狀態並用於從事海底礦物資源開採、勘探或生產者除外。
3. 「海難事故」係指船舶之碰撞、擱淺或其他航行事故、或船上或外來可能造成船貨實質損害或實質損害之立即威脅之其他事件。

4. “Wreck”, following upon a maritime casualty, means:
- a sunken or stranded ship; or
 - any part of a sunken or stranded ship, including any object that is or has been on board such a ship; or
 - any object that is lost at sea from a ship and that is stranded, sunken or adrift at sea; or
 - a ship that is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger are not already being taken.
5. “Hazard” means any condition or threat that:
- poses a danger or impediment to navigation; or
 - may reasonably be expected to result in major harmful consequences to the marine environment, or damage to the coastline or related interests of one or more States.
6. “Related interests” means the interests of a coastal State directly affected or threatened by a wreck, such as:
- maritime coastal, port and estuarine activities, including fisheries activities, constituting an essential means of livelihood of the persons concerned;
 - tourist attractions and other economic interests of the area concerned;
 - the health of the coastal population and the wellbeing of the area concerned, including conservation of marine living resources and of wildlife; and
 - offshore and underwater infrastructure.
7. “Removal” means any form of prevention, mitigation or elimination of the hazard created by a wreck. “Remove”, “removed” and “removing” shall be construed accordingly.
8. “Registered 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 at the time of the maritime casualty. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the operator of the ship, “registered owner” shall mean such company.
9. “Operator of the ship” means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all duties and responsibilities established under the International Safety Management Code, as amended.
10. “Affected State” means the State in whose Convention area the wreck is located.
11. “State of the ship’s registry” means, in relation to a registered ship, the State of registration of the ship and, in relation to an unregistered ship, the State whose flag the ship is entitled to fly.
12. “Organization” means the International Maritime Organization.
13. “Secretary-General” means the Secretary-General of the Organization.
4. 「殘骸」指海難事故後之下列情況：
- 沈沒或擱淺之船舶；或
 - 沈沒或擱淺船舶之任何部位，包括在該船上或曾經在該船上之任何物件；或
 - 從擱淺、沈沒或海上漂浮之船舶上落海之任何物件；
 - 近乎或可合理期待即將沈沒或擱淺之船舶，且已不再針對該危難中船舶或其任何財產進行任何有效果之撈救措施。
5. 「危險」指包括下列任一情況或威脅：
- 對航行之危害或阻礙；或
 - 可合理預期會造成海洋環境之重大實質損害，或造成對一或更多會員國之海岸或相關利益之損害。
6. 「相關利益」指受殘骸直接影響或威脅之任何沿海會員國之利益，例如：
- 對相關人們之生計具有重要意義之海岸、港口或入海口海洋活動，包括漁業活動；
 - 相關區域之旅遊吸引力及其他經濟利益；
 - 海岸人民之健康或相關地區之康樂，包括有生海洋資源或生物之保護；
 - 近岸或水下設施。
7. 「移除」指對殘骸所生危險之任何形式之防止、減輕或排除。「移除」、「已移除」及「正移除」應為同樣之解釋。
8. 「船舶登記所有人」指於海難事故當時登記為船舶所有人之人或數人，或於未登記之情況下，為擁有船舶之人或數人。如船舶為某國家所有且為該國登記為船舶營運人之某公司所營運者，則船舶登記所有人為該公司。
9. 「船舶營運人」係指船舶所有人或從船舶所有人處取得承負船舶營運之任何其他組織或個人，例如船舶經理人或光船租船人，而就該義務承擔而言，該人已同意承擔國際安全管理章程及其修訂所課以之所有職責及義務。
10. 「受影響國家」係指殘骸所在公約區域之國家。
11. 「船旗國」指船舶已登記者，為船旗國；船舶未登記者，為有權懸其國旗之國家。
12. 「本組織」指國際海事組織。
13. 「秘書長」指本組織之秘書長。

Article 2 Objectives and general principles

第 2 條 目的及一般原則

1. A State Party may take measures in accordance with this Convention in relation to the removal of a wreck which poses a hazard in the Convention area.
 2. Measures taken by the Affected State in accordance with paragraph 1 shall be proportionate to the hazard.
 3. Such measures shall not go beyond what is reasonably necessary to remove a wreck which poses a hazard and shall cease as soon as the wreck has been removed; they shall not unnecessarily interfere with the rights and interests of other States including the State of the ship's registry, and of any person, physical or corporate, concerned.
 4. The application of this Convention within the Convention area shall not entitle a State Party to claim or exercise sovereignty or sovereign rights over any part of the high seas.
 5. States Parties shall endeavour to co-operate when the effects of a maritime casualty resulting in a wreck involve a State other than the Affected State.
1. 有關公約區域內造成危險之殘骸之移除，會員國得依據本公約規定，採行相關措施。
 2. 受影響國依第 1 項規定所採行之措施，應與危險相稱。
 3. 該措施不應偏離危險殘骸之移除合理所需程度，且於殘骸移除後應立即中止；其不應不必要地介入包括船旗國及任何相關之人、實體或公司法人之權利及利益。
 4. 本公約於公約區域內之適用不應使會員國有權於公海之任何部分，主張或行使主權或主權上之權利。
 5. 受到造成殘骸之海難事故影響之受影響國以外之國家，各會員國應盡力合作。

Article 3 Scope of application

1. Except as otherwise provided in this Convention, this Convention shall apply to wrecks in the Convention area.
2. A State Party may extend the application of this Convention to wrecks located within its territory, including the territorial sea, subject to article 4, paragraph 4. In that case, it shall notify the Secretary-General accordingly, at the time of expressing its consent to be bound by this Convention or at any time thereafter. When a State Party has made a notification to apply this Convention to wrecks located within its territory, including the territorial sea, this is without prejudice to the rights and obligations of that State to take measures in relation to wrecks located in its territory, including the territorial sea, other than locating, marking and removing them in accordance with this Convention. The provisions of articles 10, 11 and 12 of this Convention shall not apply to any measures so taken other than those referred to in articles 7, 8 and 9 of this Convention.
3. When a State Party has made a notification under paragraph 2, the "Convention area" of the Affected State shall include the territory, including the territorial sea, of that State Party.
4. A notification made under paragraph 2 above shall take effect for that State Party, if made before entry into force of this Convention for that State Party, upon entry into force. If notification is made after entry into force of this Convention for that State Party, it shall take effect six months after its receipt by the Secretary-General.
5. A State Party that has made a notification under paragraph 2 may withdraw it at any time by means of a notification of withdrawal to the Secretary-General. Such notification of withdrawal shall take effect six months after its receipt by the Secretary-General, unless the notification specifies a later date.

Article 4 Exclusions

1. This Convention shall not apply to measures taken under the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, as amended, or

第 3 條 公約適用範圍

1. 除本公約另有規定外，本公約應適用於位於公約區域內之殘骸。
2. 會員國得依第 4 條第 4 項規定擴大本公約之適用範圍於殘骸位於其領域包括其領海之情況。此時，會員國應將前述情況通報秘書長，明示表明其願受本公約拘束之時間點。會員國通知本公約適用於殘骸位於其領域包括領海者，其不應損及該會員國對於位於其領域包括領海之殘骸，採行除依本公約為定位、標示及移除以外之任何措施之權利義務。本公約第 10、11 及 12 條規定，除本公約第 7、8 及 9 條規定者外，不適用於其所採行之任何措施。
3. 會員國依第 2 項規定為通報時，受影響國之「公約區域」即應包括該會員國之領域，包括其領海。
4. 會員國依前述第 2 項所為通報對該會員國之生效日期，如先於本公約之生效日期者，則於公約生效日才生效。如通報係於本公約對該會員國生效後才為之者，則於秘書長收到該通報六個月後生效。
5. 依第 2 項為通報之會員國得於任何時間，以向秘書長提送撤銷通知之方式，予以撤銷。該撤銷通知於秘書長收到撤銷通知六個月後或在該通知上所載明較晚日期屆滿後生效。

第 4 條 除外事項

1. 本公約不適用於 1969 年關於油污損害事故於公海行使干預國際公約及其修訂，或 1973 年關於油以外物質污

the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973, as amended.

2. This Convention shall not apply to any warship or other ship owned or operated by a State and used, for the time being, only on Government non-commercial service, unless that State decides otherwise.
3. Where a State Party decides to apply this Convention to its warships or other ships as described in paragraph 2, it shall notify the Secretary-General, thereof, specifying the terms and conditions of such application.
4.
 - (a) When a State Party has made a notification under article 3, paragraph 2, the following provisions of this Convention shall not apply in its territory, including the territorial sea:
 - (i) Article 2, paragraph 4;
 - (ii) Article 9, paragraphs 1, 5, 7, 8, 9 and 10; and
 - (iii) Article 15.
 - (b) Article 9, paragraph 4, insofar as it applies to the territory, including the territorial sea of a State Party, shall read:

Subject to the national law of the Affected State, the registered owner may contract with any salvor or other person to remove the wreck determined to constitute a hazard on behalf of the owner. Before such removal commences, the Affected State may lay down conditions for such removal only to the extent necessary to ensure that the removal proceeds in a manner that is consistent with considerations of safety and protection of the marine environment.

Article 5 Reporting wrecks

1. A State Party shall require the master and the operator of a ship flying its flag to report to the Affected State without delay when that ship has been involved in a maritime casualty resulting in a wreck. To the extent that the reporting obligation under this article has been fulfilled either by the master or the operator of the ship, the other shall not be obliged to report.
2. Such reports shall provide the name and the principal place of business of the registered owner and all the relevant information necessary for the Affected State to determine whether the wreck poses a hazard in accordance with article 6, including:
 - (a) the precise location of the wreck;
 - (b) the type, size and construction of the wreck;
 - (c) the nature of the damage to, and the condition of, the wreck;
 - (d) the nature and quantity of the cargo, in particular any hazardous and noxious substances; and
 - (e) the amount and types of oil, including bunker oil and lubricating oil, on board.

Article 6 Determination of hazard

When determining whether a wreck poses a hazard, the following

損事故於公海行使干預公約議定書及其修訂所採行之措施。

2. 本公約不適用於任何軍艦或政府所有或營運之其他非商業使用之船舶。
3. 會員國決定將本公約適用於第 2 項所述軍艦或其他船舶者，該會員國應通知秘書長並特別指明所適用之條件及情況。
4.
 - (a) 任一會員國一旦依第 3 條第 2 項為通報，本公約下列條款規定即不適用於其領域，包括其領海：
 - (i) 第 2 條第 4 項；
 - (ii) 第 9 條第 1、5、7、8、9 及 10 項；及
 - (iii) 第 15 條。
 - (b) 第 9 條第 4 項規定，就其適用於任一會員國之領域，包括其領海，應重讀為：

於適用受影響國國內法之情況下，船舶登記所有人得約僱任何救助人或其他人代替其進行構成危險之殘骸之移除作業。於開始為是項作業前，受影響國得對該移除作業設定條件，然僅限於為確保移除作業過程及方式能維護安全及海洋環境保護所需之程度。

第 5 條 殘骸之通報

1. 會員國應要求懸該國旗幟之船舶之船長及船舶營運人應毫不遲延地將船舶可能成為殘骸之海難事故向受影響國家為通報。船長或船舶營運人任一方履行本條通報義務者，其他方即無義務再為通報。
2. 該通報應包括船舶登記所有人之名稱及主事務所所在地及受影響國家依公約第 6 條為認定殘骸是否構成危險所需之所有相關資訊，包括：
 - (a) 殘骸所在精確位置；
 - (b) 殘骸大小、形式及結構；
 - (c) 殘骸損害本質及狀況；
 - (d) 貨物性質及數量，特別是有毒有害物質；及
 - (e) 油料數量及類型，包括船上燃油及潤滑油。

第 6 條 危險之認定

於認定殘骸是否存在危險時，受影響國

criteria should be taken into account by the Affected State:

- (a) the type, size and construction of the wreck;
- (b) depth of the water in the area;
- (c) tidal range and currents in the area;
- (d) particularly sensitive sea areas identified and, as appropriate, designated in accordance with guidelines adopted by the Organization, or a clearly defined area of the exclusive economic zone where special mandatory measures have been adopted pursuant to article 211, paragraph 6, of the United Nations Convention on the Law of the Sea, 1982;
- (e) proximity of shipping routes or established traffic lanes;
- (f) traffic density and frequency;
- (g) type of traffic;
- (h) nature and quantity of the wreck's cargo, the amount and types of oil (such as bunker oil and lubricating oil) on board the wreck and, in particular, the damage likely to result should the cargo or oil be released into the marine environment;
- (i) vulnerability of port facilities;
- (j) prevailing meteorological and hydrographical conditions;
- (k) submarine topography of the area;
- (l) height of the wreck above or below the surface of the water at lowest astronomical tide;
- (m) acoustic and magnetic profiles of the wreck;
- (n) proximity of offshore installations, pipelines, telecommunications cables and similar structures; and
- (o) any other circumstances that might necessitate the removal of the wreck.

Article 7 Locating wrecks

1. Upon becoming aware of a wreck, the Affected State shall use all practicable means, including the good offices of States and organizations, to warn mariners and the States concerned of the nature and location of the wreck as a matter of urgency.
2. If the Affected State has reason to believe that a wreck poses a hazard, it shall ensure that all practicable steps are taken to establish the precise location of the wreck.

Article 8 Marking of wrecks

1. If the Affected State determines that a wreck constitutes a hazard, that State shall ensure that all reasonable steps are taken to mark the wreck.
2. In marking the wreck, all practicable steps shall be taken to ensure that the markings conform to the internationally accepted system of buoyage in use in the area where the wreck is located.
3. The Affected State shall promulgate the particulars of the marking of the wreck by use of all appropriate means, including the appropriate nautical publications.

Article 9 Measures to facilitate the removal of wrecks

應考量下列因素：

- (a) 殘骸之大小、船型及構造；
- (b) 該地區之水深；
- (c) 該地區之潮汐及海流；
- (d) 依本組織所採取的指導方針所認定之特別易受傷害之敏感海域，或依 1982 年聯合國海洋法公約第 211 條第 6 項採行特別強制性措施之專屬經濟區內之某清楚界定之區域；
- (e) 與船運航線或既定航道之近靠程度；
- (f) 交通密度及頻繁程度；
- (g) 交通類型；
- (h) 殘骸上貨物之性質及數量，其上油料（例如燃油及潤滑油）之數量及類型，特別是這些貨物或油料外洩時是否會對海洋環境造成損害；
- (i) 對港口設施之可能影響；
- (j) 主要的氣象及水文狀況；
- (k) 當地水下地形；
- (l) 殘骸與水面間在最低天文潮汐下之水深；
- (m) 殘骸之聲波及磁波資料；
- (n) 近岸設施、輸送管線、通訊纜線及類似結構的鄰近性；及
- (o) 必須將殘骸移除之任何其他情況。

第 7 條 殘骸定位

1. 一得知有殘骸情事，受影響國應運用包括各會員國相關機關與本組織間所有可實行之方式，將危險本質及殘骸所在位置，以緊急事件方式，向海員及相關沿岸國提出警告。
2. 如受影響國有合理的理由相信殘骸構成危險時，其應採取所有可行措施以確定該殘骸之確實所在位置。

第 8 條 殘骸標示

1. 受影響國一旦認定某殘骸構成危險，該國即應採行將該殘骸予以標示之所有合理措施。
2. 為殘骸標示時，應採取所有可行措施以確保該標示符合殘骸所在地區任何國際上可接受之浮標使用規範。
3. 受影響國應將標示殘骸所使用之所有方式及內容予以公布，包括於適當之航海出版品上。

第 9 條 便利殘骸移除之措施

1. If the Affected State determines that a wreck constitutes a hazard, that State shall immediately:
 - (a) inform the State of the ship's registry and the registered owner; and
 - (b) proceed to consult the State of the ship's registry and other States affected by the wreck regarding measures to be taken in relation to the wreck.
 2. The registered owner shall remove a wreck determined to constitute a hazard.
 3. When a wreck has been determined to constitute a hazard, the registered owner, or other interested party, shall provide the competent authority of the Affected State with evidence of insurance or other financial security as required by article 12.
 4. The registered owner may contract with any salvor or other person to remove the wreck determined to constitute a hazard on behalf of the owner. Before such removal commences, the Affected State may lay down conditions for such removal only to the extent necessary to ensure that the removal proceeds in a manner that is consistent with considerations of safety and protection of the marine environment.
 5. When the removal referred to in paragraphs 2 and 4 has commenced, the Affected State may intervene in the removal only to the extent necessary to ensure that the removal proceeds effectively in a manner that is consistent with considerations of safety and protection of the marine environment.
 6. The Affected State shall:
 - (a) set a reasonable deadline within which the registered owner must remove the wreck, taking into account the nature of the hazard determined in accordance with article 6;
 - (b) inform the registered owner in writing of the deadline it has set and specify that, if the registered owner does not remove the wreck within that deadline, it may remove the wreck at the registered owner's expense; and
 - (c) inform the registered owner in writing that it intends to intervene immediately in circumstances where the hazard becomes particularly severe.
 7. If the registered owner does not remove the wreck within the deadline set in accordance with paragraph 6(a), or the registered owner cannot be contacted, the Affected State may remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment.
 8. In circumstances where immediate action is required and the Affected State has informed the State of the ship's registry and the registered owner accordingly, it may remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment.
 9. States Parties shall take appropriate measures under their national law to ensure that their registered owners comply with paragraphs 2 and 3.
 10. States Parties give their consent to the Affected State to act under paragraphs 4 to 8, where required.
 11. The information referred to in this article shall be provided by the Affected State to the registered owner identified in the reports referred to in article 5, paragraph 2.
1. 受影響國一旦認定某殘骸構成危險，應立即為下列作為：
 - (a) 通知船旗國及船舶登記所有人；及
 - (b) 就該殘骸所欲採行之措施，與船旗國及受殘骸影響之其他國進行諮商。
 2. 被認定構成危險之殘骸應由船舶登記所有人移除之。
 3. 殘骸一被認定構成危險時，船舶登記所有人或其他利害關係人即應向受影響國適當主管當局提出第 12 條所規定之保險或其他財務擔保證明。
 4. 船舶登記所有人得約僱任何救助人或其他人代替其進行構成危險之殘骸之移除作業。於開始為是項作業前，受影響國得對該移除作業設定條件，然僅限於為確保移除作業過程及方式能維護安全及海洋環境保護所需之程度。
 5. 第 2 及 4 項移除作業一旦開始，受影響國僅在確保移除作業儘量符合安全及海洋環境保護考量之必要程度及方式下，始得干預該作業。
 6. 受影響國應：
 - (a) 考量公約第 6 條所認定之風險，設定一船舶登記所有人必須進行殘骸移除作業之合理期限；
 - (b) 書面通知船舶登記所有人所設定之期限，並特別載明船舶登記所有人如未於該期限內進行殘骸移除，該國得以船舶登記所有人費用進行移除作業；及
 - (c) 如危險轉劇時，將其欲立即干預之意圖書面通知船舶登記所有人。
 7. 如船舶登記所有人未於第 6 項 a 款所設定之期限內移除殘骸，或受影響國無法聯繫船舶登記所有人時，該國在符合安全及海洋環境保護之考量下，得以最實用及最經濟之方式，進行殘骸之移除作業。
 8. 如受影響國認為必須採行立即措施，且已將前述情事通知船旗國及船舶登記所有人時，該國在符合安全及海洋環境保護之考量下，得以最實用及最經濟之方式，進行殘骸之移除作業。
 9. 會員國應於其國內法採取所有適當措施，以確保該國登記所有人能遵守第 2 及 3 項之規定。
 10. 一經要求，各會員國應同意受影響國依第 4 至 8 項之行為。
 11. 本條所述受影響國給予船舶登記所有人之通報同於第 5 條第 2 項所述之通報。

Article 10 Liability of the owner

1. Subject to article 11, the registered owner shall be liable for the costs of locating, marking and removing the wreck under articles 7, 8 and 9, respectively, unless the registered owner proves that the maritime casualty that caused the wreck:
 - (a) resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable and irresistible character;
 - (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.
2. Nothing in this Convention shall affect the right of the registered owner to limit liability under any applicable national or international regime, such as the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.
3. No claim for the costs referred to in paragraph 1 may be made against the registered owner otherwise than in accordance with the provisions of this Convention. This is without prejudice to the rights and obligations of a State Party that has made a notification under article 3, paragraph 2, in relation to wrecks located in its territory, including the territorial sea, other than locating, marking and removing in accordance with this Convention.
4. Nothing in this article shall prejudice any right of recourse against third parties.

Article 11 Exceptions to liability

1. The registered owner shall not be liable under this Convention for the costs mentioned in article 10, paragraph 1 if, and to the extent that, liability for such costs would be in conflict with:
 - (a) the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended;
 - (b) the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, as amended;
 - (c) the Convention on Third Party Liability in the Field of Nuclear Energy, 1960, as amended, or the Vienna Convention on Civil Liability for Nuclear Damage, 1963, as amended; or national law governing or prohibiting limitation of liability for nuclear damage; or
 - (d) the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, as amended; provided that the relevant convention is applicable and in force.
2. To the extent that measures under this Convention are considered to be salvage under applicable national law or an international convention, such law or convention shall apply to questions of the remuneration or compensation payable to

第 10 條 船舶所有人之責任

1. 於適用第 11 條之情況下，船舶登記所有人應負責第 7、8 及 9 條殘骸定位、標示及移除之費用，然船舶登記所有人能證明事故為下列因素所致者除外：
 - (a) 戰爭、敵對行為、內戰、暴動或具異常、不可避免及不可抗力自然本質所致；
 - (b) 完全由某第三人意圖造成損害之作為或不作為所致；或
 - (c) 完全為某政府或負責燈號或其他助航設施之主管當局於執行職務時之過失或其他不法行為所致。
2. 本公約在任何方面均不應影響船舶登記所有人依任何可適用之國內法或國際體制，例如 1976 年海事求償責任限制公約及其修正，可得主張之責任限制。
3. 除依本公約規定外，不得向船舶登記所有人請求第 1 項所規定之成本。此不應損及任一會員國就有關位於其領域包括領海內之殘骸，除本公約之定位、標示及移除外，依第 3 條第 2 項所為通報之權利及義務。
4. 本條款在任何方面均不應損及得向第三人追償之任何權利。

第 11 條 責任之除外

1. 本公約第 10 條第 1 項所載之殘骸移除費用，如有與下列規定相衝突之處，就衝突之部分，船舶登記所有人無須再依本公約負責：
 - (a) 1969 年油污損害民事責任國際公約及其修訂；
 - (b) 1996 年海上運送危險及有毒物質損害賠償責任國際公約及其修訂；
 - (c) 1960 年核能第三人責任公約及其修訂，或 1963 年核能損害民事責任維也納公約及其修訂；或依各國規定或禁止核子損害責任限制之國內法所定義之核子損害；或
 - (d) 2001 年燃油污染損害民事責任國際公約及其修正。然以該相關公約可茲適用並業已生效為限。
2. 本公約所採取之措施為其他可適用的國內法或國際公約所認定之救助作業時，有關救助人之報酬或補償問題，本公約規定應予除外，不予適

salvors to the exclusion of the rules of this Convention.

用，而應適用該法律或公約。

Article 12 Compulsory insurance or other financial security

第 12 條 強制保險或其他財務擔保

1. The registered owner of a ship of 300 gross tonnage and above and flying the flag of a State Party shall be required to maintain insurance or other financial security, such as a guarantee of a bank or similar institution, to cover liability under this Convention in an amount equal to the limits of liability under the applicable national or international limitation regime, but in all cases not exceeding an amount calculated in accordance with article 6(1)(b) of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.
2. A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship of 300 gross tonnage and above by the appropriate authority of the State of the ship's registry after determining that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party, such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This compulsory insurance certificate shall be in the form of the model set out in the annex to this Convention, and shall contain the following particulars:
 - (a) name of the ship, distinctive number or letters and port of registry;
 - (b) gross tonnage of the ship;
 - (c) name and principal place of business of the registered owner;
 - (d) IMO ship identification number;
 - (e) type and duration of security;
 - (f) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
 - (g) period of validity of the certificate, which shall not be longer than the period of validity of the insurance or other security.
3.
 - (a) A State Party may authorize either an institution or an organization recognized by it to issue the certificate referred to in paragraph 2. Such institution or organization shall inform that State of the issue of each certificate. In all cases, the State Party shall fully guarantee the completeness and accuracy of the certificate so issued and shall undertake to ensure the necessary arrangements to satisfy this obligation.
 - (b) A State Party shall notify the Secretary-General of:
 - (i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognized by it;
 - (ii) the withdrawal of such authority; and
 - (iii) the date from which such authority or withdrawal of such authority takes effect.An authority delegated shall not take effect prior to three

1. 船舶於任一會員國內註冊登記且超過 300 總噸之船舶登記所有人，應被要求維持至少等同於 1976 年海事求償責任限制公約第 6 條第 1 項 b 款及其修訂計算所得數額之保險或其他財務擔保，例如銀行或類似財務機構之擔保，以擔保登記船舶所有人因本公約規定所生之責任。
2. 會員國有關機關於確定第 1 項要求業已符合者，應簽發給任一超過 300 總噸之船舶已依本公約規定為有效保險或其他財務擔保之證書或予以簽證。於會員國登記之船舶，應由船旗國有關機關頒發或簽發該證明；不在會員國登記之船舶，則可由任一會員國之有關機關簽發該證書或予以簽證。該證書應採用附件一所列範本格式並記載下列事項：
 - (a) 船名、船舶編號或呼號及船籍港；
 - (b) 船舶總噸位；
 - (c) 船舶登記所有人之名稱及其主營業所所在地；
 - (d) 國際海事組織船舶識別號碼；
 - (e) 擔保類型及期間；
 - (f) 保險人或其他提供擔保人之名稱及其主事務所所在地，及於適當時，記載訂立保險或提供擔保之事務所所在地；及
 - (g) 證書之有效期間，該期間不得超過保險或其他擔保之效期。
3.
 - (a) 會員國得授權任一機構或該機構所承認之組織，簽發第 2 項所規定之證明。任一證書簽發時，該機構或組織應通知該國。於所有情況下，會員國應完全擔保所簽發證書之合格性及正確性，並應採行滿足本義務之必要安排。
 - (b) 會員國應通知秘書長下列事項
 - (i) 授予該機構或該機構所承認組織之義務或條件；
 - (ii) 授權之撤銷，及
 - (iii) 授權及撤銷授權生效之日期。任何授權不應於通知秘書長之

months from the date on which notification to that effect was given to the Secretary-General.

- (c) The institution or organization authorized to issue certificates in accordance with this paragraph shall, as a minimum, be authorized to withdraw these certificates if the conditions under which they have been issued are not maintained. In all cases the institution or organization shall report such withdrawal to the State on whose behalf the certificate was issued.
4. The certificate shall be in the official language or languages of the issuing State. If the language used is not English, French or Spanish, the text shall include a translation into one of these languages and, where the State so decides, the official language(s) of the State may be omitted.
 5. The certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authorities issuing or certifying the certificate.
 6. An insurance or other financial security shall not satisfy the requirements of this article if it can cease for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2 before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 5 unless the certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification, which results in the insurance or security no longer satisfying the requirements of this article.
 7. The State of the ship's registry shall, subject to the provisions of this article and having regard to any guidelines adopted by the Organization on the financial responsibility of the registered owners, determine the conditions of issue and validity of the certificate.
 8. Nothing in this Convention shall be construed as preventing a State Party from relying on information obtained from other States or the Organization or other international organizations relating to the financial standing of providers of insurance or financial security for the purposes of this Convention. In such cases, the State Party relying on such information is not relieved of its responsibility as a State issuing the certificate required by paragraph 2.
 9. Certificates issued and certified under the authority of a State Party shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as certificates issued or certified by them, even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the certificate is not financially capable of meeting the obligations imposed by this Convention.
 10. Any claim for costs arising under this Convention may be brought directly against the insurer or other person providing financial security for the registered owner's liability. In such a case the defendant may invoke the defences (other than the bankruptcy or winding up of the registered owner) that the registered owner would have been entitled to invoke, including limitation of liability under any applicable national or international regime. Furthermore, even if the registered owner

日起三個月內生效。

- (c) 依本項規定獲授權簽發證書機構或組織，至少應被授權去撤銷那些未能維持其簽發條件之證書。於任何情況下，機構或組織應將撤銷情事報告其所代理簽發之國家。
4. 證書應以簽發國官方之一種或多種文字為之。如非以英文、法文或西文為之者，證書正文應包含有英文、法文或西文之譯文，此時該國官方語文可省略。
 5. 證書應備置於船上，並應將副本存放於船旗國之主管機關，或如非在會員國登記者，則交存簽發或發證國之主管機關。
 6. 保險或其他財務擔保未能滿足本條要求，而須以本條第 2 項簽發之保險或擔保證書所載有效期間屆滿以外之理由而終止者，除該證明業已繳還主管機關或新證書已於該期間內簽發，否則應於效力終止日三個月以前通知本條第 5 項所述之主管機關。保險或其他財務擔保之任何變更以致無法符合本條規定者，本項規定亦適用之。
 7. 船旗國應依本條規定及本組織有關船舶登記所有人財務責任所採納之任何指南，決定證書之簽發條件及其有效期間。
 8. 本公約任何規定均不應解為有妨礙任一會員國得主張從其他會員國或國際海事組織或其他國際組織有關本公約保險或財務擔保提供人財務標準所獲取之資料。於此情況下，主張該資料之會員國不應解除其身為第 2 項所需證書簽發國之責任。
 9. 經任一會員國授權簽發或證明之證書，基於本公約之目的，其他會員國應予以接受，並應視為與各該政府所簽發或簽證之證書具有等同效力。任一會員國如認為證書上之保險人或擔保人在財務上無法履行本公約所規定之義務時，得於任何期間請求與發證國進行諮商。
 10. 本公約所生任何賠償之求償得直接向保險人或對船舶登記所有人提供財務擔保之任何人請求之。於此情況下，被告可主張船舶登記所有人可得主張之抗辯(船舶登記所有人破產或結束業務除外)，包括依任何可茲適用之國內或國際體制可主張之限制責任。且即使船舶登記所有人無法

is not entitled to limit liability, the defendant may limit liability to an amount equal to the amount of the insurance or other financial security required to be maintained in accordance with paragraph 1. Moreover, the defendant may invoke the defence that the maritime casualty was caused by the wilful misconduct of the registered owner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the registered owner against the defendant. The defendant shall in any event have the right to require the registered owner to be joined in the proceedings.

11. A State Party shall not permit any ship entitled to fly its flag to which this article applies to operate at any time unless a certificate has been issued under paragraphs 2 or 14.

12. Subject to the provisions of this article, each State Party shall ensure, under its national law, that insurance or other security to the extent required by paragraph 1 is in force in respect of any ship of 300 gross tonnage and above, wherever registered, entering or leaving a port in its territory, or arriving at or leaving from an offshore facility in its territorial sea.

13. Notwithstanding the provisions of paragraph 5, a State Party may notify the Secretary-General that, for the purposes of paragraph 12, ships are not required to carry on board or to produce the certificate required by paragraph 2, when entering or leaving a port in its territory, or arriving at or leaving from an offshore facility in its territorial sea, provided that the State Party which issues the certificate required by paragraph 2 has notified the Secretary-General that it maintains records in an electronic format, accessible to all States Parties, attesting the existence of the certificate and enabling States Parties to discharge their obligations under paragraph 12.

14. If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authority of the State of registry, stating that it is owned by that State and that the ship's liability is covered within the limits prescribed in paragraph 1. Such a certificate shall follow as closely as possible the model prescribed by paragraph 2.

Article 13 Time limits

Rights to recover costs under this Convention shall be extinguished unless an action is brought hereunder within three years from the date when the hazard has been determined in accordance with this Convention. However, in no case shall an action be brought after six years from the date of the maritime casualty that resulted in the wreck. Where the maritime casualty consists of a series of occurrences, the six-year period shall run from the date of the first occurrence.

Article 14 Amendment provisions

1. At the request of not less than one-third of States Parties, a conference shall be convened by the Organization for the purpose of revising or amending this Convention.

主張責任限制，被告仍得以等同於依第 1 項規定所需保險或財務擔保數額之數額限制其責任。此外，被告亦得以海難事故之造成係由船舶登記所有人故意行為之所致為抗辯，但對於船舶登記所有人對其提起的訴訟程序中，被告可得提出之其他抗辯，被告在此不得主張之。被告於訴訟程序進行中有權要求船舶登記所有人參加訴訟。

11. 除已依第 2 項或第 14 項簽發證書外，適用本條規定之任一會員國不應允許懸其國旗之船舶於任何時間內為營運。

12. 依本條各項規定，任一會員國應依其國內法，對進出其領域各港口或到離其領海內各離岸終端站之任何超過 300 總噸之船舶，確保其已依本條第 1 項所述之範圍具有有效之保險或其他擔保。

13. 無論第 5 項規定為何，為第 12 項規定之目的，在簽發第 2 項所需證書之會員國已經通知秘書處，其已保持一可讓所有會員國查證有關該證書存在之電子格式之情況下，會員國得將船舶進出港口或抵達或離開領海內之近岸設施，船上得無須備有第 2 項所需證書情事，通知秘書處，且此並使會員國得免除第 12 項之責任。

14. 如一會員國之國有船舶並未保險或具有其他財務擔保者，本條有關規定對該船舶不適用之。但該船舶仍應備有船旗國適當主管機關簽發之證書，該證書應載明該船舶係該會員國之國有船舶並包括有關第 1 項所規定之限制責任。該證書應儘量與本條第 2 項所述格式相符。

第 13 條 訴訟時效

依公約得請求成本補償之權利，自該殘骸依本公約被認定有危險時起 3 年內不起訴而消滅。然於任何情況下均不應自造成殘骸之海難事故日起 6 年之後提起訴訟。如事故係由一系列事件所造成，則 6 年期限應從該連串事故之最早事故日起算。

第 14 條 條款修正

1. 應不少於三分之一會員國之請求，本組織應召開修訂或修正本公約之會議。

2. Any consent to be bound by this Convention, expressed after the date of entry into force of an amendment to this Convention, shall be deemed to apply to this Convention, as amended.

2. 本公約任一修正案生效之日後表示同意受本公約拘束，應視為適用業經修正之本公約。

Article 15 Settlement of disputes

1. Where a dispute arises between two or more States Parties regarding the interpretation or application of this Convention, they shall seek to resolve their dispute, in the first instance, through negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice.
2. If no settlement is possible within a reasonable period of time not exceeding twelve months after one State Party has notified another that a dispute exists between them, the provisions relating to the settlement of disputes set out in Part XV of the United Nations Convention on the Law of the Sea, 1982, shall apply *mutatis mutandis*, whether or not the States party to the dispute are also States Parties to the United Nations Convention on the Law of the Sea, 1982.
3. Any procedure chosen by a State Party to this Convention and to the United Nations Convention on the Law of the Sea, 1982, pursuant to Article 287 of the latter, shall apply to the settlement of disputes under this article, unless that State Party, when ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, chooses another procedure pursuant to Article 287 for the purpose of the settlement of disputes arising out of this Convention.
4. A State Party to this Convention which is not a Party to the United Nations Convention on the Law of the Sea, 1982, when ratifying, accepting, approving or acceding to this Convention or at any time thereafter shall be free to choose, by means of a written declaration, one or more of the means set out in Article 287, paragraph 1, of the United Nations Convention on the Law of the Sea, 1982, for the purpose of settlement of disputes under this Article. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is party, which is not covered by a declaration in force. For the purpose of conciliation and arbitration, in accordance with Annexes V and VII of the United Nations Convention on the Law of the Sea, 1982, such State shall be entitled to nominate conciliators and arbitrators to be included in the lists referred to in Annex V, Article 2, and Annex VII, Article 2, for the settlement of disputes arising out of this Convention.
5. A declaration made under paragraphs 3 and 4 shall be deposited with the Secretary-General, who shall transmit copies thereof to the States Parties.

第 15 條 爭議解決

1. 二或二以上會員國間有關本公約解釋或適用所生之爭議，應依其選擇，優先以談判、照會、調解、斡旋、仲裁、司法解決、求助於區域組織或安排或其他和平方式解決之。
2. 如於任一會員國通知他造後已超過十二個月合理期間，其間爭議仍無解決之可能者，無論系爭議之會員國是否為 1982 年聯合國海洋法公約之會員國，均應準用 1982 年聯合國海洋法公約第十五部分有關爭端解決之相關規定。
3. 本公約及 1982 年聯合國海洋法公約任一會員國依海洋法公約第 287 條規定所採行之任何程序，除該會員國於簽署、接受、批准或加入本公約時或其後之任何時間，為本公約所生爭議解決之目的，選擇採行依據第 287 條以外之程序者外，應依本條款為爭議之解決。
4. 為本公約會員國，但非 1982 年聯合國海洋法公約之會員國，於簽署、接受、批准或加入本公約或其後任何時間，為本條款爭議解決之目的，得自由以書面聲明方式選擇依據 1982 年聯合國海洋法公約第 287 條第 1 項所規定各類方式之一種或數種。第 287 條應適用於該聲明，以及該會員國為非該有效聲明所涵蓋之任何爭議一方之任何爭議。為調解及仲裁之目的，該會員國得依據 1982 年聯合國海洋法公約第五附件及第七附件，有權任命調解人及仲裁人，並將其列名於為本公約所生爭議解決而依第五號附件第 2 條及第七附件第 2 條所述之名單上。
5. 依第 3 及第 4 項所為聲明應交存給秘書長，秘書長並應副本知會各會員國。

Article 16 Relationship to other conventions and international agreements

Nothing in this Convention shall prejudice the rights and obligations of any State under the United Nations Convention on the Law of the Sea, 1982, and under the customary international law of the sea.

第 16 條 與其他公約及國際協議之關係

本公約在任何方面均不應損及任何國家依 1982 年聯合國海洋法公約及海洋國際習慣所表徵之權利及義務。

Article 17 Signature, ratification, acceptance, approval and accession

1. This Convention shall be open for signature at the Headquarters of the Organization from 19 November 2007 until 18 November 2008 and shall thereafter remain open for accession.
 - (a) States may express their consent to be bound by this Convention by:
 - (i) signature without reservation as to ratification, acceptance or approval; or
 - (ii) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
 - (iii) accession.
 - (b) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

Article 18 Entry into force

1. This Convention shall enter into force twelve months following the date on which ten 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.
2. For any State which ratifies, accepts, approves or accedes to this Convention after the conditions in paragraph 1 for entry into force have been met, this Convention shall enter into force three months following the date of deposit by such State of the appropriate instrument, but not before this Convention has entered into force in accordance with paragraph 1.

Article 19 Denunciation

1. This Convention may be denounced by a State Party at any time after the expiry of one year following the date on which this Convention comes into force for that State.
2. Denunciation shall be effected by the deposit of an instrument to that effect with the Secretary-General.
3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, following its receipt by the Secretary-General.

Article 20 Depositary

1. This Convention shall be deposited with the Secretary General.
2. The Secretary-General shall:
 - (a) inform all States which have signed or acceded to this Convention of:
 - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
 - (ii) the date of entry into force of this Convention;
 - (iii) the deposit of any instrument of denunciation of this Convention, together with the date of the

第 17 條 簽署、批准、接受、核准或加入

1. 本公約自 2007 年 11 月 19 日起至 2008 年 11 月 18 日止於本組織總部公開供各國簽署，此後並繼續公開以供加入。
 - (a) 各國得以下列方式明示同意受本公約之拘束：
 - (i) 簽署並對批准、接受或核准無任何保留；或
 - (ii) 先簽署然尚待批准、接受或核准，嗣後再批准、接受或核准；或
 - (iii) 加入
 - (b) 批准、接受、核准或加入應向本組織秘書長交存一份正式文書後始生效力。

第 18 條 生效

1. 本公約自十個國家之政府已簽署而不保留地批准、接受、認可、或已存放批准書、接受書、認可書、加入書於該組織秘書長之日起十二個月後生效。
2. 於第 1 項生效條件符合後，嗣後批准、接受、認可、或加入本公約之任一國家，應於其存放適當文件後三個月後生效，然不應早於第 1 項公約生效日之前。

第 19 條 退出

1. 任一會員國於本公約對其生效日起一年後可隨時退出本公約。
2. 退出應向秘書長交存一份退出文書方為有效。
3. 退出本公約，應在秘書長收到退出文書一年後或在退出文書中所載明較長的期限屆滿後生效。

第 20 條 交存

1. 本公約由秘書長保存。
2. 秘書長應：
 - (a) 將下列事項通知所有已簽署或加入本公約之所有國家：
 - (i) 任一新簽署或批准，接受，核准或加入文書之交存及其日期；
 - (ii) 本公約之生效日期；
 - (iii) 本公約任何退出文書之交存以及收到日期及退

- deposit and the date on which the denunciation takes effect; and
- (iv) other declarations and notifications received pursuant to this Convention;
- (b) transmit certified true copies of this Convention to all States that have signed or acceded to this Convention.
3. As soon as this Convention enters into force, a certified true copy of the text shall be transmitted by the Secretary-General to the Secretary-General of the United Nations, for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 21 Languages

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE IN NAIROBI this eighteenth day of May two thousand and seven.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Convention.

出生效日期；及

- (iv) 依本公約所作出之其他聲明及通知。
- (b) 將本公約核證副本分送給簽署及同意加入本公約之所有國家。
3. 本公約一經生效，秘書長應依照聯合國憲章第 102 條規定，將本公約核證副本送交聯合國秘書長。

第 21 條 文字

本公約以阿拉伯文、中文、英文、法文、俄文及西班牙文寫成，各文均具同等效力。

2007 年 5 月 18 日訂於奈洛比。

以下簽署者，均業經政府適當授權簽署本公約。