

1976年海事索賠責任限制公約的1996年議定書

本議定書各締約國，

考慮到有必要修正在1976年11月19日訂於倫敦的《海事索賠責任限制公約》，以提高賠償額並制定更新限額的簡化程序，

茲協議如下：

第一條

就本議定書而言：

1. “公約”系指《1976年海事索賠責任限制公約》。
2. “本組織”系指國際海事組織。
3. “秘書長”系指本組織秘書長。

第二條

以下列條文代替公約第三條第(a)項：

“(a) 救助費索賠，包括(如適用)經修正的《1989年國際救助公約》第十四條規定的特別補償或共同海損分攤的任何索賠；”

第三條

以下列條文代替公約第六條第1款，

“1. 除第七條所述者外，對任何某一特定場合產生的各種索賠的責任限額須按下列規定計算：

(a) 有關人身傷亡的索賠：

- (i) 對於噸位不超過2000噸的船舶，數額為2000000計算單位；
- (ii) 對於噸位超過2000噸的船舶，除第(i)項所述者外，應增加下列數額：
自2001噸至30000噸，每噸800計算單位；
自30001噸至70000噸，每噸600計算單位；和
超過70000噸，每噸400計算單位，

(b) 有關任何其他索賠：

- (i) 對於噸位不超過2000噸的船舶，數額為1000000計算單位；
- (ii) 對於噸位超過2000噸的船舶，除第(i)項所述者外，應增加下列數額：
自2001至30000噸，每噸400計算單位；
自30001至70000噸，每噸300計算單位；和

超过70000吨,每吨200计算单位。”

第四條

以下列條文代替公約第七條第1款:

- “1. 對於在任一個特定場合發生的船上旅客人身傷亡的索賠,船舶所有人的責任限額為175000計算單位乘以該船按其證書准許載運的旅客人數所得的數額。”

第五條

以下列條文代替公約第八條第2款:

- “2. 但是,非屬國際貨幣基金組織成員國、並且其法律不允許適用第1款規定的國家,可在簽署本公約並對批准、接受或核准無保留時,或在批准、接受、核准或加入時,或在此後的任何時候,聲明在其領土內適用的本公約所規定的責任限制須按下述方式確定:

(a) 對於第六條第1款第(a)項,數額為:

(i) 對於噸位不超過2000噸的船舶,30000000貨幣單位;

(ii) 對於噸位超過2000噸的船舶,除第(i)項所述者外,應增加下列數額:

自2001至30000噸,12000貨幣單位;

自30001至70000噸,9000貨幣單位;和

超過70000噸,6000貨幣單位;和

(b) 對於第六條第1款第(b)項,數額為:

(i) 對於噸位不超過2000噸的船舶,15000000貨幣單位;

(ii) 對於噸位超過2000噸的船舶,除第(i)項所述者外,應增加下列數額:

自2001至30000噸的部分,每噸6000貨幣單位;

自30001至70000噸的部分,每噸4500貨幣單位;和

超過70000噸的部分,每噸增加3000貨幣單位;和

(c) 對於第七條第1款,為2625000貨幣單位乘以該船按其證書准許載運的旅客人數所得的數額。

第六條第2款和3款相應地適用於本款第(a)和(b)項。”

第六條

本公約第十五條增加下列條文,作為第3之二款:

“第3之二款:雖有第七條第1款規定之責任限額,締約國仍可通過國家法律的具體規定調整適用於船舶旅客人身傷亡索賠的責任體系,但調整後的責任限額應不低於第七條第1款規定者。適用本款規定的選擇權的締約國須將所採用的責任限額或無此限額的事實通知秘書長。”

第七條

以下列條文代替公約第十八條第1款:

- “1. 任何國家可在簽署、批准、接受、核准或加入時或在此後的任何時候保留下述權利:

- (a) 排除对第二条第1款(d)和(e)项的适用;
 - (b) 排除对《1996年国际海上运输有毒有害物质损害责任和赔偿公约》或其任何修正案或议定书含义中的损害的索赔。
- 不得对本公约的实质性规定作任何其他保留。”

第八条 对限额的修正

1. 在至少半数且在任何情况下不得少于六个本议定书缔约国的要求下,本组织秘书长须将涉及本公约第六条第1款、第七条第1款和第八条第2款规定的限额修正的任何提案分发给本组织的所有会员国和所有缔约国。
2. 按上述规定提议和分发的任何修正案须提交本组织法律委员会,以供在其分发之日后至少6个月的某一日期审议。
3. 经本议定书修正的本公约的所有缔约国,不论是否为本组织会员国,均须有权参加法律委员会审议和通过修正案的议项。
4. 修正案须由出席第3款规定的扩大的法律委员会并参加投票的经本议定书修正的公约缔约国三分之二多数通过,但在投票时至少须有经本议定书修正的本公约的半数缔约国出席。
5. 在对修正限额的提案采取行动时,法律委员会须考虑到事故的经过,尤其是由事故造成的损害数额、币值的变化和提议的修正对保险费用的影响。
6. (a) 从本议定书开放供签署之日起算不足5年或从根据本条通过的先前修正案生效之日起算不足5年时,不得审议本条规定的任何限额修正案。
(b) 自本议定书开放供签署之日起,任何限额的增加均不得超过相当于经本议定书修正的本公约中规定的按复利年计算每年增加6%所得的数额。
(c) 任何限额均不得增加到超过相当于经本议定书修正的公约中规定的限额的3倍的数额。
7. 按第4款通过的任何修正案须由本组织通知所有缔约国。在通知之日后18个月的期限结束时,该修正案须视为被接受,除非在该期限内不少于四分之一的、在通过该修正案时属缔约国的国家通知秘书长不接受该修正案,在此种情况下,该修正案即被否决并须无效。
8. 按照第7款视为被接受的修正案将在其被接受后18个月生效。
9. 所有缔约国均须受该修正案的约束,除非其按第十二条第1款和第2款在该修正案生效前至少6个月退出本议定书。此种退出须在该修正案生效时生效。
10. 当一修正案已被通过但其接受所需的18个月的期限尚未届满时,在该期限内成为缔约国的国家,如该修正案生效,须受其约束。在该期限后成为缔约国的国家,须受按第7款已被接受的修正案的约束。在本款所述的各种情况下,在该修正案生效时,或在本议定书对一国生效时(如其较晚),该国须受该修正案的约束。

第九条

1. 在本议定书的缔约国之间,本公约和本议定书应作为单一文件理解和解释。

2. 屬本議定書締約國但非屬本公約締約國的国家,就與本議定書其他締約國的關係而言,須受經本議定書修正的本公約相關條款的約束,但就與本公約締約國的關係而言,不受本公約條款的約束。
3. 經本議定書修正的本公約,須僅適用於本議定書對每一國家生效後發生的事件引起的索賠。
4. 本議定書中的任何規定均不影響既屬本公約又屬本議定書締約國的国家對屬本公約締約國但非屬本議定書締約國的国家義務。

最後條款

第十條

簽署、批准、接受、核准和加入

1. 本議定書自1996年10月1日至1997年9月30日在本組織總部開放供所有國家簽署。
2. 任何國家可以通過下列方式表示其同意受本議定書約束：
 - (a) 簽署,並對批准、接受或核准無保留;或
 - (b) 簽署,但有待批准、接受或核准,隨後再予以批准、接受或核准;或
 - (c) 加入。
3. 批准、接受、核准或加入須向秘書長交存相應文件方為有效。
4. 在經本議定書修正的本公約的修正案生效後交存的任何批准、接受、核准或加入文件,須被視為適用於經此類修正案修訂的、經如此修正的本公約。

第十一條

生 效

1. 本議定書須在10個國家表示同意受其約束之日後90天生效。
2. 對於在第1款中的生效條件得到滿足後表示同意受本議定書約束的任何國家,本議定書須於表示同意之日起隨後的90天內對其生效。

第十二條

退 出

1. 任何締約國可在本議定書對該締約國生效之日後隨時退出本議定書。
2. 退出本議定書,須向秘書長交存一份文件方為有效。
3. 退出本議定書,須在向秘書長交存文件後12個月,或退出文件中可能規定的較次為長的期限屆滿後生效。
4. 就本議定書締約國之間而言,它們中的任何國家按本公約第十九條退出本公約,在任何情況下均不得被解釋為退出經本議定書修正的本公約。

第十三條

修訂或修正

1. 本組織可召集修訂或修正本議定書的會議。

2. 本组织须在不少于三分之一的缔约国提出要求后,召集修订或修正本议定书的缔约国会议。

第十四条 保 存 人

1. 本议定书或根据第八条接受的任何修正案须交秘书长保存。
2. 秘书长须:
 - (a) 将下列事项通知签署或加入本议定书的所有国家:
 - (i) 每一新的签署或文件的交存,以及签署或交存文件的日期;
 - (ii) 根据经本议定书修正的本公约第八条第2款和本公约第八条第4款做出的每一声明和通知;
 - (iii) 本议定书的生效日期;
 - (iv) 按第八条第1款提交的、修正限额的任何提案;
 - (v) 按第八条第4款通过的任何修正案;
 - (vi) 根据第八条第7款视为已被接受的任何修正案,以及该修正案按该条第8款和第9款生效的日期;
 - (vii) 退出本议定书的任何文件的交存及交存日期和退出的生效日期;
 - (b) 将本议定书核证无误的副本分发给所有签字国和加入本议定书的所有国家。
3. 本议定书一经生效,秘书长须按照《联合国宪章》第一百零二条,将其文本送交联合国秘书处供登记与公布。

第十五条 语 言

本议定书正本一份,用阿拉伯文、中文、英文、法文、俄文和西班牙文写成,每种文本同等作准。

1996年5月2日订于伦敦。

下列具名者,均经各自政府正式授权,特签署本议定书,以昭信守。

Protocol of 1996 to Amend the Convention on Limitation of Liability for Maritime Claims, 1976 (1996 LLMC Protocol)

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:
 - (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.

Article 4

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

1. 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.

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:
 - (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;
 - (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 1 (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 multi-

plied 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 sub-paragraphs (a) and (b) of this paragraph.

Article 6

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

3 *bis* 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 1 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 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.

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 Con-

- vention 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 percent 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 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 of the Organization from 1 October 1996 to 30 September 1997 by all States.
2. Any State may express its consent to be bound by this Protocol by:
 - (a) signature without reservation as to ratification, acceptance or approval; or
 - (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 an instrument to that effect with the Secretary-General.
4. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the Convention as amended by this Protocol shall be deemed to apply to the Convention so amended, as modified by such amendment.

Article 11

Entry into force

1. This Protocol shall enter into force ninety days following the date on which ten States have expressed their consent to be bound by it.
2. For any State which expresses its consent to be bound by this Protocol after the conditions in paragraph 1 for entry into force have been met, this Protocol shall enter into force ninety days following the date of expression of such consent.

Article 12

Denunciation

1. This Protocol may be denounced by any State Party at any time after the date on which it enters into force for that State Party.

2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.
3. A denunciation shall take effect twelve months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General.
4. As between the States Parties to this Protocol, denunciation by any of them of the Convention in accordance with Article 19 thereof shall not be construed in any way as a denunciation of the Convention as amended by this Protocol.

Article 13

Revision and amendment

1. A conference for the purpose of revising or amending this Protocol may be convened by the Organization.
2. The Organization shall convene a conference of Contracting States to this Protocol for revising or amending it at the request of not less than one-third of the Contracting States.

Article 14

Depositary

1. This Protocol and any amendments adopted under Article 8 shall be deposited with the Secretary General.
2. The Secretary-General shall:
 - (a) inform all States which have signed or acceded to this Protocol of:
 - (i) each new signature or deposit of an instrument together with the date thereof;
 - (ii) each declaration and communication under Article 8, paragraph 2 of the Convention as amended by this Protocol, and Article 8, paragraph 4 of the Convention;
 - (iii) the date of entry into force of this Protocol;
 - (iv) any proposal to amend limits which has been made in accordance with Article 8, paragraph 1;
 - (v) any amendment which has been adopted in accordance with Article 8, paragraph 4;
 - (vi) any amendment deemed to have been accepted under Article 8, paragraph 7, together with the date on which that amendment shall enter into force in accordance with paragraphs 8 and 9 of that Article;
 - (vii) the deposit of any instrument of denunciation of this Protocol together with the date of the deposit and the date on which it takes effect;
 - (b) transmit certified true copies of this Protocol to all Signatory States and to all States which accede to this Protocol.
3. As soon as this Protocol enters into force, the text shall be transmitted by the Secretary-General to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 15

Languages

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

DONE AT LONDON this second day of May one thousand nine hundred and ninety-six.

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

❶ Signatures omitted.