1957年船舶所有人责任限制公约

本公约于１９５７年１０月１０日在布鲁塞尔召开的第十届海洋法外交会议上通过。１９８６年５月３０日生效。

 参加本公约的国家有：澳大利亚、比利时、丹麦、芬兰、法国、德国、英国、印度、以色列、日本、荷兰、挪威、波兰、葡萄亚、西班牙、斯里兰卡、瑞典、瑞士、阿尔及利亚、斐济、加纳、巴哈马、巴巴多斯、多米尼加、格林纳达、圭亚那、冰岛、伊朗、马尔加什、毛里求斯、摩纳哥、巴布亚新几内亚、新加坡、叙利亚、汤加、阿拉伯联邦共和国、瓦努阿图、扎伊尔等。

 第一条

 １．海船舶所有人对由于下列事故所引起的请求，除引起请求的事故是出于船舶所有人的实际过失或私谋以外，都可以根据本规则第三条限制其责任。上述事故是：

 （１）船上所载的任何人的死亡或人身伤害，以及船上任何财物的灭失或损害。

 （２）由于应由船舶所有人对其行为，疏忽或过失负责的在船上或不在船上的任何人的行为、疏忽或过失所引起的陆上或水上任何其他人的死亡或人身伤害，任何其他财产的灭失或损害，或任何权利的侵犯。但对于后一种人的行为、疏忽或过失，船舶所有人仅在其行为、疏忽或过失是在驾驶或管理船舶时，或在货物装船、运输或卸船，以及在旅客上船、乘船或上岸时发生，才有权限制其责任。

 （３）与清除船舶残骸有关的法律所加于和由于或有关浮起、清除或毁坏任何沉没、搁浅或被弃船舶（包括船上任何物件）而发生的任何义务或责任，以及由于港口工程、港池或航道所造成的损害引起的任何义务与责任。

 ２．在本公约中，“人身请求”是指由于死亡或人身伤害而发生的请求；“财物请求”是指本条第１款所述以外的一切其他请求。

 ３．在本条第１款所述情况下，即使其责任是由于他对船舶具有所有权、占有权、保管权或控制权而发生的，而在船舶所有人方面，或在船舶所有人应对其行为负责的一些人方面，并无疏忽行为的证明，船舶所有人亦应有限制其责任的权利。

 ４．本条不适用于：

 （１）救助方面的请求或共同海损分担的请求。

 （２）船长、船员、船舶所有人所雇在船上的任何雇佣人员，或船舶所有人所雇其职务与船舶有关的雇佣人员提出的请求：包括其继承人、私人代表或家属的请求在内。如果对于这类请求，根据船舶所有人与上述雇佣人员之间的服务契约所适用的法律，船舶所有人不得限制其责任；或根据这种法律，只能以较本公约第三条所订者为高的金额限制其责任。

 ５．如船舶所有人有权就同一事件向请求人提出请求，双方提出的请求应相互抵销，而本公约的规定只适用于其中的差额（如有）。

 ６．对于引起请求的事故，是否由于船舶所有人的实际过失或私谋所引起的举证责任问题，须根据法庭地法决定。

 ７．要求责任限制的行为，并不构成对于责任的承认。

 第二条

 １．本公约第三条所规定的责任限制，应适用于在任何个别场合发生的人身请求和财产请求的总额，但对于在任何其他个别场合已经发生或可能发生的任何请求，不考虑在内。

 ２．当在任何个别场合发生的请求总额，超过第三条规定的责任限额时，可将代表这项责任限额的总数，作为一项单独的限额基金。

 ３．如此设立的基金，只能用以支付与能够要求责任限制有关的请求。

 ４．基金设立以后，如该限额基金确为请求人的利益所用，请求人不得就其对该项基金的请求，对船舶所有人所有任何其他财产，行使任何权利。

 第三条

 １．船舶所有人根据第一条规定，可以限制其责任的金额为：

 （１）如事故只引起财产请求，按船舶吨位计算，每吨赔偿总额为１，０００法郎。

 （２）如事故只引起人身请求，按船舶吨位计算，每吨赔偿总额为３，１００法郎。

 （３）如事故既引起人身请求，又引起财物请求，则按船舶吨位计算，每吨赔偿总额为３，１００法郎，其中第一部分以每吨２，１００法郎计算的款项，应专门用于支付人身请求，而第二部分以每吨１，０００法郎计算的款项，则用于支付财物请求。但如第一部分款项不足以支付全部人身请求，这种请求的未付差额，应与财物请求按比例排列，以第二部分基金支付。

 ２．对于每一部分限额基金，应按照已经成立的请求数额的比例，分配给请求人。

 ３．如在分配基金以前，船舶所有人对于第一条第１款所述任何请求，已经支付全部或一部分款项，则对该项基金来说，该船舶所有人应按比例安排在已由其偿付的请求人相同的地位，参加分配，但其数额仅以由其偿付的请求人，根据基金所在国国内法有权向他要求偿还的数额为限。

 ４．如船舶所有人提出，他对于第一条第１款所述请求的全部或一部分款项，将在日后被强制支付，基金所在国的法院或其他主管当局，得发布命令，将一笔足够的款项暂时存放，以便船舶所有人能在日后按前款所述方式，就该项基金满足他的请求。

 ５．为了按照本条规定确定船舶所有人限额，不足３００吨的船舶应为３００吨。

 ６．本条所述法郎，应视为指含６５．５毫克９００‰的纯金的货币单位而言。本条第一款所述的数额，应在要求限制其责任的国家，按船舶所有人设立限额基金、支付款项或提出根据该国法律等于支付款额的保证的日期，根据上述货币单位的价值折合为该国货币。

 ７．本公约所述船舶吨位应按下列方式计算：

 对于蒸汽机船或其他动机船舶，应采用净吨，加上为确定净吨而从总吨中减去的机舱所占空间。

 对于其余一切船舶，应采用净吨。

 第四条

 在不妨碍本公约第三条第二款的条件下，关于设立和分配限额基金的规则，以及一切程序规则，应受基金所在国家的法律约束。

 第五条

 １．当船舶所有人有权根据本公约限制其责任，而其所拥有的船舶或另一艘船舶或其他财产，已在一个缔约国管辖区域内被扣，或为避免被扣已经提出保证金或其他担保，如能确定该船舶所有人已经提出充分保证金或保全，其数额相等于他在本公约规定下所应承担的全部责任限额，而这样提出的保证或其他保全，对于请求人的利益，按照其应享的权利，又真实有用，则该缔约国的法庭或其他主管部门得下令将上述船舶或其他财产，或所提出的保全发还。

 ２．在本公约第一款所述情况下，如已在下列港口提交保证金或其他保全，则该法院或其他主管机关应根据本条第一款所述条件，下令放还船舶、保证金或其他保全，这些港口是：

 （１）引起请求的事故发生的港口；

 （２）如事故不在港内发生，则为事故发生后的第一个停泊港；

 （３）如果请求是人身请求，或有关货物损害的请求，则为旅客上岸港或卸货港；

 ３．如已经提出的保证金或其他保全的数额，少于本公约所规定的全部责任限额，在对其差额提出充分的保证金或其他保全的情况下，本条第１、２款的规定同样适用。

 ４．如船舶所有人已提交相等于其在本公约规定下的全部责任限额的保证金或其他保全，这种保证金或其他保全，应用以支付在一个特定场合发生的一切请求，而船舶所有人得在这方面限制其责任。

 ５．关于根据本公约规定提起诉讼的程序和起诉时效问题，应根据诉讼所在缔约国的国内法决定。

 第六条

 １．在本公约内，船舶所有人的责任，包括船舶本身的责任在内。

 ２．除本条第３款另有规定外，本公约的条款应与适用于船舶所有人本身同样，适用于船舶的承租人、经理人和营运人，以及船长、船员和为船舶所有人、承租人、经理人或营运人服务的其他雇佣人员；但对发生于一个特定场合的人身请求和财物请求，船舶所有人和上述一切其他人员的责任限额总数，不得超过根据本公约第三条所确定的金额。

 ３．对船长或船员提起诉讼时，即使引起索赔的事故是由于其中一人或数人的实际过失或私谋而发生，他们亦可限制其责任。但如船长或船员同时是船舶的所有人、共有人、承租人、经理人和营运人，则仅在其行为、疏忽或过失是该有关人员以该船船长或船员身分作出时，才能适用本款规定。

 第七条

 当船舶所有人或根据第六条规定具有与船舶所有人相同权利的任何人，在一个缔约国的法庭上限制或要求限制其责任，或要求放还被扣船舶或其他财产，或在该国管辖区域内提交的保证金或其他保全时，本公约应予适用。

 但每一缔约国对于任何非缔约国，或根据第五条规定要求限制其责任，或放还其被扣船舶或其他财产，或其提交的保证金或其他保全时，不经常住在某一缔约国或在某一缔约国内设有主要营业所的任何人，或要求限制其责任或将其释放，而在上述期间未悬挂缔约国国旗的任何船舶，都有权剥夺其根据本公约应享的全部或一部分权益。

 第八条

 各缔约国保留确定某种其他类型船舶得与海船同样适用本公约的权利。

 第九条

 本公约应由出席第十届海洋法外交会议各国签字。

 第十条

 本公约须经批准。批准文件应送交比利时政府保存，并由比利时政府通过外交途径，将各批准书的收存情况通知所有签字国和参加国。

 第十一条

 １．本公约应自至少收到十份批准书之日起六个月后生效。在这些批准书之中，至少应有五份系由拥有１００万或１００万总吨以上船舶的国家所交存。

 ２．在本条第１款所规定决定公约生效的批准书收存之日以后，对于批准本公约的每一签字国，本公约应自其批准书交存六个月后生效。

 第十二条

 未参加第十届海洋法外交会议的国家，都可以参加本公约，表示加入的文件应交比利时政府保存，并由比利时政府将这项文件的交存情况，通过外交途径通知各签字国和参加国。

 对于参加国，本公约应自该国交存加入文件之日起六个月后生效，但生效日期不得早于第十一条第１款所规定的公约生效日期。

 第十三条

 每一缔约国都有权在本公约对该国生效以后的任何时期退出本公约，但这种退出仅在自比利时政府收到退出本公约通知之日起一年后，方为有效。比利时政府应通过外交途径将此项通知告知所有签字国和参加国。

 第十四条

 １．任何缔约国都可以在其批准或加入本公约当时或此后任何时期，以送交比利时政府的书面声明宣布，本公约的适用范围扩大至在国际关系方面由其负责的任何领土，本公约的适用范围即应自比利时政府收到该项通知之日起６个月以后扩大至通知中所述领土，但不得早于本公约对该国生效的日期。

 ２．根据本条第１款宣布将本公约的适用范围扩大至国际关系方面由其负责的领土的缔约国，得在此后任何时期通过送交比利时政府的通知，宣布本公约不再扩大适用于上述领土。这种退出应自比利时政府收到上述通知之日起一年后生效。

 ３．比利时政府应通过外交途径，将其收到本条所述通知的情况告知所有签字国和参加国。

 第十五条

 任何缔约国都可以在本公约对该国生效三年后或此后任何时期，要求召集会议，以便考虑对本公约进行修改。

 欲行使这一权利的任何缔约国，应将此事通知比利时政府，比利时政府应于此后６个月内召集会议。

 第十六条

 在批准或加入本公约各国之间，本公约应代替并废除１９２４年８月２５日在布鲁塞尔签署的统一海船船舶所有人责任限制的若干规定的国际公约。

 经正式授权的各全权代表特签署本公约，以昭信守。

 本公约于１９５７年１０月１０日在布鲁塞尔签订，正本一份，用英文和法文写成，两种文本具有同等效力。公约正本存于比利时政府档案库，经过核证无差的副本由比利时政府分发。

 INTERNATIONAL CONVENTION RELATING TO THE LIMITATION OF THE LIABI-LITY OF OWNERS OF SEA-GOING SHIPS, 1957

 THE HIGH CONTRACTING PARTIES.

 HAVING RECOGNISED the desirability of determining by agreement certain

uniform rules relating to the limitation of the liability of owners of

sea-going ships;

 HAVE DECIDED to conclude a Convention for this purpose, and thereto

have agreed as follows:

Article 1

 (1) The owner of a sea-going ship may limit his liability in

accordance with Article 3 of this Convention in respect of claims arising

from any of the following occurrences, unless the occurrence giving rise

to the claim resulted from the actual fault or privity of the owner:

 (a) loss of life of, or personal injury to, any person being

carried in the ship, and loss of, or damage to, any property on board the

ship;

 (b) loss of life of, or personal injury to, any other person,

whether on land or on water, loss of or damage to any other property or

infringement of any rights caused by the act, neglect or default of any

person on board the ship for whose act, neglect or default the owner is

responsible or any person not on board the ship for whose act, neglect or

default the owner is responsible; Provided however that in regard to the

act, neglect or default of this last class of person, the owner shall

only be entitled to limit his liability when the act, neglect or default

is one which occurs in the navigation or the management of the ship or in

the loading, carriage or discharge of its cargo or in the embarkation,

carriage or disembarkation of its passengers;

 (c) any obligation or liability imposed by any law relating to the

removal of wreck and arising from or in connection with the raising,

removal or destruction of any ship which is sunk, stranded or abandoned

(including anything which may be on board such ship) and any obligation or

liability arising out of damage caused to harbour works, basins and

navigable waterways.

 (2) In the present Convention the expression "personal claims" means

claims" means claims resulting from loss of life and personal injury; the

expression "property claims" means all other claims set out in paragraph

(1) of this Article.

 (3) An owner shall be entitled to limit his liability in the cases set

out in paragraph (1) of this Article even in cases where his liability

arises, without proof of negligence on the part of the crew, by any

servants of the crew, by any servants of the owner on board the ship or by

servants of the owner on board the ship or by servants of the owner, or of

persons for whose conduct he is responsible, by reason of his ownership,

possession, custody or control of the ship.

 (4) Nothing in his Article shall apply:

 (a) to claims for salvage or to claims for contribution in general

average;

 (b) to claims by the Master, by members of the crew, by any

servants of the owner on board the ship or by servants of the owner whose

duties are connected with the ship, including the claims of their heirs,

personal representatives or dependants, if under the law governing the

contract of service between the owner and such servants the owner is not

entitled to limit his liability in respect of such claims or if he is by

such law only permitted to limit his liability to an amount greater than

that provided for in Article 3 of this Convention.

 (5) If the owner of a ship is entitled to make a claim against a

claimant arising out of the same occurrence, their respective claims shall

be set off against each other and the provisions of this Convention shall

only apply to the balance, if any.

 (6) The question upon whom lies the burden of proving whether or not

the occurrence giving rise to the claim resulted from the actual fault or

privity of the owner shall be determined by the lex fori.

 (7) The act of invoking limitation of liability shall not constitute

an admission of liability.

Article 2

 (1) The limit of liability prescribed by Article 3 of this Convention

shall apply to the aggregate of personal claims and property claims which

arise on any distinct occasion without regard to any claims which have

arisen or may arise on any other distinct occasion.

 (2) Where the aggregate of the claims which arise on any distinct

occasion exceeds the limits of liability provided for by Article 3 the

total sum representing such limits of liability may be constituted as one

distinct limitation fund.

 (3) The fund thus constituted shall be available only for the payment

of claims in respect of which limitation of liability can be invoked.

 (4) After the fund has been constituted, no claimant against the fund

shall be entitled to exercise any right against any other assets of the

shipowner in respect of his claim against the fund, if the limitation fund

is actually available for the benefit of the claimant.

Article 3

 (1) The amounts to which the owner of a ship may limit his liability

under Article 1 shall be:

 (a) where the occurrence has only given rise to property claims an

aggregate amount of 1 000 francs for each ton of the ship's tonnage;

 (b) where the occurrence has only given rise to personal claims an

aggregate amount of 3 100 francs for each ton of the ship's tonnage;

 (c) where the occurrence has given rise both to personal claims

and property claims an aggregate amount of 3100 francs for each ton of the

ship's tonnage, of which a first portion amounting to 2100 francs for each

ton of the ship's tonnage shall be exclusively appropriated to the payment

of personal claims and of which a second portion amounting to 1000 francs

for each ton of the ship's tonnage shall be appropriated to the payment of

property claims: Provided however that in cases where the first portion is

insufficient to pay the personal claims in full, the unpaid balance of

such claims shall rank rateably with the property claims for payment

against the second portion of the fund.

 (2) In each portion of the limitation fund the distribution among the

claimants shall be made in proportion to the amounts of their established

claims.

 (3) If before the fund is distributed the owner has paid in whole or

in part any of the claims set out in Article 1 paragraph (1), he shall pro

tanto be placed in the same position in relation to the fund as the

claimant whose claim he has paid, but only to the extent that the claimant

whose claim he has paid would have had a right of recovery against him

under the national law of the State where the fund has been constituted.

 (4) Where the shipowner establishes that he may at a later date be

compelled to pay in whole or in part any of the claims set out in Article

1 paragraph (1) the Court or other competent authority of the State where

the fund has been constituted may order that a sufficient sum shall be

provisionally set aside to enable the shipowner at such later date to

enforce his claim against the fund in the manner set out in the preceding

paragraph.

 (5) For the purpose of ascertaining the limit of an owner's liability

in accordance with the provisions of this Article the tonnage of a ship of

less than 300 tons shall be deemed to be 300 tons.

 (6) The franc mentioned in this Article shall be deemed to refer to a

unit consisting of sixty five and a half milligrams of gold of millesimal

fineness nine hundred. The amounts mentioned in paragraph (1) of this

Article shall be converted into the national currency of the State in

which limitation is sought on the basis of the value of that currency by

reference to the unit defined above at the date on which the shipowner

shall have constituted the limitation fund, made the payment or given a

guarantee which under the law of that State is equivalent to such payment.

 (7) For the purpose of this convention tonnage shall be calculated as

follows: in the case of steamships or other mechanically propelled ships

there shall be taken the net tonnage with the addition of the amount

deducted from the gross tonnage on account of engine room space for the

purpose of ascertaining the net tonnage; in the case of all other ships

there shall be taken the net tonnage.

Article 4

 Without prejudice to the provisions of Article 3, paragraph (2) of

this Convention, the rules relating to the constitution and distribution

of the limitation fund, if any, and all rules of procedure shall be

governed by the national law of the State in which the fund is

constituted.

Article 5

 (1) Whenever a shipowner is entitled to limit his liability under this

Convention, and the ship or another ship or other property in the same

ownership has been arrested within the jurisdiction of a Contracting State

or bail or other security has been given to avoid arrest, the Court or

other competent authority of such State may order the release of the ship

or other property or of the security given if it is established that the

shipowner has already given satisfactory bail or security in a sum equal

to the full limit of his liability under this Convention and that the bail

or other security so given is actually available for the benefit of the

claimant in accordance with his rights.

 (2) Where, in circumstances mentioned in paragraph (1) of this

Article, bail or other security has already been given:

 (a) at the port where the accident giving rise to the claim

occurred;

 (b) at the first port of call after the accident if the accident

did not occur in a port;

 (c) at the port of disembarkation or discharge if the claim is a

personal claim or relates to damage to cargo;

 the Court or other competent authority shall order the release of the

ship or the bail or other security given, subject to the conditions set

forth in paragraph (1) of this Article.

 (3) The provisions of paragraphs (1) and (2) of this Article shall

apply likewise if the bail or other security already given is in a sum

less than the full limit of liability under this Convention: Provided that

satisfactory bail or other security is given for the balance.

 (4) When the shipowner has given bail or other security in a sum equal

to the full limit of his liability under this Convention such bail or

other security shall be available for the payment of all claims arising on

a distinct occasion and in respect of which the shipowner may limit his

liability.

 (5) Questions of procedure relating to actions brought under the

provisions of this Convention and also the time limit within which such

actions shall be brought or prosecuted shall be decided in accordance with

the national law of the Contracting State in which the action takes place.

Article 6

 (1) In this Convention the liability of the shipowner includes the

liability of the ship herself.

 (2) Subject to paragraph (3) of this Article, the provisions of this

Convention shall apply to the charterer, manager and operator of the ship,

and to the master, members of the crew and other servants of the owner,

charterer, manager or operator acting in the course of their employment,

in the same way as they apply to an owner himself: Provided that the total

limits of liability of the owner and all such other persons in respect of

personal claims and property claims arising on a distinct occasion shall

not exceed the amounts determined in accordance with Article 3 of this

Convention.

 (3) When actions are brought against the master or against members of

the crew such persons may limit their liability even if the occurrence

which gives rise to the claims resulted from the actual fault or privity

of one or more of such persons. If however, the master or member of the

crew is at the same time the owner, co-owner, charterer, manager or

operator of the ship the provisions of this paragraph shall only apply

where the act, neglect or default in question is an act, neglect or

default committed by the person in question in his capacity as master or

as member of the crew of the ship.

Article 7

 This Convention shall apply whenever the owner of a ship, or any other

person having by virtue of the provisions of Article 6 hereof the same

rights as an owner of a ship, limits or seeks to limit his liability

before a court of a Contracting State or seeks to procure the release of a

ship or other property arrested or the bail or other security given within

the jurisdiction of any such State.

 Nevertheless, each Contracting State shall have the right to exclude,

wholly or partially, from the benefits of this Convention any

non-Contracting State, or any person who, at the time when he seeks to

limit his liability or to secure the release of a ship or other property

arrested or the bail or other security in accordance with the provisions

of Article 5 hereof, is not ordinarily resident in a Contracting State, or

does not have his principal place of business in a Contracting State, or

any ship in respect of which limitation of liability or release is sought

which does not at the time specified above fly the flag of a Contracting

State.

Article 8

 Each Contracting State reserves the right to decide what other classes

of ship shall be treated in the same manner as sea-going ships for the

purposes of this Convention.

Article 9

 This Convention shall be open for signature by the States represented

at the tenth session of the Diplomatic Conference on Maritime Law.

Article 10

 This Convention shall be ratified and the instruments of ratification

shall be deposited with the Belgian Government which shall notify through

diplomatic channels all signatory and acceding States of their deposit.

Article 11

 (1) This Convention shall come into force six months after the date of

deposit of at least ten instruments of ratification, of which at least

five shall have been deposited by States that have each a tonnage equal or

superior to one million gross tons of tonnage.

 (2) For each signatory State which ratifies the Convention after the

date of deposit of the instrument of ratification determining the coming

into force such as is stipulated in paragraph (1) of this Article, this

Convention shall come into force six months after the deposit of their

instrument of ratification.

Article 12

 Any State not represented at the tenth session of the Diplomatic

Conference on Maritime Law may accede to this Convention.

 The instruments of accession shall be deposited with the Belgian

Government which shall inform through diplomatic channels all signatory

and acceding States of the deposit of any such instruments.

 The Convention shall come into force in respect of the acceding State

six months after the date of the deposit of the instrument of accession to

that State, but not before the date of entry into force of the Convention

as established by Article 11(1).

Article 13

 Each High Contracting Parity shall have the right to denounce this

Convention at any time after the coming into force thereof in respect of

such High Contracting Party. Nevertheless, this denunciation shall only

take effect one year after the date on which notification thereof has been

received by the Belgian Government which shall inform through diplomatic

channels all signatory and acceding States of such notification.

Article 14

 (1) Any High Contracting Party may at the time of its ratification of

or accession to this Convention or at any time thereafter declare by

written notification to the Belgian Government that the Convention shall

extend to any of the territories for whose international relations it is

responsible. The Convention shall six months after the date of the receipt

of such notification by the Belgian Government extend to the territories

named therein, but not before the date of the coming into force of this

Convention in respect of such High Contracting Party;

 (2) Any High Contracting Party which has made a declaration under

paragraph (1) of this Article extending the Convention to any territory

for whose international relations it is responsible may at any time

thereafter declare by notification given to the Belgian Government that

the Convention shall cease to extend to such territory. This denunciation

shall take effect one year after the date on which notification thereof

has been received by the Belgian Government;

 (3) The Belgian Government shall inform through diplomatic channels

all signatory and acceding States of any notification received by it under

this Article.

Article 15

 Any High Contracting Party may three years after the coming into force

of this Convention in respect of such High Contracting Party or at any

time thereafter request that a Conference be convened in order to consider

amendments to this Convention.

 Any High Contracting Party proposing to avail itself of this right

shall notify the Belgian Government which shall convene the Conference

within six months thereafter.

Article 16

 In respect of the relations between States which ratify this

Convention or accede to it, this Convention shall replace and abrogate the

International Convention for the Unification of certain Rules concerning

the Limitation of the Liability of the Owner s of Sea-going Ships, signed

at Brussels, on August 25, 1924.

 IN WITNESS WHEREOF the Plenipotentiaries, duly authorized, have signed

this Convention.

 DONE AT BRUSSELS, this tenth day of October 1957, in the French and

English languages, the two texts being equally authentic, in a single

copy, which shall remain deposited in the archives of the Belgian

Government, which shall issue certified copies.