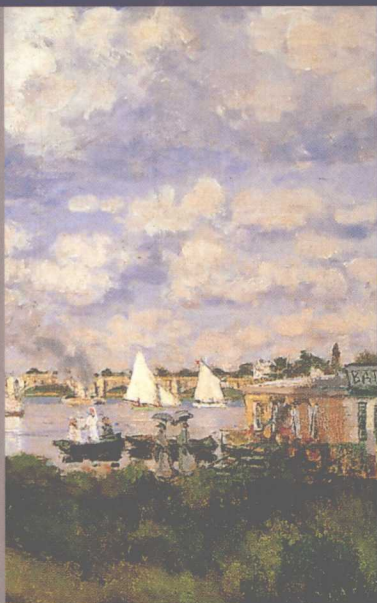


海 商 法 國 際 公 約 集

游啓忠 主編

五南圖書出版公司 印行





海商法國際公約集

(附聯合國國際貨物買賣契約公約 (CISG))

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五南圖書出版公司 印行



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序·言

筆者於國立中正大學法律系所講授海商法暨海商法專題研究數年，深感國際海事公約與我國海商法關係之密不可分，以船舶所有人責任限制為例，修正前海商法責任限制之規定固沿襲一九二四年船舶所有人責任限制統一公約（International Convention for the Unification of Certain Rules relating to the Limitation of the Liability of Owners of Sea-going Vessels, Brussels, August 25, 1925），民國八十八年七月十四日公布實施之海商法亦師法一九五七年船舶所有人責任限制公約（International Convention for the Unification of Certain Rules relating to the Limitation of the Liability of Owners of Sea-going Vessels, Brussels, August 10, 1957）及一九七六年海事求償責任限制公約（Convention on Limitation of Liability for Maritime Claims, London, November 19, 1976）；再以海事優先權為例，修正前之海商法引進一九二六年海事優先權及抵押權統一規定公約（International Convention for the Unification of Certain Rules relating to the Maritime Liens and Mortgages, Brussels, August 10, 1926），新頒定施行之海商法亦多仿一九六七年統一海事優先權及抵押權國際公約之規定（International Convention for the Unification of Certain Rules relating to the Maritime Liens and Mortgages, Brussels, May 27, 1967）。其他如現行海商法第六十九條原仿海牙規則第四條第二項而設（International Convention for the Unification of Certain Rules of Law relating to Bill of Lading, Brussel, February 23, 1968），此次修正則再參考一九六八年海牙威士比規則第四條第二項修正為現行條文（the Visby Rules）；共同海損條文參考一九七四年約克安特普規則修正（the York-Antwerp Rules），我國海商法因此深具國際公約色彩，適用若有爭議，非採公約原文難為功，此為編譯本部海商法國際公約集之主因，而國內雖不乏海商法教科書名著，但海商法國際公約之專集則尚未見，倘能輔以本公約原文對照學習當更能窺其堂奧，掌握海商法之精義；海商法與國際貿易法本為一體適用，爰將聯合國國際貨物買賣契約公約一併輯入，以利參考運用。

本書之付梓，承阮國禎、許淑清、陳志隆同學分任編校之責，暨五南圖書出版公司不計成本鼎力支持，暨五南圖書出版公司編輯部嚴謹複校，謹申謝忱。

完稿之際，正值母病臥床，內心百感交集，難以為報，庭訓常縈襟懷，望母親早日康復並藉此感謝家人之鼓勵與支持，如有訛誤，尚祈指正。

游 侶 忠

序於國立中正大學法律系暨研究所國際法組研究室

八十九年一月

目 次

限制責任	1
International Convention for the Unification of Certain Rules Relating to the Limitation of the Liability of Owners of Sea-going Vessels (Brussels, August 25th, 1924) 一九二四年海船所有人責任限制統一公約 (1924 年 8 月 25 日訂於布魯賽爾)	3
International Convention Relating to the Limitation of the Liability of Owners of Sea-going Ships (Brussels, October 10, 1957) 一九五七年船舶所有人責任限制之國際公約 (1957 年 10 月 10 日訂於布魯塞爾)	25
Protocol Amending the International Convention Relating to the Limitation of the Liability of Owners of Sea-going Ships Dated October 10, 1957, December 21, 1979 一九五七年船舶所有人限制責任國際公約議定書	51
Convention on the Limitation of Liability for Maritime Claims 1976 (London, November 19, 1976) 一九七六年海事索賠責任限制公約 (1976 年 11 月 19 日訂於倫敦)	65

㊦ 優先權與抵押權

101

Convention for the Unification of Certain Rules Relating to Maritime Mortgages and Liens (Opened for Signature at Brussels, April 10, 1926) 103

船舶優先權及抵押權公約(1926年4月10日訂於布魯塞爾)

International Convention for the Unification of Certain Rules Relating to Maritime Liens and Mortgages (Done at Brussels on May 27, 1967) 125

統一關於海上優先權與抵押權某些規定之國際公約(修訂)(1967年5月27日訂於布魯塞爾)

International Convention on Maritime Liens and Mortgages 1993 (Held at the Palais des Nations, Geneva, from 19 April to 6 May 1993) 149

一九九三年海事優先權及抵押權公約

㊦ 載貨證券

181

International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading (Brussels, August 25, 1924) 183

統一關於提單部分法律規則之國際公約〈海牙規則〉
(1924年8月25日訂於布魯塞爾)

Protocol to Amend the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading (Signed at Brussels on 25th August 1924, Brussels February 23, 1968) (Vibys Rules) 213

一九六八年布魯塞爾議定書

《修改統一關於提單部分法律規則之國際公約的議定書》

United Nations Convention on the Carriage of Goods by Sea, 1978. 3. 31 (The Hamburg Rules)	231
---	-----

一九七八年聯合國海上貨物運送公約（簡稱漢堡規則）

Protocol Amending the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading (August 25, 1924 as Amended by the Protocol of February 23, 1968, Brussels, December 21, 1979)	289
--	-----

一九七九年布魯賽爾議定書

㊦ 海船扣押 297

International Convention Relating to the Arrest of Sea-going Ships (Brussels, May 10, 1952)	299
--	-----

關於扣留海運船舶之國際公約（1952年5月10日訂於布魯賽爾）

㊦ 核 子 321

Convention on the Liability of Operators of Nuclear Ships and Addi- tional Protocol (Brussels, May 25th, 1962)	323
---	-----

一九六二年核子船舶運用人責任公約（1962年5月25日訂於布魯塞爾）

Convention Relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material (Brussels, December 17, 1971)	357
---	-----

一九七一年海運核物料之民事責任公約（1971年12月17日訂於布魯賽爾）

國際油污

365

International Convention on Civil Liability for Oil Pollution Damage 367
(Done at Brussels November 29, 1969)

國際油污損害民事責任公約 (1969 年 11 月 29 日訂於布魯塞爾)

Resolution on International Co-Operation Concerning Pollutants other than Oil 403

關於非油類污染之國際合作之決議

Resolution on Establishment of an International Compensation Fund 407
for Oil Pollution Damage

關於建立國際油污損害賠償基金之決議

附錄——國際貿易

413

United Nations Convention on Contracts for the International Sale of Goods (1980) [CISG] 415

聯合國國際貨物買賣契約公約



International Convention for the
Unification of Certain Rules
Relating to the Limitation of the
Liability of Owners of Sea-going
Vessels

Brussels, August 25th, 1924

一九二四年海船所有人責任限制統一公約

1924年8月25日訂於布魯賽爾

Article 1.

The liability of the owner of a sea-going vessel is limited to an amount equal to the value of the vessel, the freight, and the accessories of the vessel, in respect of:

1. Compensation due to third parties by reason of damage caused, whether on land or on water, by the acts or faults of the master, crew, pilot, or any other person in the service of the vessel;
2. Compensation due by reason of damage caused either to cargo delivered to the master to be transported, or to any goods and property on board;
3. Obligations arising out of bills of lading;
4. Compensation due by reason of a fault of navigation committed in the execution of a contract;
5. Any obligation to remove the wreck of a sunken vessel, and any obligations connected therewith;
6. Any remuneration for assistance and salvage;
7. Any contribution of the shipowner in general average;
8. Obligations arising out of contracts entered into or transactions carried out by the master, acting within the scope of his authority, away from the vessel's home port, where such contracts or transactions are necessary for the preservation of the vessel or the continuation of the voyage, provided that the necessity is not caused by any insufficiency or deficiency of equipment or stores at the beginning of the voyage.

Provided that, as regards the cases mentioned in Nos. 1, 2, 3, 4, and 5 the liability referred to in the preceding provisions shall not exceed an aggregate sum equal to 8 pounds sterling per ton of the vessel's tonnage.

Article 2.

The limitation of liability laid down in the foregoing Article does not apply:

1. To obligations arising out of acts or faults of the owner of the vessel;

第一條

海船所有人對於下列事項之責任，以相等於船舶價值、運費、及其附屬費總額為限：

1. 船長、海員、引水人、或執行船舶業務之其他人員，於陸地或水上執行船舶業務時，因其行為或過失所加損害於第三人之賠償。
2. 交付於船長運送之貨物，或船上任何物品或財產所受損害之賠償。
3. 本於載貨證券所生之債務。
4. 於履行契約中因航行過失所造成之賠償。
5. 除去沈船及其相關之任何義務。
6. 救助及撈救之任何報酬。
7. 在共同海損中屬於船舶所有人應分擔之部分。
8. 船長在船籍港外，因保存船舶或繼續航行之需要，於職權範圍內所訂契約或所為行為而生之債務，但以其需要非由於發航時配備缺陋或給養不足而生者為限。

但前項第1款至第5款之責任，仍以不超過按船舶噸位每噸八英鎊計算之金額為限。

第二條

前條責任限制於下列情形不適用之：

1. 本於船舶所有人之行為或過失所生之債務。

2. To any of the obligations referred to in § 8 of Article 1, when the owner has expressly authorized or ratified such obligation;

3. To obligations on the owner arising out of the engagement of the crew and other persons in the service of the vessel.

Where the owner or a part owner of the vessel is at the same time master, he cannot claim limitation of liability for his faults, other than his faults of navigation and the faults of persons in the service of the vessel.

Article 3.

An owner who avails himself of the limitation of his liability to the value of the vessel, freight, and accessories of the vessel must prove that value.

The valuation of the vessel shall be based upon the condition of the vessel at the points of time hereinafter set out:

1. In cases of collision or other accidents, as regards all claims connected therewith, including contractual claims which have originated up to the time of arrival of the vessel at the first port reached after the accident, and also as regards claims in general average arising out of the accident, the valuation shall be according to the condition of the vessel at the time of her arrival at that first port.

If before that time a fresh accident, distinct from the first accident, has reduced the value of the vessel, any diminution of value so caused shall not be taken into account in considering claims connected with the previous accident.

For accidents occurring during the sojourn of a vessel in port, the valuation shall be according to the condition of the vessel at that port after the accident.

2. If it is a question of claims relating to the cargo, or arising on a bill of lading, not being claims provided for in the preceding paragraphs, the valuation shall be according to the condition of the vessel at the port of destination of the

2. 前條第 8 項所定之債務，經船舶所有人明示允許或承認者。

3. 本於海員及執行船舶業務時之其他人員之僱傭契約所生之債務。

船舶所有人或共有人為船長者，除因其自己之航行過失及服務船舶人員之過失所致之損害賠償外，對因自己過失不得主張其限制責任。

第三條

船舶所有人如以船舶價值、運費、及其附屬費限制其責任者，應證明其價值。

船舶價值之估計，以下列時期之船舶狀態為準：

1. 因碰撞或其他事變之一切有關債權，包括自事變後以迄到達第一港期間內所有契約上之債權，及因事變所生共同海損之債權，其估價依船舶到達第一港時之狀態。

如再到達第一港前，因另一與前事變完全不同之新事變致減低船舶價值者，事項因新事變所致之減損，於估定關於前項事變債權之船舶價值時，不予計入。

船舶在停泊港內發生事變者，其估價依船舶在停泊港內事變發生後之狀態。

2. 關於貨載之債權，或本於載貨證券而生之債權，且非前項規定者，其估價依船舶於到達目之港時，或航行中斷地之狀態。

cargo, or at the place where the voyage is broken.

If the cargo is destined to more than one port and the damage is connected with one and the same cause the valuation shall be according to the condition of the vessel at the first of those ports.

3. In all the other cases referred to in Article 1, the valuation shall be according to the condition of the vessel at the end of the voyage.

Article 4.

The freight referred to in Article 1, including passage money, is deemed, as respects vessels of every description, to be a lump sum fixed at all events at 10 percent of the value of the vessel at the commencement of the voyage. That indemnity is due even though no freight be then earned by vessel.

Article 5.

The accessories referred to in Article 1 mean:

1. Compensation of material damage, sustained by the vessel since the beginning of the voyage, and not repaired;
2. General average contributions in respect of material damage sustained by the vessel since the beginning of the voyage, and not repaired.

Payments on policies of insurance, as well as bounties, subventions, and other national subsidies, are not deemed to be accessories.

Article 6.

The various claims connected with a single accident, or in respect of which, in the absence of an accident, the value of a vessel is ascertained at a single port, rank with one another against the amount representing the extent of the owner's liability, regard being had to the order of the liens.

In proceedings with respect to the distribution of this sum, the decisions given by