

汉英对照国际海事条约库

民事责任和赔偿

交通部国际合作司 编



大连海事大学出版社

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1969 年国际油污损害民事责任公约

本公约各缔约国，

意识到由于全球海上散装油类运输而出现的污染危险，

确信有必要对由于船舶溢出或排放油类造成污染而遭受损害的人给予适当的赔偿，

本着通过统一的国际规则和程序以便确定在上述情况下的责任问题，并提供适当赔偿的愿望，

兹协议如下：

第 I 条

在本公约中：

- 1 “船舶”是指实际装运散装油类货物的任何类型的海洋船舶和海上船艇。
- 2 “人”是指任何个人或合伙、任何公营或私营机构（不论是否为法人），包括国家或其任何下属单位。
- 3 “船舶所有人”是指登记为船舶所有人的人，如果没有这种登

International Convention on Civil Liability for Oil Pollution Damage, 1969

THE STATES PARTIES TO THE PRESENT CONVENTION,

CONSCIOUS of the dangers of pollution posed by the world-wide maritime carriage of oil in bulk,

CONVINCED of the need to ensure that adequate compensation is available to persons who suffer damage caused by pollution resulting from the escape of discharge of oil from ships,

DESIRING to adopt uniform international rules and procedures for determining questions of liability and providing adequate compensation in such cases,

HAVE AGREED as follows:

Article I

For the purposes of this Convention:

- 1 “Ship” means any sea-going vessel and any seaborne craft of any type whatsoever, actually carrying oil in bulk as cargo.
- 2 “Person” means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions.
- 3 “Owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons

记,则是指拥有该船的人。但如船舶为国家所有,而由在该国登记为船舶经营人的公司所经营,“船舶所有人”即指这种公司。

4 “船舶登记国”就登记的船舶而言,是指对船舶进行登记的国家;就未登记的船舶而言,是指其船旗国。

5 “油类”是指任何持久性油类,例如原油、燃料油、重柴油、润滑油以及鲸油,不论是作为货物装运于船上,或是作为船舶的燃料。

6 “污染损害”是指由于船舶溢出或排放油类(不论这种溢出或排放发生在何处),在运油船舶本身以外因污染而产生的灭失或损害,并包括采取预防措施的费用以及由于采取预防措施而造成的进一步灭失或损害。

7 “预防措施”是指事件发生后为防止或减轻污染损害而由任何人所采取的任何合理措施。

8 “事件”是指造成污染损害的任何事故,或是由于同一原因所引起的一系列事故。

9 “本组织”是指政府间海事协商组织。

第 II 条

本公约仅适用于在缔约国领土,包括领海上发生的污染损害,以及为防止或减轻这种损害而采取的预防措施。

owning the ship. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, "owner" shall mean such company.

4 "State of the ship's registry" means in relation to registered ships the State of registration of the ship, and in relation to unregistered ships the State whose flag the ship is flying.

5 "Oil" means any persistent oil such as crude oil, fuel oil, heavy diesel oil, lubricating oil and whale oil, whether carried on board a ship as cargo or in the bunkers of such a ship.

6 "Pollution damage" means loss or damage caused outside the ship carrying oil by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, and includes the costs of preventive measures and further loss or damages caused by preventive measures.

7 "Preventive measures" means any reasonable measures taken by any person after an incident has occurred to prevent or minimize pollution damage.

8 "Incident" means any occurrence, or series of occurrences having the same origin, which causes pollution damage.

9 "Organization" means the Inter-Governmental Maritime Consultative Organization.

Article II

This Convention shall apply exclusively to pollution damage caused on the territory including the territorial sea of a Contracting State and to preventive measures taken to prevent or minimize such damage.

第 III 条

1 除本条第 2 款和第 3 款另有规定外,在事件发生时,或者如果事件包括一系列事故,则在此种事故第一次发生时,船舶所有人应对事件引起的油类溢出或排放所造成的污染损害负责。

2 船舶所有人如证明损害是属于以下情况,便不得使其承担油污损害责任:

(a) 由于战争行为、敌对行为、内战、武装暴动,或特殊的、不可避免的和不可抗拒性质的自然现象所引起的损害;或

(b) 完全是由于第三者有意造成损害的行为或不为所引起的损害;或

(c) 完全是由于负责灯塔或其他助航设施管理的政府或其他主管当局在履行其职责时的疏忽或其他过错行为所造成的损害。

3 如果船舶所有人证明,污染损害完全或部分地是由于遭受损害的人有意造成损害的行为或不为所引起,或是由于该人的疏忽所造成,则船舶所有人即可全部或部分地免除对该人所负的责任。

4 不得要求船舶所有人对本公约没有规定的污染损害做出赔偿。不得要求船舶所有人的雇佣人员或代理人对本公约规定的或其他污染损害做出赔偿。

Article III

1 Except as provided in paragraphs 2 and 3 of this Article, the owner of a ship at the time of an incident, or where the incident consists of a series of occurrences at the time of the first such occurrence, shall be liable for any pollution damage caused by oil which has escaped or been discharged from the ship as a result of the incident.

2 No liability for pollution damage shall attach to the owner if he proves that the damage:

- (a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character, or
- (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.

3 If the owner proves that the pollution damage resulted wholly or partially either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the owner may be exonerated wholly or partially from his liability to such person.

4 No claim for compensation for pollution damage shall be made against the owner otherwise than in accordance with this Convention. No claim for pollution damage under this Convention or otherwise may be made against the servants or agents of the owner.

5 本公约的任何规定不得影响船舶所有人向第三者追偿的权利。

第 IV 条

如果两艘或多艘船舶溢出或排放油类,因而造成损害时,则所有有关船舶的所有人,除非依第 III 条免责,都应对不能合理区分的损害负连带责任。

第 V 条

1 船舶所有人有权将其依本公约对任何一个事件的赔偿责任总额限定为按船舶吨位计算每吨 2 000 法郎,但这种赔偿总额在任何情况下不得超过 2.1 亿法郎。

2 如果事件是由于船舶所有人的实际过失或私谋所造成,船舶所有人便无权援用本条第 1 款规定的责任限制。

3 为取得本条第 1 款规定的责任限制的权利,船舶所有人应在按第 IX 条规定提起诉讼的任一缔约国的法院或其他主管当局设立相当于其责任限制总额的基金。设立该项基金可采取照数存入银行的方法,或是采取按设立基金的缔约国法律可以接受的、经法院或其他主管当局认可的银行担保或其他担保的方法。

4 该项基金应在索赔人之间按其确定的索赔额比例分配。

5 Nothing in this Convention shall prejudice any right of recourse of the owner against third parties.

Article IV

When oil has escaped or has been discharged from two or more ships, and pollution damage results therefrom, the owners of all the ships concerned, unless exonerated under Article III, shall be jointly and severally liable for all such damage which is not reasonably separable.

Article V

1 The owner of a ship shall be entitled to limit his liability under this Convention in respect of any one incident to an aggregate amount of 2,000 francs for each ton of the ship's tonnage. However, this aggregate amount shall not in any event exceed 210 million francs.

2 If the incident occurred as a result of the actual fault or privity of the owner, he shall not be entitled to avail himself of the limitation provided in paragraph 1 of this Article.

3 For the purpose of availing himself of the benefit of limitation provided for in paragraph 1 of this Article the owner shall constitute a fund for the total sum representing the limit of his liability with the Court or other competent authority of any one of the Contracting States in which action is brought under Article IX. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the legislation of the Contracting State where the fund is constituted, and considered to be adequate by the Court or another competent authority.

4 The fund shall be distributed among the claimants in proportion to the amounts of their established claims.

5 在分配基金以前,如船舶所有人或其任何雇佣人员或代理人,或向其提供保险或其他财务保证的任何人员,由于所述事件而支付了油污损害赔偿,则上述人员在其已支付数额的范围内应以代位获得该受偿的人根据本公约应享有的权利。

6 本条所规定的代位权,也可由该款所提到的人员以外对油污损害已支付任何赔偿金额的任何人行使,但这种代位权以所适用的国内法所许可的范围内为限。

7 如船舶所有人或任何其他人认定,他可能在以后被强制支付此种赔偿金额的全部或一部分,而如此项赔偿在基金被分配以前已经付出,该人便可依本条第5款或第6款享有代位权,则基金所在国法院或其他主管当局得命令暂时留出一个足够数目,使该人以后能向基金索赔。

8 对因船舶所有人主动防止或减轻油污损害而引起的合理费用或所作的合理牺牲所提出的索赔,应与其他索赔在基金分配中处于同等地位。

9 本条所述法郎是指含有纯度为千分之九百的黄金65.5毫克的单位。本条第1款所述金额,应根据设立基金之日基金所在国的货币与上述货币单位的官方比值,折合为基金所在国的货币。