

International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001

Adoption: 23 March 2001.

Entry into force: 21 November 2008

The Convention was adopted to ensure that adequate, prompt, and effective compensation is available to persons who suffer damage caused by spills of oil, when carried as fuel in ships' bunkers.

The Convention applies to damage caused on the territory, including the territorial sea, and in exclusive economic zones of States Parties.

The bunkers convention provides a free-standing instrument covering pollution damage only.

"Pollution damage" means:

(a) loss or damage caused outside the ship by contamination resulting from the escape or discharge of bunker oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and

(b) the costs of preventive measures and further loss or damage caused by preventive measures.

The convention is modelled on the International Convention on Civil Liability for Oil Pollution Damage, 1969. As with that convention, a key requirement in the bunkers convention is the need for the registered owner of a vessel to maintain compulsory insurance cover.

Another key provision is the requirement for direct action - this would allow a claim for compensation for pollution damage to be brought directly against an insurer. The Convention requires ships over 1,000 gross tonnage to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, to cover the liability of the registered owner for pollution damage 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 the Convention on Limitation of Liability for Maritime Claims, 1976, as amended. *

Resolutions of the Conference

The Conference which adopted the Convention also adopted three resolutions:

Resolution on limitation of liability - the resolution urges all States that have not yet done so, to ratify, or accede to the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims, 1976. The 1996 LLMC Protocol raises the limits of liability and therefore amounts of compensation payable in the event of an incident, compared to the 1976 Convention. The LLMC Protocol will enter into force 90 days after being accepted by 10 States - it has received four acceptances to date.

Resolution on promotion of technical co-operation - the resolution urges all IMO Member States, in co-operation with IMO, other interested States, competent international or regional organizations and industry programmes, to promote and provide directly, or through IMO, support to States that request technical assistance for:

(a) the assessment of the implications of ratifying, accepting, approving, or acceding to and complying with the Convention;

(b) the development of national legislation to give effect to the Convention;

(c) the introduction of other measures for, and the training of personnel charged with, the effective implementation and enforcement of the Convention.

The resolution also urges all States to initiate action without awaiting the entry into force of the Convention.

Resolution on protection for persons taking measures to prevent or minimize the effects of oil pollution - the resolution urges States, when implementing the Convention, to consider the need to introduce legal provision for protection for persons taking measures to prevent or minimize the effects of bunker oil pollution. It recommends that persons taking reasonable measures to prevent or minimize the effects of oil pollution be exempt from liability unless the liability in question resulted from their personal act or omission, committed with the intent to cause damage, or recklessly and with knowledge that such damage would probably result. It also recommends that States consider the relevant provisions of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, as a model for their legislation.

Under the 1996 LLMC Protocol, the limit of liability for property claims for ships not exceeding 2,000 gross tonnage is 1 million SDR (US\$1.586 million).

For larger ships, the following additional amounts are used in calculating the limitation amount:

- For each ton from 2,001 to 30,000 tons, 400 SDR (US\$634)
- For each ton from 30,001 to 70,000 tons, 300 SDR (US\$476)
- For each ton in excess of 70,000, 200 SDR (US\$317)