

# **Maritime Liability and Compensation Conventions update**

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## **Maritime Liability and Compensation Conventions**

- ***1992 CLC Protocol***
- ***1992 Fund Convention / 2003 Protocol***
- ***2001 Bunkers Convention***
- ***1996 HNS Convention/2010 HNS Protocol***
- ***Athens Convention 2002 Protocol***
- ***2007 Wreck Removal Convention***
- ***1976 LLMC Convention / 1996 Protocol***
- ***“Rotterdam Rules”***
- ***US Oil Pollution Act 1990***

## **Civil Liability Convention 1992 Protocol (CLC 92):**

**Status – *in force from 30/05/1996***

- ***123 contracting States (as at 31/07/2010).***
- ***Strict liability with limited shipowner defences/exceptions***
- ***Shipowner funded compensation up to 90 m. SDR (approx US\$ 136 m.) - limits last reviewed upwards (approx 50%) from 1/11/03***
- ***Compensation enhanced through voluntary industry agreement - STOPIA 2006 – small vessels up to 29,548 GT (State parties to 1992 Fund only)***

## **Maritime Liability and Compensation regimes IOPC Fund Convention (92 Fund):**

**Status – *in force from 30/05/1996***

- ***105 contracting States (as at 31/07/2010)***
- ***Provides for aggregate compensation up to 203 million SDR (approx US\$ 307 m.) including the applicable CLC limit***
- ***Funded by member State contributions levied on industry***

## **Maritime Liability and Compensation regimes (contd.) Supplementary Fund Protocol (2003):**

**Status – *in force from 03/03/2005***

- ***27 contracting States (as at 31/07/2010)***
- ***Provides for aggregate compensation up to 750 million SDR (approx US\$ 1.13 bn.) including the CLC and 92 Fund limits***
- ***Funded by member State contributions levied on industry***
- ***50% co-funding of the Supplementary Fund through voluntary industry contribution - TOPIA 2006***

## **Maritime Liability and Compensation regimes (contd.)**

### **2001 Bunkers Convention:**

**Status – *in force from 21/11/2008***

- ***54 contracting States (as at 31/07/2010)***
- ***Strict liability with limited shipowner defences/exceptions***
- ***Compensation based on applicable national or international limitation regime e.g. LLMC***
- ***“Blue Cards” / financial guarantees***

## **Maritime Liability and Compensation regimes (contd.)**

### **1996 HNS Convention:**

***Status – not yet in force (new Protocol adopted at 2010 Diplomatic Conference).***

- ***Currently 14 Convention signatory States***

***Entry into force***

***18 months after 12 ratifications including***

- ***4 States with at least 2 m. units of GT, and***
- ***minimum 40 m. tons of contributing cargo received by signatory States within preceding 12 months***

## **Maritime Liability and Compensation regimes (contd.)**

### **1996 HNS Convention (contd.):**

- ***Two tier compensation scheme as CLC/IOPC Funds***
- ***Strict liability with limited shipowner defences/exceptions***
- ***Current shipowner liability limit up to SDR 100 million (approx US\$ 151m.) but 15% increase for packaged goods only***
- ***Fund aggregate compensation limit of SDR 250 million (approx US\$ 378 m.) including shipowner limit***



## **Maritime Liability and Compensation regimes (contd.)**

### **2002 Athens Protocol (Passengers and luggage):**

**Status – *not yet in force***

- ***Currently 4 Contracting States – entry into force 12 months following 10 ratifications***
- ***Strict liability with limited shipowner defences/exceptions***
- ***Shipowner liability limit for death/ PI 250,000 SDR per passenger (approx US\$ 378,000) or 400,000 SDR (approx US\$ 605,000) where fault or neglect involved***
- ***Separate limits for luggage and vehicles***
- ***“Blue Cards” / financial guarantees***

## **Maritime Liability and Compensation regimes (contd.)**

### **2007 Nairobi Wreck Removal Convention:**

**Status – *not yet in force***

- ***Currently 1 Contracting State - entry into force 12 months following 10 ratifications***
- ***Strict liability with limited shipowner defences/exceptions***
- ***Compensation based on applicable national or international regime e.g. LLMC (but note LLMC opt out for wreck removal claims)***
- ***Unlimited liability in some jurisdictions***
- ***“Blue Cards” / financial guarantees***

## **Maritime Liability and Compensation regimes (contd.)**

### **1976 LLMC Convention**

**Status – *in force from 01/12/1986***

- ***52 contracting States***
- ***Separate limits for passenger and other claims – calculated on a sliding scale SDR per GT basis – limit for largest vessels approx US \$ 60 m. (passenger claims) and US\$ 30 m. (other claims)***
- ***No amendment procedure***

## **Maritime Liability and Compensation regimes (contd.)**

### **1996 LLMC Protocol**

**Status – *in force from 13/05/2004***

- ***38 contracting States as at 31/7/2010***
- ***Separate limits for passenger and other claims – calculated on a sliding scale SDR per GT basis – limit for largest vessels approx US \$ 141 m. (passenger claims) and US\$ 70 m. (other claims)***
- ***Proposal for review of limits by IMO Legal Committee***
- ***Under amendment procedure limits could more than double (6%pa compound)***

## “The Rotterdam Rules”

UN Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea 2009

- *22 signatory states as at 06/09/2010*
- *20 ratifications required - none yet*
- *no nautical fault exclusion*
- *continuing seaworthiness obligation*
- *increased liability limits*
- *two-year prescription period*
- *greater flexibility for Volume contracts*

## US Oil Pollution Act 1990

- *Proposals for revision in the wake of “Deepwater Horizon”*
- *Draft legislation pending H.R. 3534 and Senate Reid Bill*
- *Main focus on liability provisions for offshore facilities but possible impact for some maritime transportation sectors*
- *“Knock-on” impact on other legislation- DOHSA/Jones Act / Limitation of Liability Act 1851*