

Liability and Compensation – ‘The International Regime’

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Maritime Liability and Compensation instruments

- ***1992 CLC***
 - ***1992 Fund Convention / 2003 Protocol***
 - ***2001 Bunkers Convention***
 - ***1996 HNS Convention/2010 HNS Protocol***
 - ***2007 Wreck Removal Convention***
 - ***1976 LLMC Convention / 1996 Protocol***
 - ***EU Environmental Liability Directive (ELD)***
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The International Maritime Organization (IMO)



1992 Civil Liability Convention (CLC 92):

Status – *in force from 30/05/1996*

- *126 contracting States (as at 28/10/2011).*
- *Strict liability with limited shipowner defences/exceptions*
- *Shipowner funded compensation up to 90 m. SDR (approx US\$ 141 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)*

IOPC Fund Convention (1992 Fund):

Status – *in force from 30/05/1996*

- *108 States Parties (as at 28/10/2011)*
- *Provides for compensation up to 203 million SDR (approx US\$ 319 m.) including the applicable CLC limit*
- *Funded by member State contributions levied on industry*
- *Supplementary Fund Protocol – aggregate limit of 750m SDR (approx. US1.2 bn)*

Prestige – Spain, November 2002



2001 Bunkers Convention:

Status – *in force from 21/11/2008*

- *62 contracting States (as at 28/10/2011)*
 - *Strict liability with limited shipowner defences/exceptions*
 - *Compensation based on applicable national or international limitation regime e.g. LLMC – possible increases to limits?*
 - *“Blue Cards” / financial guarantees*
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1996 HNS Convention/2010 HNS Protocol:

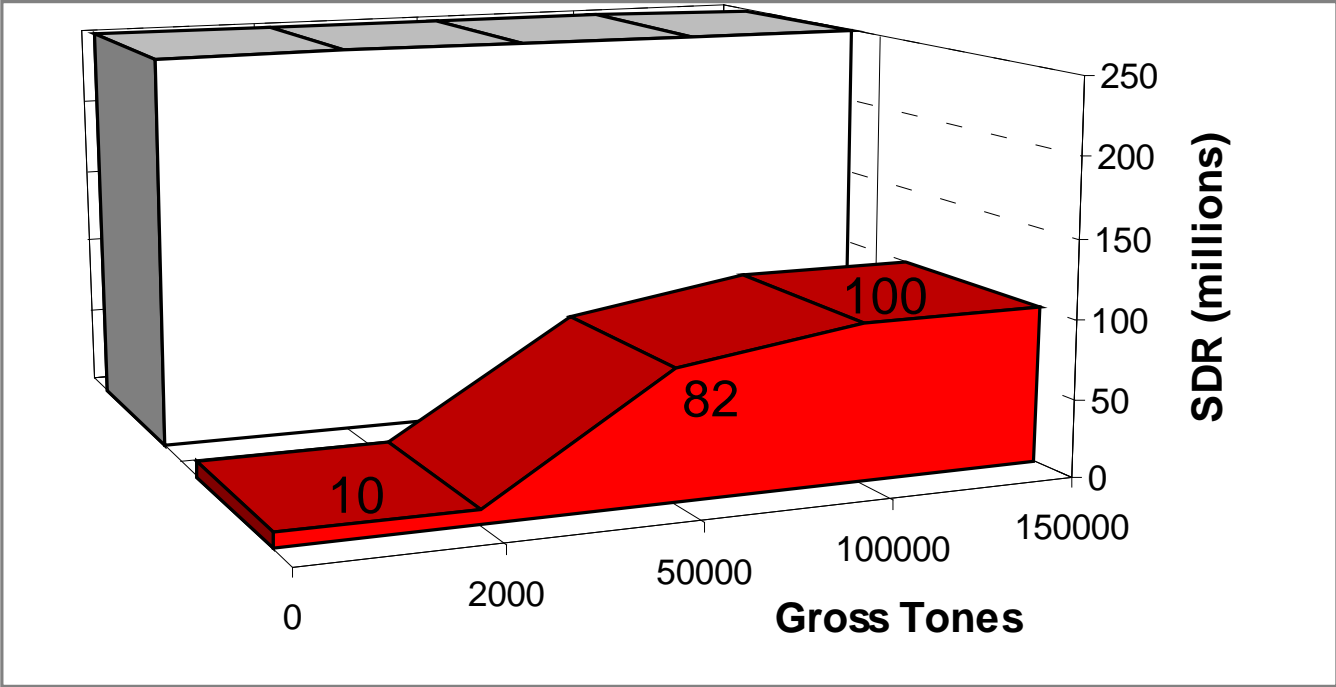


Status – *not in force. Protocol adopted by the IMO in April 2010*

Entry into force:

- *18 months after 12 ratifications with contributing cargo requirement*
- *Two tier compensation scheme as CLC/IOPC Fund up to 250m SDR (approx US\$ 392m)*
- *Strict liability with limited shipowner defences*
- *Shipowner liability limit up to SDR 100 million (approx US\$ 157m.) but 15% increase for packaged goods only*
- *Blue cards/financial guarantees*

HNS Convention: Compensation Amounts



- Limit on shipowner's liability
- HNS Fund

2007 Nairobi Wreck Removal Convention:

Status – *not yet in force*

- *Currently 4 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*

1976 LLMC Convention

Status – *in force from 01/12/1986*

- *52 States Parties*
- *Separate limits for passenger and other claims – calculated on a sliding scale SDR per GT basis – limit for largest vessels approx US \$ 64 m. (passenger claims) and US\$ 32 m. (other claims)*
- *No amendment procedure*

1996 LLMC Protocol

Status – *in force from 13/05/2004*

- *43 States Parties as at 31/08/2011*
- *Separate limits for passenger and other claims – calculated on a sliding scale SDR per GT basis – limit for largest vessels approx US \$ 150 m. (passenger claims) and US\$ 75 m. (other claims)*
- *Review of limits by IMO Legal Committee*
- *Under amendment procedure limits could more than double (6% pa compound)*
- *IG claims data*

EU Environmental Liability Directive

- *EU Member States required to give effect by 30.04.07*
 - *Strict liability for “environmental damage”, which includes damage to water and land damage*
 - *Does not apply to personal injury, damage to private property or to “economic loss”*
 - *No specific limitation or financial security regime*
 - *Clear read across with the IMO Conventions*
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Thank you for your attention





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November 2011