

Convention update

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Maritime Liability and Compensation Conventions update

Maritime Liability and Compensation Conventions/Instruments

- 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
- The “Rotterdam Rules”
- EU Offshore Directive
- “On the Radar”



Maritime Liability and Compensation Conventions update

Civil Liability Convention 1992 Protocol (CLC 92):

Status – in force from 30/05/1996

- 132 contracting States (as at 31/07/2013).
- Strict liability with limited shipowner defences/exceptions
- Shipowner funded compensation up to 90 m. SDR (approx US\$ 137 m.) - limits last reviewed upwards (approx 50%) from 1/11/03
- Compensation enhanced through voluntary industry agreement - STOPIA 2006

“Blue Cards” / financial guarantees



Maritime Liability and Compensation Conventions update

IOPC Fund Convention (92 Fund):

Status – in force from 30/05/1996

- 113 contracting States (as at 31/07/2013)
- Provides for aggregate compensation up to 203 million SDR (approx. US\$ 308 m.) including the applicable CLC limit
- Funded by member State contributions levied on industry



Maritime Liability and Compensation Conventions update

Supplementary Fund Protocol (2003):

Status – in force from 03/03/2005

- 30 contracting States (as at 31/07/2013)
- Provides for aggregate compensation up to 750 million SDR (approx US\$ 1.1 bn.) including the CLC and 92 Fund limits
- Funded by member State contributions levied on industry
- 50% industry co-funding through TOPIA 2006



Maritime Liability and Compensation Conventions update

2001 Bunkers Convention:

Status – in force from 21/11/2008

- 72 contracting States (as at 31/07/2013)
- 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 Conventions update

1996 HNS Convention:

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

- 1996 HNS Convention superseded by 2010 Protocol

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 Conventions update

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\$ 152m.) but 15% increase for packaged goods only
- Fund aggregate compensation limit of SDR 250 million (approx US\$ 380 m.) including shipowner limit



Maritime Liability and Compensation Conventions update

2002 Athens Protocol (Passengers and luggage):

Status – entry into force 23rd April 2014

- Currently 10 Contracting States
- Strict liability with limited shipowner defences/exceptions
- Shipowner liability limit for death/ PI 250,000 SDR per passenger (approx US\$ 380,000) or 400,000 SDR (approx US\$ 608,000) where fault or neglect involved
- “Blue Cards” / financial guarantees
- EU Passenger Liability Regulation e.i.f 31/12/2012



Maritime Liability and Compensation Conventions update

2007 Nairobi Wreck Removal Convention:

Status – not yet in force - 8 Contracting States

- - entry into force 12 months following 10 ratifications
- Compensation based on applicable national or international regime e.g. LLMC - Unlimited liability in some jurisdictions
- ROW measures must be proportionate and not go beyond what is reasonably necessary
- “Blue Cards” / financial guarantees
- Strict liability-limited shipowner defences



Maritime Liability and Compensation Conventions update

1976 LLMC Convention

Status – in force from 01/12/1986

- 54 contracting States as at 31/07/2013
- Separate limits for passenger and other claims – calculated on a sliding scale SDR per GT basis – limit for largest vessels approx US \$ 54 m. (passenger claims) and US\$ 26 m. (other claims)
- No amendment procedure



Maritime Liability and Compensation Conventions update

1996 LLMC Protocol

Status – in force from 13/05/2004 - 47 contracting States as at 31/07/2013

- Separate limits for passenger and other claims – calculated on a sliding scale SDR per GT basis – limit for largest vessels approx US \$ 128 m. (passenger claims) and US\$ 64 m. (other claims)
- Increased limits agreed effective from April 2015
- Increase 2.7% per annum from 1996 calculated on a compound basis
- Represents 51% increase on current limits



Maritime Liability and Compensation Conventions update

UN Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea 2009 - The “Rotterdam Rules”

- 24 signatory states as at 31/08/2013
- 20 ratifications required – 2 to date
- no nautical fault exclusion
- continuing seaworthiness obligation
- increased liability limits
- two-year prescription period



Maritime Liability and Compensation Conventions update

EU Offshore Directive

- Safety of offshore oil and gas exploration and production operations
- Wide definition of “operations” – “all activities associated with”
- Imposes liability for environmental damage under the EU ELD
- Does not cover oil and gas transportation
- Requires evidence of financial security/insurance
- 19 July 2015 deadline to transpose into national laws
- Applies to planned installations from 19 July 2016, and
- To existing installations from 19 July 2018



Maritime Liability and Compensation Conventions update

ON THE RADAR

- CMI initiative to revise York-Antwerp Rules 2004 - will be discussed at CMI Symposium in Dublin in September 2013
- EU Places of Refuge study - ongoing
- EU Environmental Liability Directive review 2013/14 - ongoing
- OPA 90/US Clean Water Act



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