

INTRODUCTION TO THE IMO CIVIL LIABILITY AND COMPENSATION CONVENTIONS



IMO CIVIL LIABILITY AND COMPENSATION CONVENTIONS

HISTORY AND ORIGINS

- **1967 Torrey Canyon** at coastline **Great-Britain** and **France**
- **urgent international action required: Diplomatic Conference** under auspices of the **International Maritime Organization - IMO** in **Brussels** in **1969** which adopted **two legal instruments**



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HISTORY AND ORIGINS

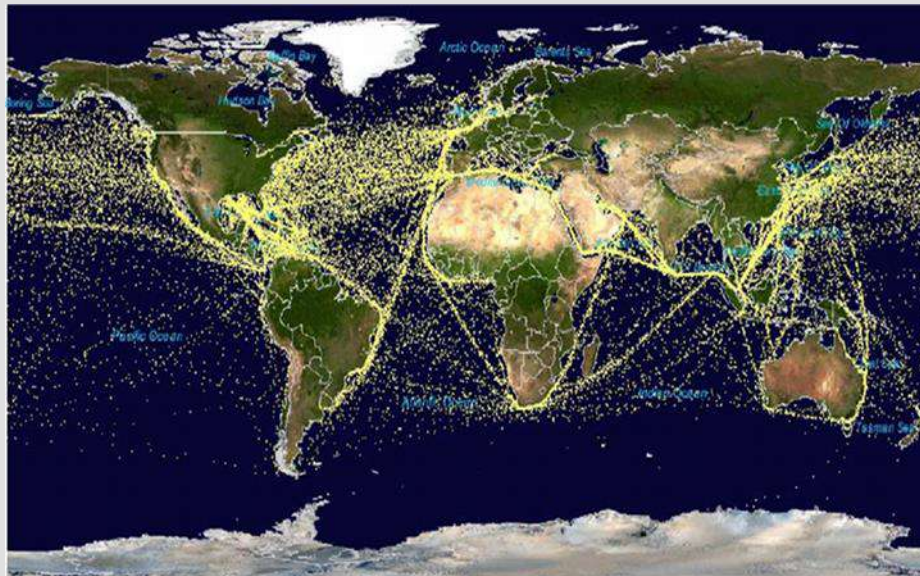
- **International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC 1969):**
 - shipowner **strictly liable** for damage caused by spills of heavy crude oils transported as cargo
 - **compulsory third-party liability insurance** to cover compensation limits
 - **certificate** to attest that insurance is in force (Annex: **model form**)
 - **direct action** against the insurer (Article IX: **national courts need to possess necessary jurisdiction**)
- **Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, (Intervention Convention):**
 - legal powers of the coastal State to intervene in waters beyond the territorial sea in cases of oil pollution damage caused by ships.

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THE ROLE OF IMO

SAFE, SECURE AND EFFICIENT SHIPPING ON CLEAN OCEANS

- more than **90 percent** of **global trade** carried by ships
- **ownership** and **management** chain embrace **many countries**
- ships spend economic life **between different jurisdictions**, often far from the State of registry
- need for **international standards** to regulate shipping



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THE ROLE OF IMO

UNITED NATIONS SPECIALIZED AGENCY FOR THE **SAFETY AND SECURITY** OF SHIPPING AND THE **PREVENTION OF MARINE POLLUTION** BY SHIPS



- the only UN agency **headquartered in London**, with an annual budget of less than **30 million pounds** and around **265 staff** in the Secretariat.
- some **50 nationalities** represented on the staff
- **174 Member States** including all nations with an interest in maritime affairs

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INTERNATIONAL LEGAL FRAMEWORK

- **1969 CIVIL LIABILITY CONVENTION ON OIL POLLUTION BY SHIPS (CLC) WITH SUPPLEMENTARY 1971 FUND CONVENTION;**
- **1969 INTERVENTION CONVENTION; 1973 INTERVENTION PROTOCOL (SUBSTANCES OTHER THAN OIL: HNS);**
- **1976 CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS (LLMC 1976); 1996 LLMC PROTOCOL**
- **1984 AND 1992 PROTOCOLS TO CLC AND FUND CONVENTION (INCREASED LIMITS OF LIABILITY);**
- **1989 INTERNATIONAL CONVENTION OF SALVAGE**
- **1996 INTERNATIONAL CONVENTION ON LIABILITY AND COMPENSATION FOR DAMAGE IN CONNECTION WITH THE CARRIAGE OF HAZARDOUS AND NOXIOUS SUBSTANCES BY SEA (HNS CONVENTION);**
- **2001 INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR BUNKER OIL POLLUTION DAMAGE;**
- **2003 PROTOCOL TO THE INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE, 1992**
- **2007 NAIROBI INTERNATIONAL CONVENTION ON THE REMOVAL OF WRECKS (LIABILITY AND INTERVENTION)**
- **2010 HNS PROTOCOL**

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STATUS OF IMO LIABILITY CONVENTIONS IN PARTICIPATING STATES :

	BUNKER S 2001	CLC 1969	CLC PROT 1976	CLC PROT 1992	FUND 1971	FUND PROT 1976	FUND PROT 1992	FUND PROT 2003	LLMC 1976	LLMC PROT 1996	NAIROBI WRC 2007	SALVAGE 1989	HNS 1996	HNS PROT 2010
Angola				x			x						x	
Cameroon		d		x	d	x	x							
Ghana		x		x	x		x							
Liberia	x	d	x	x	d	x	x		x	x	x	x	x	
Namibia	x			x			x							
Nigeria	x	d		x	d		x		x		x	x		
South Africa		d		x			x				x	x		x

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- The **2010 HNS Convention** enters into force after **12 States** (including 4 States with more than 2 million units of gross tonnage) with a **total of 40 million of contributing HNS cargo** have ratified the 2010 HNS Protocol
- **Robust solution** in the **2010 HNS Protocol** on three issues:
 1. **no contribution by containers**
 2. **reporting** and
 3. **contribution for LNG**
- **Canada, Denmark, France, Germany, Greece, the Netherlands, Norway and Turkey** have **signed the 2010 HNS Protocol** subject to ratification
- **Norway** ratified on **21 April 2017**; **Canada and Turkey** on **23 April 2018**; **Denmark** ratified on **28 June 2018**; **South Africa** on **15 July 2019**
- Need for **7 more countries** to ratify

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2010 HNS CONVENTION

DEFINITIONS

Article 1, paragraph 6: *Damage*

- **Personal damage** (death or injury)
- **Property damage** (outside the ship by which the dangerous goods are being carried)
- Damage by contamination of the environment for **reasonable measures of reinstatement** (to be) undertaken
- Costs of **preventive measures**



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1992 CLC and Fund Convention, 2001 Bunkers Convention, 2007 Nairobi Wreck Removal Convention, 2010 HNS Convention

ELEMENTS OF LIABILITY

- **strict liability**
- **prompt and adequate compensation**
- **channelling of liability**
- **limitation of liability**
- **fund for supplementary compensation**

QUESTIONS AND ANSWERS



QUIZ

- Which **Conventions** were adopted in **1969**:
 - 1. Civil Liability Convention and Fund Convention**
 - 2. Civil Liability Convention and Intervention Convention**
 - 3. Fund Convention and Bunkers Convention**
 - 4. Intervention Convention and Bunkers Convention**

QUESTIONS AND ANSWERS

QUIZ

- Which **IMO Member States** have ratified the **2010 HNS Protocol**:

1. Cameroon, Canada, Denmark, Norway, and Turkey

2. Canada, Denmark, Ghana, Norway, and Turkey

3. Canada, Denmark, Liberia, Norway, and Turkey

4. Canada, Denmark, Norway, South Africa and Turkey

International Maritime Organization

4 Albert Embankment
London
SE1 7SR
United Kingdom

Tel: +44 (0)20 7735 7611

Fax: +44 (0)20 7587 3210

Email: info@imo.org

www.imo.org



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imohq](https://twitter.com/imohq)



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