

## **C-1:INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE**

**Name of the Convention:** International Convention on Civil Liability for Oil Pollution Damage

**Acronym or short name:** CLC

**International organisation in charge of it:** International Maritime Organization (IMO)

**Summary description (in plain language):**

**The 1969 Convention(The 1969 CLC):** CLC was adopted to ensure that adequate compensation is available to persons who suffer oil pollution damage resulting from maritime casualties involving oil-carrying ships and to harmonize international rules and procedures for determining questions of liability and for providing adequate compensation in such cases.

CLC places the liability for such pollution damage on the owner of the ship from which the polluting oil escaped or was discharged. Subject to a limited number of specific exceptions, this liability is strict; it is the duty of the ship-owner to prove in each case that any of the exceptions should in fact operate. However, except where the owner has been guilty of actual fault, they may limit liability in respect of any one incident to 133 SDR for each ton of the ship's gross tonnage, with a maximum liability of 14 million SDR for each incident.

CLC requires ships covered by it to maintain insurance or other financial security in sums equivalent to the owner's total liability for one accident. CLC applies to all seagoing vessels actually carrying oil in bulk as cargo, but only ships carrying more than 2,000 tons of oils are required to maintain insurance in respect of oil pollution damage. This does not apply to warships or other vessels owned or operated by a State and used for the time being for Government non-commercial service. However, CLC, does apply in respect of the liability and jurisdiction provisions, to ships owned by a State and used for commercial purposes. The only exception as regards such ships is that they are not required to carry insurance. Instead they must carry a certificate issued by the appropriate authority of the State of their registry stating that the ship's liability under CLC is covered.

CLC covers pollution damage resulting from spills of persistent oils suffered in the territory (including the territorial sea) of Contracting States (art. II). It is applicable to ships which actually carry oil in bulk as cargo, i.e generally laden tankers. Spills from tankers in ballast or bunker spills from ships other than tankers are not covered by CLC. Neither is it possible to recover

costs if preventive measures are so successful that no actual spill occurs. The ship owner cannot limit liability if the incident occurred as a result of the owner's personal fault.

**Date of first approval:** 29 November 1969

**Date of coming into force:** 19 June 1975

**Major Revisions or Amendments:**

**Protocol of 1976** (Adoption 9 November 1976, Entry into force; 8 April 1981)

It provides a new unit of account based on the Special Drawing Rights (SDR) instead of "Poincare franc" based on the "official" value of gold.

**Protocol of 1984** (Adoption 25 May 1984, Superseded by the 1992 Protocol.)

It raised the applicable limits of liability (see below).

**Protocol of 1992 (The 1992 CLC):** (Adoption; 27 November 1992, Entry into force; 30 May 1996)

The 1992 CLC changed the entry into force requirements by reducing from five(5) to four(4) the number of large tanker-owning countries that are needed. The compensation limits are those originally agreed in 1984:

- for a ship not exceeding 5,000 gross tonnage, liability is limited to 3 million SDR;
- for a ship 5,000 to 140,000 gross tonnage, liability is limited to 3 million SDR plus 420 SDR for each additional unit of tonnage;
- for a ship over 140,000 gross tonnage, liability is limited to 59.7 million SDR.

The 1992 CLC also widened the scope of application of the Convention to cover pollution damage caused in the exclusive economic zone (EEZ) or equivalent area of Contracting States. The 1992 CLC covers pollution damage as before but environmental damage compensation is limited to costs incurred for reasonable measures to reinstate the contaminated environment. It also allows expenses incurred for preventive measures to be recovered even when no spill of oil occurs, provided there was grave and imminent threat of pollution damage.

The 1992 CLC also extended the Convention to cover spills from seagoing vessels constructed or adapted to carry oil in bulk as cargo so that it applies to both laden and unladen tankers, including spills of bunker oil from such ships.

Under the 1992 CLC, a ship owner cannot limit liability if it is proved that the pollution damage resulted from the ship owner's personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

#### **2000 amendments** (Adoption; 18 October 2000, Entry into force; 1 November 2003)

The Amendments raised the compensation limits by 50% compared to the limits set in the 1992 CLC:

- for a ship not exceeding 5,000 gross tonnage, liability is limited to 4.51 million SDR;
- for a ship 5,000 to 140,000 gross tonnage, liability is limited to 4.51 million SDR plus 631 SDR for each additional gross tonne over 5,000;
- for a ship over 140,000 gross tonnage, liability is limited to 89.77 million SDR.

From 16 May 1998, Parties to the 1992 Protocol ceased to be Parties to the 1969 CLC due to a mechanism for compulsory denunciation established in the 1992 Protocol.

**So in due course, the 1969 CLC will be replaced by its 1992 CLC as amended in 2000.**

#### **Applicability (situation of ratification):**

**The 1969 CLC;** 38 States, 2.89 % of world tonnage, as at 30 September, 2008

**The 1992 CLC;** 121 States, 96.39% of world tonnage, as at 30 September 2008

**Stakes for ports:** CLC (the 1969 CLC and the 1992 CLC) together with the International Fund Convention (the 1971 FUND and the 1992 FUND) provide the basic legal framework for liability matters, limitation and compensation of loss and damage of oil pollution caused by oil tankers. The liability of ports can be established for damage caused by their negligence or "other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids" (art.III).

In case of the constitution of the fund, port “competent authority” shall order the release of the ship or property belonging to the owner which has been arrested in respect of a claim for pollution damage (art.VI –1(b)).

**Links with other conventions:** [Fund 1971](#); [Fund 1992](#); [BUNKERS](#)

**Key-words:** oil pollution damage, liability, preventive measures, incident, compensation

**Internet hyperlink with other website:**

<http://www.imo.org/>

<http://www.comitemaritime.org/>

<http://www.iopcfund.org/>

<http://www.un.org/>

(full text 1969 CLC) <http://www.admiraltylawguide.com/conven/civilpol1969.html>

(full text 1992 CLC) <http://www.admiraltylawguide.com/conven/protocivilpol1992.html>