

International Convention on Civil Liability for Bunker Oil Pollution Damage (BUNKER)

Adoption: 23 March 2001; Entry into force: 21 November 2008

The Convention was adopted to ensure that adequate, prompt, and effective compensation is available to persons who suffer damage caused by spills of oil, when carried as fuel in ships' bunkers.

The Convention applies to damage caused on the territory, including the territorial sea, and in exclusive economic zones of States Parties.

The bunkers convention provides a free-standing instrument covering pollution damage only.

"Pollution damage" means:

- (a) loss or damage caused outside the ship by contamination resulting from the escape or discharge of bunker oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and
- (b) the costs of preventive measures and further loss or damage caused by preventive measures.

The convention is modeled on the International Convention on Civil Liability for Oil Pollution Damage, 1969. As with that convention, a key requirement in the bunkers convention is the need for the registered owner of a vessel to maintain compulsory insurance cover.

Another key provision is the requirement for direct action - this would allow a claim for compensation for pollution damage to be brought directly against an insurer. The Convention requires ships over 1,000 gross tonnage to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, to cover the liability of the registered owner for pollution damage in an amount equal to the limits of liability under the applicable national or international limitation regime, but in all cases, not exceeding an amount calculated in accordance with the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.*