

LEGAL COMMITTEE
110th session
Agenda item 10

LEG 110/10
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**GUIDANCE FOR THE PROPER IMPLEMENTATION AND APPLICATION OF IMO
LIABILITY AND COMPENSATION CONVENTIONS**

**Proposed measures related to Guidance for the Proper Implementation and
Application of IMO Liability and Compensation Conventions**

**Submitted by Canada, Greece, Italy, Malaysia, Republic of Korea,
United Arab Emirates, International Chamber of Shipping (ICS), International Group of
Protection and Indemnity Associations (P & I Clubs), and International Union
of Marine Insurance (IUMI)**

SUMMARY

Executive summary: This document invites the Committee to approve the proposed measures related to guidance for the proper implementation and application of IMO liability and compensation conventions.

*Strategic direction,
if applicable:* 1 and 6

Output: OW 5

Action to be taken: Paragraph 18

Related documents: LEG 107/6; LEG 108/5, LEG 108/16/1 and LEG 109/13

Introduction and background

1 At the 109th session of the Legal Committee, Canada, Denmark, Italy, Japan, and the United Arab Emirates submitted a proposal to add a new output under the work programme on the Development of guidance for the proper implementation and application of IMO liability and compensation conventions. The proposal included potential actions such as reviewing *Guidelines for accepting insurance companies, financial security providers and the International Group of Protection and Indemnity Associations (P&I Clubs)* (Circular Letter No.3464) and developing educational and practical information sources on the responsibilities of shipowners, insurers or other financial security providers, States, and port State administrations regarding IMO liability conventions.

2 The Legal Committee approved the new output on the Development of guidance for the proper implementation and application of IMO liability and compensation conventions in the 2022-2023 biennial agenda of the Legal Committee (and later the 2024-2025 biennial agenda), with a target completion year of 2024. Members were invited to contact Canada to take part in the informal intersessional work. The Legal Committee invited concrete proposals to LEG 110 for consideration.

3 Following the 109th session of the Legal Committee, Canada reached out to interested parties to work on this output during the intersessional period on an informal basis. Australia, the Bahamas, Canada, Cyprus, Denmark, France, Greece, Italy, Japan, the Marshall Islands, Morocco, Norway, the Republic of Korea, Spain, Sweden, the United Arab Emirates, the International Oil Pollution Compensation Funds (IOPC Funds), the International Chamber of Shipping (ICS), the International Union of Marine Insurance (IUMI), the International Group of Protection and Indemnity Associations (P&I Clubs), and the International Transport Workers' Federation (ITF) participated in the informal work.

4 The informal Correspondence Group (the Group) considered a number of various projects that could potentially help with the proper implementation and application of the IMO liability and compensation conventions and, after discussion, selected those few projects that the Group considered would add the most value and which could be completed within the scope and timelines of the output. Accordingly, the Group proposes the following projects:

- .1 develop information pamphlets on the IMO liability and compensation conventions:
 - .1 Bunkers Convention pamphlet;
 - .2 Civil Liability Convention pamphlet;
 - .3 Wreck Removal Convention pamphlet; and
 - .4 Athens Convention pamphlet;
- .2 review the guidance in Circular Letter No.3464; and
- .3 develop GISIS modules to facilitate the validation of certificates.

5 During the LEG 109 meeting, the Legal Committee had indicated that the Group and the work should take into account the human element in developing guidance for the proper implementation and application of IMO liability and compensation conventions. The Group considered the human element when developing the informational pamphlets on the IMO liability and compensation conventions and noted that the work would not negatively impact seafarers. The Group also noted that the pamphlets and the GISIS module would have a positive impact on those doing work related to the IMO liability and compensation conventions.

Guidance for the proper implementation and application of IMO liability and compensation conventions

Information pamphlets on the IMO liability and compensation conventions

6 The Group developed draft information pamphlets on the IMO liability and compensation conventions, as set out in annexes 2, 3 and 4. The goal of these pamphlets is to help with proper understanding of the conventions, particularly with regard to the responsibilities of shipowners, insurers or other financial security providers, flag States, and port State administrations. The pamphlets are concise, while also containing the relevant information for those parties involved in work related to the conventions. The Group had examined existing material at the IMO and the IOPC Funds to come to an agreement on the format and content of the pamphlet.

7 Three pamphlets were developed by the Group: a Bunkers Convention pamphlet (annex 2), a Civil Liability Convention pamphlet (annex 3) and a Wreck Removal Convention pamphlet (annex 4). The Group decided that, following LEG 110, informal intersessional work could take place to develop an Athens Convention pamphlet, using the same format as the three other pamphlets, and that the Legal Committee could ask for a volunteer to lead this work.

8 It is suggested that once the form and content are approved by the Legal Committee, these pamphlets would be available on the respective IMO convention web pages. The IMO Secretariat indicated that IMO would be able to design, translate and publish the pamphlets once the content was approved by the Legal Committee.

Review the guidance in Circular Letter No.3464

9 The Group decided that the guidance found in Circular Letter No.3464 entitled *Guidelines for accepting insurance companies, financial security providers and the International Group of Protection and Indemnity Associations (P & I Clubs)* should be reviewed.

10 The Group recommended that a formal correspondence group be established to review this guidance following LEG 110, and developed terms of reference for this correspondence group, as set out in annex 1. The Group also recommended that the review consider what minimum information should be included in certificates of insurance or other financial security (so called "blue cards") issued by non-IG insurers as proof of insurance under the liability and compensation conventions.

11 The revised guidelines would be presented at the next session of the Legal Committee, LEG 111, for approval.

GISIS modules to facilitate the validation of certificates and approval of insurers

12 The Group noted the potential benefits in obtaining correct and up-to-date information identifying the correct appropriate State Party point of contacts to refer applications for certificates of insurance to and/or to the correct State Party or to validate a certificate of insurance issued by the State. The Group proposed adding a new GISIS module identifying points of contact for the issuance of such certificates within each State Party. This module would be similar to the "Ship registry" or "Removal of wrecks" modules in GISIS under the GISIS module on "Contact Points" and could be titled "Insurance certificates". It would include the name of the organization, address, telephone number, email, and fax number. In addition, under the other information tab, Member States could provide additional information if the point of contact was different for those seeking to validate a certificate of insurance.

13 The Group reached out to the IMO Secretariat that indicated that there were already modules in GISIS providing contact information and that approval was required from the Committee before undertaking work on the module.

Other recommendations

14 The Group discussed other possible projects via email and during a virtual meeting. It was decided not to proceed with these other projects because they either did not fit within the scope of the output, or the Group felt that the Committee was not the right place to undertake this work. However, the Group decided to recommend certain actions as part of these other projects that Member States could take that reflect the intent of these other projects.

15 The Group considered whether training material could be developed and offered for port State control officers. The Group concluded that the Committee would not be the right place to undertake such work and that State Parties might implement slightly differently. These pamphlets could instead be shared with port State control officers to provide information on the conventions as well as on their roles and responsibilities.

16 The Group also discussed the possibility of developing a limit of liability calculator similar to those available on some IMO members and observer organizations websites. The Group decided that, in line with guidance included in the pamphlets, this information should be available through State Parties and insurers rather than IMO. Some Group participants that currently have limit of liability calculators indicated their willingness to share their calculators with interested States and other parties.

17 During the virtual meeting, the Group had discussed the idea of push notifications for documents related to the Legal Committee. The Group was concerned that committee members were not receiving notifications when new documents were published related to the Legal Committee. The Group discovered that users could sign up for document notifications in their IMODOCS profile under the "Document Notifications" tab.

Action requested of the Committee

18 The Legal Committee is invited to:

- .1 take note of the information provided in this document;
- .2 comment on the draft Bunkers Convention (annex 2), Civil Liability Convention (annex 3), and Wreck Removal Convention (annex 4) pamphlets;
- .3 consider the establishment of a working group at LEG 110 to finalize the text of the three pamphlets;
- .4 approve these draft pamphlets and ask the IMO Secretariat to design, translate and publish the pamphlets as well as update references and correct minor grammatical errors, as required;
- .5 seek a volunteer to lead informal intersessional work on the development of an Athens Convention pamphlet;
- .6 approve the establishment of a formal intersessional correspondence group to review the *Guidelines for accepting insurance companies, financial security providers and the International Group of Protection and Indemnity Associations (P & I Clubs)* in Circular Letter No.3464;
- .7 consider and approve the terms of reference for the formal intersessional correspondence group, as set out in annex 1; and
- .8 consider and approve the proposal to create a new GISIS module listing points of contact for issuing certificates within each State Party.

ANNEX 1

DRAFT TERMS OF REFERENCE FOR CORRESPONDENCE GROUP

Taking into consideration Circular Letter No.3464, documents LEG 110/10 and LEG 109/13, and taking into consideration comments, proposals and decisions made by the Committee, the correspondence group is instructed to work by correspondence, with the option of meeting virtually if the members of the Group wished to do so, and to:

- .1 review and, if applicable, propose revisions to the *Guidelines for accepting insurance companies, financial security providers and the International Group of Protection and Indemnity Associations (P & I Clubs)* as set out in the annex to Circular Letter No.3464;
- .2 decide on the format for adopting, if applicable, any revised Guidelines for accepting insurance companies, financial security providers and the International Group of Protection and Indemnity Associations (P & I Clubs); and
- .3 submit a written report on the work carried out, including the text of any proposed, revised guidance, to LEG 111.

ANNEX 2

DRAFT BUNKERS CONVENTION PAMPHLET

The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention)

Compensation for damage caused by spills of bunker oil

This is an informational pamphlet developed by the Legal Committee of the International Maritime Organization (IMO) on the Bunkers Convention. It is part of a series of pamphlets aimed at providing information on the responsibilities of shipowners, insurers or other financial security providers, and State Parties (flag States, or other certifying States and port States) regarding IMO's liability and compensation conventions. This pamphlet has no legal standing, but it is intended to provide concise information on the Bunkers Convention.

- **What is the Bunkers Convention?**

- The Convention ensures that adequate, prompt, and effective compensation is available for losses or damage caused by spills of bunker oil from ships by:
 - establishing strict liability against the shipowner;
 - ensuring the shipowner has insurance or financial security in place; and
 - providing the right of direct action against that insurer or provider of financial security.
- The Convention applies to:
 - bunker oil, meaning any hydrocarbon mineral oil used or intended to be used for the propulsion or operation of a ship, including lubricating oil, and any residues of such oil;
 - all seagoing vessels and seaborne craft of any type whatsoever;
 - pollution damage, meaning loss or damage caused outside the ship by contamination resulting from the escape or discharge of bunker oil from the ship in the territory, including the territorial sea, and in the exclusive economic zones of a State Party or an area beyond and adjacent to the territorial sea of a State Party extending not more than 200 nautical miles from the baselines;
 - types of damage that may be covered include property damage, economic loss, and impairment of the environment other than loss of profit from such impairment and that is limited to the costs of reasonable measures of environmental reinstatement undertaken or to be undertaken;
 - reasonable measures, wherever taken, to prevent or minimize pollution damage.

- **How does the Bunkers Convention relate to the LLMC Convention?**

- The Bunkers Convention itself does not contain any limits of liability.
- While the Bunkers Convention establishes strict liability for pollution damage, it does not preclude shipowners, and the person or persons providing insurance or other financial security, from limiting their liability in accordance with the Convention on Limitation of Liability for Maritime Claims, 1976 (LLMC) as amended, or under any other applicable national or international regime.

- Even if the shipowner is not entitled to limit their liability, insurers or providers of other financial security may still limit their liability to an amount equal to the amount of the insurance or financial security required by the Convention.
 - The LLMC Convention does not impose any liability on shipowner, but rather is a limitation convention and sets the framework to allow shipowners to limit their liability.
- **What are the obligations of shipowners?**
 - Shipowners, meaning the registered owner, bareboat charterer, manager, and operator of the ship, are strictly liable to pay compensation for pollution damage even if the spill is accidental, subject to certain specific defences from liability.
 - All parties identified above as the shipowner are jointly and severally liable under the Convention for pollution damage caused by any bunker oil originating from the ship.
 - The registered owners of ships above 1,000 gross tonnage that are either registered in a State Party or entering or leaving the port of a State Party, or arriving at or leaving an offshore facility in their territorial sea, must:
 - Obtain and maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution to cover their liabilities under the Convention;
 - The amount of insurance or financial security required should not exceed the amount of the ship's limit of liability calculated in accordance with the LLMC Convention as amended.
 - If the registered owner is in any doubt about the amount of insurance or financial security required, they should contact the State where they are applying for their Bunkers Convention certificate or their insurer or financial security provider (normally a P & I Club).
 - Obtain a Bunkers Convention certificate from their flag State if the flag State is a State Party to the Bunkers Convention or other State Party if their flag is not party to the Bunkers Convention, attesting that insurance or other financial security is in place; and
 - Ensure that the Bunkers certificate, which can be in electronic format, is carried onboard the ship at all times.
 - The registered owners of ships of 1,000 GT or less are not required to maintain insurance or financial security but remain strictly liable for pollution damage caused by bunker oil.
 - No party other than the registered owner is required to maintain insurance or other financial security to cover their liability under the Convention.
- **What are the obligations of insurers and providers of financial security?**
 - When providing a certificate of insurance, also known as a "blue card", to the registered owner, as evidence that insurance or financial security is in place which covers all liabilities under the Bunkers Convention, the insurer or provider of financial security should:
 - Ensure that the certificate of insurance is addressed to the relevant State authorities;
 - Accept the right of direct action against them by claimants that have suffered loss and damage caused by pollution damage.
 - Ensure that the insurance policy, or financial security, satisfies the requirements of the Convention and covers the registered owner's liabilities under the Convention and up to the required financial limit.

- It is generally accepted that the certificate of insurance only needs to be issued in English.
- If the policy ceases for reasons other than expiry, or where the policy is amended so that it no longer satisfies the requirements of the Bunkers Convention, the insurance or financial security provider must give 3 months' notice of termination to the issuing State Party. The insurance policy will cease before the expiry of this 3 months' notice period if:
 - The certificate issued by the State Party is returned to that State Party, or
 - a new Bunkers Convention certificate is issued within this three-month period.
- **What information is needed on a Bunkers Convention Certificate of Insurance or Other Financial Security issued by a State Party?**
 - The following information must be included in a Bunkers Convention certificate issued by the State Party to the registered owner:
 - Name of ship, distinctive number or letters and port of registry;
 - Name and principal place of business of the registered owner;
 - IMO ship identification number;
 - Type and duration of security;
 - Name and principal place of business of the insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
 - Period of validity of the certificate which shall not be longer than the period of validity of the insurance or other security; and Statement that the policy covers liabilities under Article 7 of the Bunkers Convention.
 - To facilitate processing applications, the information identified above should also be included on certificates of insurance or blue cards issued by insurers or providers of financial security.
- **What are the obligations of State Parties?**
 - Approve insurers or providers of financial security, taking into account the guidelines in [Circular Letter No.3464](#).
 - Ensure that the blue card or certificate of insurance contains all the information necessary to issue a Convention Certificate of Insurance or Other Financial Security.
 - Issue Bunkers Convention certificates to registered owners based on evidence of insurance or other financial security sufficient to satisfy the requirements of Article 7 of the Bunkers Convention.
 - The Certificate shall be issued in the official languages of the issuing State Party but where this language is not English, French or Spanish then the text must include a translation into one of these three languages.
 - Not permit ships over 1,000 GT flying their flag to operate without carrying a valid Bunkers Convention certificate onboard.
- **What are the obligations for port States who are State Parties?**
 - Require ships over 1,000 GT, under national law, to have onboard a State issued Bunkers Convention certificate when entering or leaving a port in their territory or arriving at or leaving an offshore facility in their territorial sea.
 - Accept certificates issued or certified under the authority of another State Party.

- Request consultation with the issuing State, if necessary, if it believes that the insurer or financial security provider named in the Bunkers insurance certificate is not financially capable of meeting the obligations imposed under this Convention. It is not necessary for a port State that is a State Party to see the ship's blue card.
- **Other IMO pamphlets on liability and compensation conventions are available at the following links:**
 - Civil Liability Convention Pamphlet: *Insert hyperlink*
 - Athens Convention Pamphlet: *Insert hyperlink*
 - Wreck Removal Convention Pamphlet: *Insert hyperlink*

ANNEX 3

DRAFT CIVIL LIABILITY CONVENTION PAMPHLET

The International Convention on Civil Liability for Oil Pollution Damage, 1992 (1992 CLC)

Compensation for damage caused by spills of persistent oil cargoes

This is an informational pamphlet developed by the Legal Committee of the International Maritime Organization (IMO) on the 1992 CLC. It is part of a series of pamphlets aimed at providing information on the responsibilities of shipowners, insurers or other financial security providers, and State Parties (flag States, or other certifying States and port States) regarding the IMO's liability and compensation conventions. This pamphlet has no legal standing, but it is intended to provide concise information on the 1992 CLC. Readers should seek their own independent legal advice on further questions.

- **What is the 1992 CLC?**

- The Convention ensures that adequate, prompt, and effective compensation is available for pollution damage caused by spills of persistent oil cargoes from ships by:
 - establishing strict liability against the shipowner;
 - ensuring the shipowner has insurance or financial security in place; and
 - providing the right of direct action against that insurer or provider of financial security.
- The Convention applies to:
 - All sea-going vessels and seaborne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo, provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard.
 - The International Oil Pollution Compensation Fund, 1992 (1992 Fund) Administrative Council has published [Guidance for Member States on the consideration of the definition of 'ship' under the Convention](#).
 - Persistent hydrocarbon mineral oil, including crude oil, fuel oil, heavy diesel oil and lubricating oil, whether carried on board a ship as cargo or in the bunkers of such a ship;
 - Pollution damage, meaning loss or damage caused outside the ship by contamination resulting from the escape or discharge of oil from the ship in the territory, including the territorial sea, and in the exclusive economic zones of a State Party or an area beyond and adjacent to the territorial sea of a State Party extending not more than 200 nautical miles from the baselines;
 - types of damage that may be covered include property damage, economic loss, and impairment of the environment other than loss of profit from such impairment and that is limited to the costs of reasonable measures of environmental reinstatement undertaken or to be undertaken;
 - reasonable measures, wherever taken, to prevent or minimize pollution damage;

- Shipowners, meaning the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship. In the case of a ship owned by a State and operated by a company which is registered as the ship's operator, shipowner means such company.
- The Convention does **NOT** apply to pollution damage arising from a ship sourced spill of bunker fuel oil, where used or intended to be used for the operation or propulsion of the ship, and any residues of such oil, if the IMO's 2001 Bunkers Convention¹ is in force and applicable.
 - The Convention would apply to a spill of persistent bunker fuel oil from a ship that is actually carrying persistent oil as cargo or has residues of such a cargo on board.
- **What are the obligations of shipowners?**
 - Shipowners are strictly liable to pay compensation for pollution damage even if the spill is accidental, subject to certain specific defences from liability.
 - Shipowners are entitled to limit their liability for pollution damage in accordance with the financial amounts required by the Convention and which are dependant on the gross tonnage of the ship².
 - Shipowners of ships carrying more than 2,000 tons of oil in bulk as cargo that are either registered in a State Party or entering or leaving the port of a State Party, or arriving at or leaving an offshore facility in their territorial sea, must:
 - Obtain and maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution to cover their liabilities under the Convention;
 - The amount of insurance or financial security required should not exceed the amount of the ship's limit of liability calculated in accordance with the Convention.
 - If the registered owner is in any doubt about the amount of insurance or financial security required, they should contact the State where they are applying for their Convention certificate or their insurer or financial security provider (normally a P&I Club).
 - Obtain a Convention certificate from their flag state if the flag state is a State Party to the Convention or other State Party if their flag is not party to the Convention, attesting that insurance or other financial security is in place; and
 - Ensure that the Convention certificate, which can be in electronic format, is carried onboard the ship at all times.
 - Shipowners of ships carrying less than 2,000 tons of persistent oil as cargo by sea are not required by the Convention to maintain insurance or financial security but remain strictly liable for pollution damage under the Convention.
 - No party other than the shipowner is required to maintain insurance or other financial security to cover their liability under the Convention.

¹ International Convention on Civil Liability for Bunker Oil Pollution Damage (2001).

² If the total cost of compensation for pollution damage that arises from a spill of persistent oil cargo, where carried by sea exceeds the shipowner's limit of liability under the 1992 CLC, then additional compensation may be available from the 1992 IOPC Funds if the 1992 IOPC Fund Convention is in force in the jurisdiction of a State where the pollution damage occurred. Further information on the 1992 IOPC Fund Convention can be found at: www.iopcfunds.org

- **What are the obligations of insurers and providers of financial security?**
 - When providing a certificate of insurance, also known as a "blue card", to the shipowner, as evidence that insurance or financial security is in place which covers all liabilities under the Convention the insurer or provider of financial security should:
 - Ensure that the certificate of insurance is addressed to the relevant State authorities;
 - Accept the right of direct action against them by claimants that have suffered loss and damage caused by pollution damage.
 - Ensure that the insurance policy, or financial security, satisfies the requirements of the Convention and covers the registered owner's liabilities under the Convention and up to the required financial limit.
 - It is generally accepted that the certificate of insurance only needs to be issued in English.
 - If the policy ceases for reasons other than expiry, or where the policy is amended so that it no longer satisfies the requirements of the Convention, the insurance or financial security provider must give 3 months' notice of termination to the issuing State Party. The insurance policy will cease before the expiry of this 3 months' notice period if:
 - the certificate issued by the State Party is returned to that State Party, or
 - a new Convention certificate is issued within this three-month period.

- **What information is needed on a CLC Certificate of Insurance or Other Financial Security issued by a State Party?**
 - A Convention certificates issued by the State Party to the registered owner should be in the form attached to the Convention and include the following information:
 - Name of ship and port of registry;
 - Name and principal place of business of the registered owner;
 - Type and duration of the insurance and other financial security;
 - Name and principal place of business of the insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
 - Period of validity of the certificate which shall not be longer than the period of validity of the insurance or other security; and Statement that the policy covers liabilities under Article VII of the Convention.
 - To facilitate processing applications, the information identified above should also be included on certificates of insurance or blue cards issued by insurers or providers of financial security.

- **What are the obligations of State Parties?**
 - Approve insurers or providers of financial security taking into account the guidelines in [Circular Letter No.3464](#).
 - Ensure that the blue card or certificate of insurance contains all the information necessary to issue a Convention Certificate of Insurance or Other Financial Security.
 - Issue Convention certificates to registered owners based on evidence of insurance or other financial security sufficient to satisfy the requirements of Article VII of the Convention.
 - The Certificate shall be issued in the official languages of the issuing State Party but where this language is not English, French or Spanish then the text must include a translation into one of these three languages.

- Not permit ships carrying more than 2,000 tons of persistent oil as cargo flying their flag to operate without carrying a valid Convention certificate onboard.
- **What are the obligations for port States who are State Parties?**
 - Require ships carrying more than 2,000 tons of persistent oil as cargo wherever they are registered, under national law, to have onboard a State issued Convention certificate when entering or leaving a port in their territory or arriving at or leaving an offshore facility in their territorial sea.
 - Accept certificates issued or certified under the authority of another State Party.
 - Request consultation with the issuing State, if necessary, if it believes that the insurer or financial security provider named in the Convention insurance certificate is not financially capable of meeting the obligations imposed under this Convention. It is not necessary for a port State that is a State Party to see the ship's blue card.
- **Other IMO pamphlets on liability and compensation conventions are available at the following links:**
 - Bunkers Convention Pamphlet: *Insert hyperlink*
 - Athens Convention Pamphlet: *Insert hyperlink*
 - Wreck Removal Convention Pamphlet: *Insert hyperlink*
 - *1992 IOPC Funds Convention [pamphlet][guidance]: Insert hyperlink*

ANNEX 4

DRAFT WRECK REMOVAL CONVENTION PAMPHLET

The Nairobi International Convention on the Removal of Wrecks, 2007 (Wreck Removal Convention)

Liability and compensation for wrecks

This is an informational pamphlet developed by the Legal Committee of the International Maritime Organization (IMO) on the Wreck Removal Convention. It is part of a series of pamphlets aimed at providing information on the responsibilities of shipowners, insurers or other financial security providers, and State Parties (flag States, or other certifying States and port States) regarding the IMO's liability and compensation conventions. This pamphlet has no legal standing, but it is intended to provide concise information on the Wreck Removal Convention. Readers should seek their own independent legal advice on further questions.

- **What is the Wreck Removal Convention?**
 - The Convention provides a legal basis for State Parties to remove, or have removed, hazardous wrecks that pose a danger or impediment to navigation, the marine environment, the coastline, property at sea or related interests of one or more States.
 - Removal includes any form of prevention, mitigation or elimination of the potential hazard created by the wreck.
 - Measures taken by the Affected State must be proportionate to the hazard.
 - The Convention also covers any reasonable measures for prevention, mitigation or elimination of hazards created by any object lost at sea from a ship (e.g. lost containers).
 - The Convention makes shipowners financially liable and requires them to take out insurance or provide other financial security to cover the costs of wreck removal. It also provides claimants, including States, with a right of direct action against insurers up to the limit of liability for the ship.
 - The Convention applies to ships which following a maritime casualty become a wreck in the Convention area:
 - Ship means all seagoing vessels of any type whatsoever including hydrofoil boats, air-cushion vehicles, submersibles, floating craft and floating platforms, except when such platforms are on location engaged in the exploration, exploitation or production of seabed mineral resources.
 - Maritime casualty means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it, resulting in material damage or imminent threat of material damage to a ship or its cargo.
 - Wreck is defined as, following a maritime casualty:
 - A sunken or stranded ship;
 - Any part of a sunken or stranded ship, including any object that is or has been on board such a ship;
 - Any object that is lost at sea from a ship and that is stranded, sunken or adrift at sea; or

- A ship that is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger are not already being taken.
 - Convention area means the exclusive economic zone of a State Party, established in accordance with international law or, if a State Party has not established such a zone, an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured.
 - A State Party may extend the application of this Convention to wrecks located within its territory, including the territorial sea.
- **How does the Wreck Removal Convention relate to the LLMC?**
 - The Wreck Removal Convention establishes strict liability for the costs of locating, marking and removing the wreck.
 - While the Wreck Removal Convention does not contain any limits of liability within its provisions, it does not affect any right of shipowners, and the person or persons providing insurance or other financial security, from limiting their liability in accordance with the *International Convention on the Limitation for Liability for Maritime Claims, 1976* (LLMC) as amended or under any other applicable national or international regime.
 - However, there may be circumstances where a shipowner can be held strictly liable for liabilities under the Wreck Removal Convention beyond the limit of insurance or financial security that they are required to maintain. This is because even if the shipowner is not entitled to limit their liability, insurers or providers of other financial security may still limit their liability to an amount equal to the amount of the insurance or financial security required by the Wreck Removal Convention.
 - The LLMC does not impose any liability on shipowner, but rather is a limitation convention and sets the legal framework to allow shipowners to limit their liability based on the ship's tonnage.
 - **What are the obligations of registered owners?**
 - Registered owners are strictly liable for the costs of locating, marking and removing a wreck, subject to certain specific defenses from liability.
 - Registered owner means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship at the time of the maritime casualty or, in the case of a ship owned by a State and operated by a company which in that State is registered as the operator of the ship, "registered owner" shall mean such company.
 - The registered owner of ships of 300 gross tonnage and above that are either registered in a State Party or entering or leaving the port of a State Party, or arriving at or leaving an offshore facility in their territorial sea, must:
 - Obtain and maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution to cover their liabilities under the Convention:
 - The amount of insurance or financial security required should not, in all cases, exceed the amount of the ship's limit of liability calculated in accordance with the LLMC as amended.
 - If the registered owner is in any doubt about the amount of insurance or financial security required, they should contact the State where they are applying for their Convention certificate or their insurer or financial security provider (normally a P & I Club).

- Obtain a Convention certificate from their flag State if the flag State is a State Party to the Convention or other State Party if their flag is not party to the Convention, attesting that insurance or other financial security is in place; and
 - Ensure that the Convention certificate, which can be in electronic format, is carried onboard the ship at all times.
 - The registered owners of ships of less than 300 gross tonnage are not required to maintain insurance or financial security or to have a Convention certificate, but remain strictly liable for the costs of locating, marking and removing a wreck based on systems of limitation of liability in national law.
 - No party other than the registered owner is required to maintain insurance or other financial security to cover their liability under the Convention.
- **What are the obligations of the master and operator of the ship?**
 - The master or the operator of the ship, must report to the Affected State without delay when that ship has been involved in a maritime casualty resulting in a wreck.
 - Operator of the ship means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all duties and responsibilities established under the International Safety Management Code, as amended.
 - Any such report shall provide the name and the principal place of business of the registered owner and all the relevant information necessary for the Affected State to determine whether the wreck poses a hazard within the meaning of the Convention.
- **What are the obligations of insurers and providers of financial security?**
 - When providing a certificate of insurance, also known as a "blue card", to the registered owner, as evidence that insurance or financial security is in place which covers all liabilities under the Convention the insurer or provider of financial security should:
 - Ensure that the certificate of insurance is addressed to the relevant State authorities;
 - Accept the right of direct action against them by claimants in respect of any claim for costs arising under the Convention that have suffered loss and damage caused by pollution damage; and
 - Ensure that the insurance policy, or financial security, satisfies the requirements of the Convention and covers the registered owner's liabilities under the Convention and up to the required financial limit of insurance or other financial security.
 - It is generally accepted that the certificate of insurance only needs to be issued in English.
 - If the policy ceases for reasons other than expiry, or where the policy is amended so that it no longer satisfies the requirements of the Convention, the insurance or financial security provider must give 3 months' notice of termination to the issuing State Party. The insurance policy will cease before the expiry of this 3 months' notice period if:
 - The certificate issued by the State Party is returned to that State Party, or
 - a new Wreck Removal Convention certificate is issued within this three-month period.

- **What information is needed on a Wreck Removal Convention Certificate of Insurance or Other Financial Security issued by a State Party?**
 - The following information must be included in Convention certificate issued by the State Party to the registered owner:
 - Name of ship, distinctive number or letters and port of registry;
 - Gross tonnage of the ship;
 - Name and principal place of business of the registered owner;
 - IMO ship identification number;
 - Type and duration of security;
 - Name and principal place of business of the insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
 - Period of validity of the certificate which shall not be longer than the period of validity of the insurance or other security; and Statement that the policy covers liabilities under Article 12 of the Wreck Removal Convention.
 - To facilitate processing applications, the information identified above should also be included on certificates of insurance or blue cards issued by insurers or providers of financial security.

- **What are the obligations of State Parties?**
 - Accept evidence of insurance or financial security taking into account the guidelines in [Circular Letter No.3464](#).
 - Ensure that the blue card or certificate of insurance contains all the information necessary to issue a Convention Certificate of Insurance or Other Financial Security.
 - Issue Convention certificates to registered owners based on evidence of insurance or other financial security sufficient to satisfy the requirements of Article 12 of the Convention.
 - Issue the Certificate in the official languages of the issuing State Party but where this language is not English, French or Spanish then the text must include a translation into one of these three languages.
 - Require ships of 300 gross tonnage and above flying their flag to operate carrying a valid Convention certificate onboard.
 - Require the master or the operator of a ship flying its flag to report to the Affected State without delay when that ship has been involved in a maritime casualty resulting in a wreck.
 - Take appropriate measures under their national law to ensure that:
 - their registered owners remove a wreck determined to constitute a hazard; and
 - when a wreck has been determined to constitute a hazardous, the registered owner shall provide the competent authority of the Affected State with evidence of insurance or other financial security.

- **What are the roles of a State Party affected by a wreck (the Affected State)?**
 - Affected States determine whether a wreck poses a hazard and play an important role in locating, marking and removing a wreck.
 - **Determining whether the wreck poses a hazard:**
 - determine if a wreck poses a hazard by applying the criteria set out in the Convention.
 - **Locating a wreck:**
 - warn mariners and other states concerned of the nature and location of the wreck.

- ensure that all practicable steps are taken to establish the precise location of the wreck.
 - **Marking a wreck:**
 - Ensure that all reasonable steps are taken to mark the wreck.
 - **Removing a wreck:**
 - inform the State of the ship's registry and the registered owner and proceed to consult the State of the ship's registry and other States affected by the wreck regarding measures to be taken.
 - set a reasonable deadline for the registered owner to remove the wreck and inform the registered owner of the deadline it has set.
 - Tell the registered owner that if it does not remove the wreck within that deadline, the State may remove the wreck at the registered owner's expense.
 - Tell the registered owner that it intends to intervene immediately in circumstances where the hazard becomes particularly severe.
 - If the registered owner does not remove the wreck within the deadline or the registered owner cannot be contacted or in circumstances where immediate action is required, remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment.
 - When the wreck removal has commenced, intervene in the removal only to the extent necessary to ensure that the removal proceeds effectively in a manner that is consistent with considerations of safety and protection of the marine environment.
 - Such measures shall not go beyond what is reasonably necessary to remove a wreck which poses a hazard.
 - **What are the obligations for port States who are State Parties?**
 - Require ships of 300 gross tonnage and above, under national law, to have onboard a State issued Convention certificate when entering or leaving a port in their territory or arriving at or leaving an offshore facility in their territorial sea.
 - Accept certificates issued or certified under the authority of another State Party.
 - Request consultation with the issuing State, if necessary, if it believes that the insurer or financial security provider named in the Wreck Removal insurance certificate is not financially capable of meeting the obligations imposed under this Convention. It is not necessary for a port State that is a State Party to see the ship's blue card.
 - **Other IMO pamphlets on liability and compensation conventions are available at the following links:**
 - Bunkers Convention Pamphlet: *Insert hyperlink*
 - Civil Liability Convention Pamphlet: *Insert hyperlink*
 - Athens Convention Pamphlet: *Insert hyperlink*
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