Bunker Convention
and
Port State Control

International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001
(BUNKERS 2001)
Bunker Convention
- the reasons

- Not only oil as cargo is a threat to the marine environment

- Large dry cargo vessels have large bunker tank capacity, e.g. 2,000 tons
Bunker Oil Pollution Damage

- **Entry into force:** 21 November 2008
- to ensure that adequate, prompt, and effective compensation is available
- for damage caused on the territory, including the territorial sea, and in exclusive economic zones of States Parties
- with the need for the registered owner of a vessel over 1,000 gross tonnage to maintain compulsory insurance cover
# Bunker Oil Pollution Damage

## States of ROPME Area

<table>
<thead>
<tr>
<th>Bahrain</th>
<th>Iran</th>
<th>Iraq</th>
<th>Kuwait</th>
<th>Oman</th>
<th>Qatar</th>
<th>Saudi Arabia</th>
<th>UAE</th>
</tr>
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<td>no</td>
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<td>yes</td>
<td>no</td>
</tr>
</tbody>
</table>

Source: [http://www.imo.org/en/About/Conventions/StatusOfConventions/Pages](http://www.imo.org/en/About/Conventions/StatusOfConventions/Pages); 01.19
Bunker Oil Pollution Damage

What it means:

“adequate, prompt, and effective compensation”:

- not exceeding an amount calculated in accordance with the Convention on Limitation of Liability for Maritime Claims, 1976 (LLMC)

(More details below)
Bunker Oil Pollution Damage

What it means: „Pollution damage“:

- loss or damage caused outside the ship by contamination resulting from the escape or discharge of bunker oil from the ship
- the costs of preventive measures and further loss or damage caused by preventive measures
Bunker Oil Pollution Damage

What it means: “ship”:

- any seagoing vessel and seaborne craft, of any type whatsoever
- not (acc. Art. 4): laden tankships because of CLC (!)
- vessels under the flag of not states parties
- yachts

Dr. Douvier; Maskat, March 2019
Bunker Oil Pollution Damage

What it means: “Bunker oil”:
Any hydrocarbon mineral oil

- Heavy Fuel Oil
- Marine Diesel Oil
- Marine Gas Oil
- Petrol
- Luboil
- Hydraulic Oil
- Thermal Oil
- Oil Sludge
Bunker Oil Pollution Damage

What it means: “Bunker oil”:

- not cargo of oil tankers or bunkers of them
- in those cases CLC supersedes Bunker Conv.

Bunker Oil Pollution Damage

What it means: “to maintain compulsory insurance cover”:

- The registered owner is required to maintain insurance
to cover his liability for pollution damage in an amount
equal to the limits of liability under the applicable national
or international limitation regime
- not exceeding an amount calculated in accordance with
the Convention on Limitation of Liability for Maritime
Claims, 1976 (LLMC)
Bunker Oil Pollution Damage

What it means: “to maintain compulsory insurance cover”:
Convention on Limitation of Liability for Maritime Claims (LLMC)
(Adoption: 19 November 1976; Entry into force: 1 December 1986;

- 1 million Units of Account for a ship with a tonnage not exceeding 2.000 tons,
- for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned above:
  - for each ton from 2.001 to 30.000 tons, 400 Units of Account;
  - for each ton from 30.001 to 70.000 tons, 300 Units of Account;
  - and
  - for each ton in excess of 70.000 tons, 200 Units of Account.

- 1 Unit of Account = 1 SDR (Special Drawing Right) = 1.4 US$ (01.02.19); Source IMF.org
Bunker Oil Pollution Damage

- Example M/V “Rena”
  37209 GRT = 14.362.700 SDR = 20 mill. US$

- Spill of 350 tons of fuel oil from 1.733 tons
- Affected 50 km of coastline and many islands.
- 25 mill. US$ cleanup costs

Source: Spiegel online
Bunker Oil Pollution Damage

The evidence of insurance cover:

- A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a State Party has determined that the requirements … have been complied with.
- Without certificate no operation of the ship is allowed by the flagstate.
Bunker Oil Pollution Damage

Step 1
- Insurance (P&I Club) issues a „Blue Card“ for the individual vessel

Step 2
- Flagstate Administration issues a certificate
- 1 year valid
- - beginning on 20th February
- on change of owner or flag
Bunker Oil Pollution Damage

Certificate of insurance or other financial security in respect of civil liability for bunker oil pollution damage

Each ship having a gross tonnage greater than 1,000 after the appropriate authority of a State Party has determined that the requirements of article 7, paragraph 1 have been complied with

Dr. Douvier; Maskat, March 2019
Bunker Oil Pollution Damage

The certificate shall contain the following particulars:

(a) name of ship, distinctive number or letters and port of registry;
(b) name and principal place of business of the registered owner;
(c) IMO ship identification number;
(d) type and duration of security;
(e) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established;
(f) period of validity of the certificate which shall not be longer than the period of validity of the insurance or other security.
The task of PSC regarding Bunker Conv.:

“Each State Party shall ensure, under its national law, that insurance ... is in force in respect of any ship having a gross tonnage greater than 1,000, wherever registered, entering or leaving a port in its territory, or arriving at or leaving an offshore facility in its territorial sea. “ (Art. 7 No. 12 Bunker C.)
Bunker Oil Pollution Damage

Enforcement / Sanctions:

National transformation e.g. in Germany: „Ölschadengesetz“

- No transport of cargo or
- no more cargo operations
Bunker Oil Pollution Damage

Enforcement / Fines:

„Ölschadengesetz“

- As owner intentionally not maintaining an insurance:
  - Criminal offence of the owner acc. § 7 (2) ÖISG (Imprisonment up to one year or fine)

- As owner negligently not maintaining an insurance:
  - Regulatory offence acc. § 8 (2)
  - (up to 5,000,- €)
Bunker Oil Pollution Damage

Enforcement / Fines:

„Ölschadengesetz“

- As master intentionally not keeping the certificate on board: (difficult evidence)

- Regulatory offence acc. § 8 (1) 3 (up to 5,000,- €)

- As master negligently not keeping the certificate on board:

- Regulatory offence acc. § 8 (1) 3 (up to 2,500,- €)

- In practice: 600,- € when original not on board
Bunker Oil Pollution Damage
Enforcement / Fines:

- The amount of fines show how high the level of protection of the marine environment is set.
- The fines are imposed even without any damage by oil.
- Port State Inspections have a preventive protecting impact.
Bunker Convention and Port State Control

End