

- 1992 Civil Liability Convention



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2014 Oil Spill at Sunderbans



IMO
INTERNATIONAL
MARITIME
ORGANIZATION

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International Maritime Organization

- International Convention on Civil Liability for Oil Pollution Damage, 1992 (CLC 1992):
 - 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
 - Direct action against the insurer (Article IX: national courts need to possess necessary jurisdiction)

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CLC 1992: Compulsory Insurance

CLC Article VII, paragraph 1:

- the **registered owner** of a ship carrying more than 2,000 tons of oil in bulk as cargo is required to **maintain insurance** (or other financial security)
- to cover the liability for pollution damage in an amount **equal to the limits of liability**

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Insurance certificate

CLC 1992 Article VII, paragraph 2:

- a certificate shall be issued to **each ship**
- the **appropriate authority** of a State Party **determines** that the requirements of the convention have been complied with
- if registered in a State Party the certificate shall be issued by the **appropriate authority of the State of the ship's registry**
- if not registered in a State Party it may be issued by the appropriate authority of **any State Party**
- **Annex** of CLC 1992: **model form**

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Insurance certificate

CLC 1992 Article VII

- the **certificate** shall furthermore be:
 - in the **official language** and in **English** or **French**
 - carried **on board the ship**
- the **State of the ship's registry** determines the **conditions of issue and validity** of the certificate
- **information** on the **financial situation of insurance providers** may be obtained from other States
- certificates issued by **State Parties** shall be accepted by **other States Parties**

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Insurance certificate: implementation by State Party Authority

The IMO Legal Committee at its **100th session** in April 2013:

- **Contracting States** trust the blue card provided by insurers, **unless** there is **some indication** that there is a **need** for further investigation
- **National administrations** investigate the blue card **to the best of their ability**
- administrations may request **proof of solvency of the company** in line with the **Assembly resolution on insurance certificates under the Bunkers Convention (revised at LEG 111)**
- in case of any **discrepancy** between the **blue card** and the **insurance policy**, **national law** determines the **legal consequences**

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Insurance certificate: obligation of State Parties

- A State Party **shall not permit** a ship under its flag to operate at any time, **unless** a certificate has been issued
- Each State Party shall ensure, **under its national law**, that insurance or other security is in force in respect of **any ship** carrying more than 2,000 tons of oil in bulk as cargo, **wherever registered, entering or leaving a port** in its territory, or **arriving at or leaving** an offshore facility in its territorial sea

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Implementation 1992 CLC

Action against shipowner and direct action against the insurer:

- **Article IX: national courts of a State Party** where damage occurred need to possess **necessary jurisdiction**
- **Article X: final judgments** from national courts in a **State Party** shall be recognized and enforceable **in any State Party**

Thank You
