

INTERNATIONAL  
MARITIME  
CONVENTIONS:  
VOLUME 3

PROTECTION OF THE  
MARINE ENVIRONMENT

FRANCESCO BERLINGIERI

**informa law**  
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# INTERNATIONAL MARITIME CONVENTIONS

VOLUME III

*Protection of the Marine Environment*

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- Bunker Oil Convention: International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001
- CLC 1969: International Convention on Civil Liability for Oil Pollution Damage, 1969
- CLC 1992: International Convention on Civil Liability for Pollution Damage, 1992 as amended on 18 October 2000
- Convention on Dumping of Wastes: Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters, 1972. As amended by the Protocol of 1996
- Convention on Registration of Ships: United Nations Convention on Conditions for Registration of Ships, 1986
- Fund Convention 1971: International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971
- Fund Convention 1992: International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 and the Amendments of the Limits of Liability, 2000
- HNS 1996: International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 as amended by the Protocol of 2010
- IBC Code: IMO International Code for the Construction and Equipment of Ships Carrying Dangerous Chemical in Bulk
- IGC Code: IMO International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk
- IMDG Code: International Dangerous Goods Code
- IMSBC Code: International Maritime Solid Bulk Cargoes Code
- Immunity Convention 1926: International Convention for the Unification of Certain Rules Relating to the Immunity of State-Owned Ships, 1926
- Intervention Convention 1969: International Convention Relating to Intervention on the High Seas and Protocol of 1973 Relating to Intervention on the High Seas in Cases of Pollution by Substances Other than Oil
- ISM Code: International Safety Management Code
- LLMC Convention: Convention on Limitation of Liability for Maritime Claims, 1976 as amended by the Protocol of 2 May 1996
- MARPOL: International Convention for the Prevention of Pollution from Ships, 1973 and Protocol of 1978

## GLOSSARY

Nairobi Convention: Nairobi International Convention on the Removal of Wrecks, 2007  
OPRC Convention 1990 with OPRC-HNS Protocol 1990: International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990, with Protocol of 2000 Relating to Pollution Incidents by Hazardous and Noxious Substances in Cases of Oil Pollution Casualties  
Paris MoU: Paris Memorandum of Understanding on Port State Control 1982  
Port State Control: European Directive 2009/16/EC of 23 April 2009  
Rotterdam Rules: United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, 2008  
SOLAS: International Convention for the Safety of Life at Sea, 1974  
Supplementary Fund: Protocol of 2002 to the Fund Convention 1992  
Traffic Monitoring and Information System: European Directive 2002/59/EC  
STCW Code: International Convention on the Standards of Training, Certification and Watch-keeping for Seafarers, 1978  
UNCLOS: United Nations Convention on the Law of the Sea, 1980  
Vienna Convention: Vienna Convention on the Law of Treaties, 1969

## INTRODUCTION

The need for preventative measures governing liability for loss or damage caused by pollution of the sea by oil was brought to the world's attention by the grounding of the *Torrey Canyon* on 18 March 1967.

The *Torrey Canyon* was a single screw tanker built in 1959 of 61,263 gross tons and 48,437 net tons with a deadweight capacity of 120,890 tons on her winter marks. Loaded with 119,328 tons of crude oil shipped by BP Trading Limited, her ultimate destination being Milford Haven, Wales, she went aground on the Seven Stones reef between the Scilly Isles and Lands End. In the opinion of the Board of Investigation set up by the Liberian Government, the stranding was due solely to the negligence of the master.

The stranding damaged many of the cargo tanks and by 20 March it was estimated that 30,000 tons of oil had spilled into the sea. On 25 March, oil began to arrive on Cornish beaches, 100 miles of coastline being affected. On 26 March, high seas and strong winds caused the ship to break her back, releasing, it was estimated, a further 30,000 tons of crude oil. Between 28 and 30 March, the ship was bombed by British Naval and Air Forces to open the remaining tanks and release the rest of the oil into the sea. The oil was then set on fire by dropping aviation fuel, napalm and sodium chlorate devices; it is believed that all the oil in the vicinity of the wreck was destroyed by 30 March. Some oil also reached the coast of Brittany where it did considerable damage.

The reaction of the international shipping community was twofold: to create an international instrument with the view to governing the liability for loss or damage caused by oil pollution and to create an international instrument to govern the right of States to intervene outside their territory (including their territorial waters) to prevent, mitigate or eliminate danger to their coasts from sea pollution. In respect of the liability aspect of the problem, two instruments were adopted by the IMCO in 1969 and 1971: the Convention on Civil Liability for Oil Pollution Damage 1969 (CLC 1969) and the Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971 (Fund 1971). The Convention Relating to Intervention on the High Seas in cases of casualties of oil pollution was adopted concurrently with the CLC 1969 in respect of the right of intervention. Concern soon widened, and it was felt necessary to protect the environment where other hazardous and noxious substances were involved. The Protocol relating to the Intervention on the High Seas in cases of Pollution by Substances other than Oil was introduced in 1973. More than twenty years later, in 1996, a general convention

governing liability and compensation for damage caused by hazardous and noxious substances was adopted.

Meanwhile, attention was drawn to the importance of uniform rules on precautionary measures aiming at preventing oil pollution. This problem was, in various degrees, the object, or one of the objects, of several conventions aiming at generally ensuring safety at sea, reference to which is made hereafter.<sup>1</sup> The action aimed at preventing pollution of the sea and the coastline by oil and generally by hazardous and noxious substances may relate to the construction, maintenance and operation of ships, therefore relevant provisions may be found in a great many of such conventions and other instruments that will be considered in the first part of this volume. The second part, will consider the conventions that regulate the liability of persons responsible for loss or damage caused by oil pollution or by hazardous and noxious substances and the limitations on such liability.

The conventions and other instruments of the first group (the Preventive Conventions) are:

- (a) the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 with its Protocol of 1973;
- (b) the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990 (OPRC) with its Protocol of 2000 (OPRC-HNS Protocol);
- (c) the International Convention for the Prevention of Pollution from Ships, 1973 as amended by the Protocol of 1978 (MARPOL);
- (d) the International Convention for the Safety of Life at Sea, 1974 (SOLAS), albeit marginally;
- (e) the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, as amended by the Protocol of 1996;
- (f) the International Convention for the Control and Management of Ship's Ballast Water and Sediments, 2004;
- (g) the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers;
- (h) the Nairobi International Convention on the Removal of Wrecks, 2007;
- (i) the Paris Memorandum of Understanding on Port State Control and the European Directive on Port State Control 2009/16/EC of 23 April 2009; and
- (j) the European Directive 2002/59/EC on Vessel Traffic Monitoring and Information System, as amended.

The conventions of the second group (the Liability Conventions) are:

- (a) the International Convention on Civil Liability for Oil Pollution Damage, 1992 (the CLC Convention);
- (b) the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992, as amended by its Protocol of 2000 and its Supplementary Protocol of 2003 (the Fund Convention);

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<sup>1</sup> On pollution of the sea generally see Gregory J. Timagenis, *International Control of Marine Pollution*, Oceana Publications, 1980, Vol. I, p. 21.

## INTRODUCTION

- (c) the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (the Bunker Oil Convention); and
- (d) the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, with its 2010 Protocol (the HNS Convention).

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