

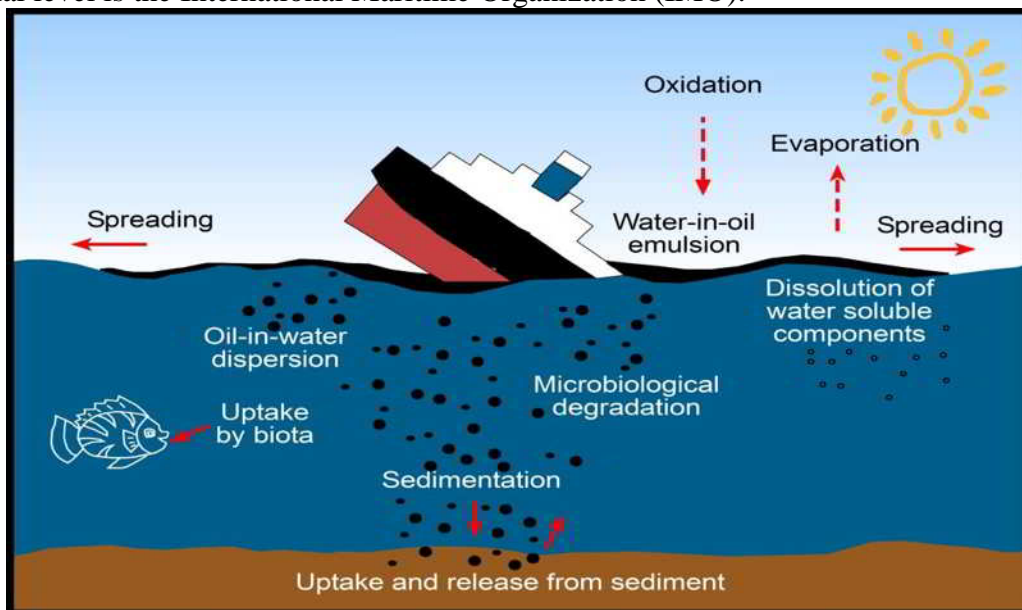
***Information Updates KISHPNI-IU-06-2020  
(Environmental Liabilities & Other EU Compensations)***

This Information Update is intended to bring up to date the requirements with respect to the environmentally instigated liabilities & EU imposed compensations.

**Background:**

Maritime transport of goods and passengers involves various types of risk. As a consequence of a maritime accident, loss of life or injury may occur to crew and passengers, damage to the property of ship-owners and the cargo, as well as potential risk to life, health and property of third parties and the natural environment. Over the last decades, the risk of accidents has increased. Contributing factors are the larger volume of maritime transport, including dangerous or polluting cargos, a higher exposure to third party interests and, finally, the increased recognition of the value of the natural environment. Therefore efforts have been made to reduce the risk through better technology, rules and supervision as well as mechanisms of compensation.

As a consequence of a number of high profile accidents, the international community has developed a series of legal instruments to manage liability and compensation. The platform for this development at international level is the International Maritime Organization (IMO).



**Oil Pollution Liability:**

In 1969 the first oil pollution liability instrument was adopted: the International Convention on Civil Liability for Oil Pollution Damage (CLC) which exists now in its 1992 amended version. Its compensation mechanism is complemented by the International Oil Pollution Compensation Fund (IOPCF), first established in 1971, then replaced by the Fund of 1992 and recently complemented by the Supplementary Fund 2003. Other international liability and compensation instruments are the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention) of 1996 (amended in 2010) and the International Convention on Civil Liability for Bunker Oil Pollution Damage (Bunkers' Convention) of 2001.

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### **Athens Convention:**

Additionally, passenger claims are regulated by the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea. The 1974 Convention is in force, although the Protocol adopted in 2002 is on its way to become internationally accepted. This is also supported by the European Union; a related regulation has been adopted in the Third Maritime Safety Package (Regulation (EC) no 392/2009).

Other maritime related compensation claims are regulated by national laws although the compensation available is limited by a horizontal maritime convention: Convention on Limitation of Liability for Maritime Claims (LLMC) which provides for a right to limitation of liability of the ship-owners. The Convention was adopted in 1976 and the liability limits were increased in 1996 and again updated in 2012. The European Commission encourages the ratification of the 1996 Protocol (as amended) by all EU Member States. See a related directive adopted in the Third Maritime Safety Package (Directive 2009/20).



### **The Insurance Directive (2009/20/EC):**

A survey undertaken by the European Maritime Safety Agency (EMSA) at the request of the European Commission on the application of the Directive 2009/20/EC, as well as on information and data retrieved from the inspection database ("THETIS").

The survey examined the application of the Directive between 1 January 2012 and 31 December 2014. It included a Questionnaire sent by EMSA to Member States and was used as a basis for the final Commission report to the European Parliament and the Council on the application of the Directive in pursuance of Article 8 of the Directive.

Moreover, Directive 2002/59/EC (as amended by Directive 2009/17)) requires the Commission to "examine the need for, and feasibility of measures at Community level aimed at facilitating the recovery of, or compensation for, costs and damage incurred for the accommodation of ships in distress in places of refuge".

Last but not least, Directive 2005/35 on ship-source pollution and on the introduction of penalties for infringements (amended by Directive 2009/123) gives the Commission, and subsequently EMSA, on the basis of art.10 thereof, a role in its implementation.

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