

**2002/762/EC: Council Decision  
of 19 September 2002**

**authorising the Member States, in the interest of the Community, to sign, ratify or accede to the  
International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (the Bunkers  
Convention)**

Council Decision

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authorising the Member States, in the interest of the Community, to sign, ratify or accede to the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (the Bunkers Convention)

(2002/762/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(c), Article 67(1) and Article 300(2) thereof,

Having regard to the proposal from the Commission(1),

Having regard to the opinion of the European Parliament,

Whereas:

- (1) The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (hereinafter referred to as the Bunkers Convention) was adopted on 23 March 2001 with the aim of ensuring adequate, prompt and effective compensation of persons who suffer damage caused by spills of oil, when carried as fuel in ships' bunkers. The Bunkers Convention fills a significant gap in the international regulation of marine pollution liability.
- (2) Articles 9 and 10 of the Bunkers Convention affect Community secondary legislation on jurisdiction and the recognition and enforcement of judgments, as laid down in Council Regulation (EC) No [44/2001](#) of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters(2).
- (3) The Community therefore has sole competence in relation to Articles 9 and 10 of the Bunkers Convention inasmuch as those Articles affect the rules laid down in Regulation (EC) No [44/2001](#). The Member States retain their competence for matters covered by that Convention which do not affect Community law.
- (4) Pursuant to the Bunkers Convention, only sovereign States may be party to it; there are no plans, in the short term, to reopen negotiations for the purpose of taking into account Community competence for the matter. It is not therefore possible for the Community to sign, ratify or accede to the Bunkers Convention at present, nor is there any prospect that it will be able to do so in the near future.
- (5) The Bunkers Convention is particularly important, given the interests of the Community and its Member States, because it makes for improved victim protection under international rules on marine pollution liability, in keeping with the 1982 United Nations Convention on the Law of the Sea.
- (6) The substantive rules of the system established by the Bunkers Convention fall under the national competence of Member States and only the provisions of jurisdiction and the recognition and enforcement of the judgments are matters covered by exclusive Community competence. Given the subject matters and the aim of the Bunkers Convention, acceptance of the provisions of that

Convention which come under Community competence cannot be dissociated from the provisions which come under the competence of the Member States.

- (7) The Council should therefore authorise the Member States to sign, ratify or accede to the Bunkers Convention in the interest of the Community, under the conditions set out in this Decision.
- (8) Member States should make efforts to sign the Bunkers Convention before 30 September 2002 and should finalise, within a reasonable time, their procedures for ratification of, or accession to, that Convention in the interest of the Community. Member States should exchange information on the state of their ratification or accession procedures in order to prepare the deposit of their instruments of ratification of, or accession to, the Convention.
- (9) The United Kingdom and Ireland are taking part in the adoption and application of this Decision.
- (10) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Decision, and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

*Article 1*

1. Without prejudice to existing Community competence in the matter, the Council hereby authorises the Member States to sign, ratify or accede to the Bunkers Convention in the interest of the Community, subject to the conditions set out in the following Articles.
2. The text of the Bunkers Convention is attached to this Decision.
3. In this Decision, the term "Member State" shall mean all Member States with the exception of Denmark.

*Article 2*

When signing, ratifying or acceding to the Bunkers Convention, Member States shall make the following declaration: "Judgments on matters covered by the Convention shall, when given by a court of (...)(3), be recognised and enforced in (...)(4) according to the relevant internal Community rules on the subject."

(5)

*Article 3*

1. Member States shall make efforts to sign the Bunkers Convention before 30 September 2002.
2. Member States shall take the necessary steps to deposit the instruments of ratification of, or accession to, the Bunkers Convention within a reasonable time with the Secretary-General of the International Maritime Organisation and, if possible, before 30 June 2006.
3. Member States shall inform the Council and the Commission, before 30 June 2004, of the prospective

date of finalisation of their ratification or accession procedures.

4. Member States shall seek to exchange information on the state of their ratification or accession proceedings.

*Article 4*

When signing, ratifying or acceding to the Bunkers Convention, Member States shall inform the Secretary-General of the International Maritime Organisation in writing that such signing, ratification or accession has taken place in accordance with this Decision.

*Article 5*

Member States shall, at the earliest opportunity, use their best endeavours to ensure that the Bunkers Convention is amended to allow the Community to become a contracting party to it.

This Decision is addressed to the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels, 19 September 2002.

For the Council

The President

P. S. Møller

(1) OJ C 51 E, 26.2.2002, p. 371.

(2) OJ L 12, 16.1.2001, p. 1.

(3) All the Member States to which this Decision is applicable except the Member State making the declaration and Denmark.

(4) Member State making the declaration.

(5) At present, these rules are laid down in Regulation (EC) No [44/2001](#).

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