



RAC-REMPEITC

Caribe



14th MESO AMERICAN AND CARIBBEAN SEA HYDROGRAPHIC COMMISSION CONFERENCE

December 9th – 13rd, 2013

Sint Maarten

December 2013

Anne Réglain – RAC/REMPEITC-Caribe

Regional Marine Pollution Emergency Information and Training Center



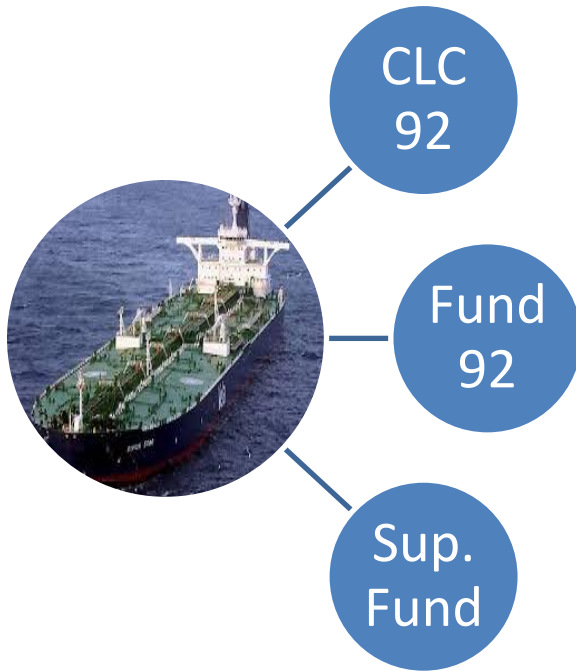
*“To assist countries to develop their national capabilities to implement the Cartagena Convention Oil Spill Protocol, the OPRC 1990 Convention and other IMO Conventions and Protocols relevant to **preparedness for and response to oil, hazardous and noxious substances releases, and other marine environmental threats from ships in the **Wider Caribbean Region.**”***

The cost of dealing with a spill can be expensive and the response should not be delayed by financial burdens

Objectives of the conventions:

- Compensate for preventive measures and pollution damage
- Provide uniform treatment of claims and claimants
- Ensure timely reimbursement of admissible claims
- Minimize the need for litigation and speed up compensation





- Covers any spill or threat of spill of **persistent oil** from a **tanker** that affects the EEZ of a contracting state – Includes spills of cargo or bunkers from laden or unladen oil tankers
- **Strict Liability:** Ship owner liable for pollution damage regardless of the blame if the incident occurs in a Contracting State (not the charterer, cargo owner or crew)

Civil Liability Convention (CLC)	The International Convention on Civil Liability for Oil Pollution Damage 1969 (revised 1992)
Fund Convention	The International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971 (revised 1992)
Supplementary Fund	Protocol to the 1992 Fund Convention (Supplementary Fund Protocol)



Bunkers

- Covers any spill or threat of spill of **bunker oil** from a **vessel** that affects the EEZ of a contracting state
- **Strict Liability**: Ship owner liable for pollution damage regardless of the blame if the incident occurs in a Contracting State (not the charterer, cargo owner or crew)



the "Marine Pollutant"

HNS

- Covers any spill or threat of spill of **HNS** from a **vessel** that affects the EEZ of a contracting state
- **Strict Liability**
- Not yet in force

No liability for pollution damage shall attach to the owner if the owner proves that:

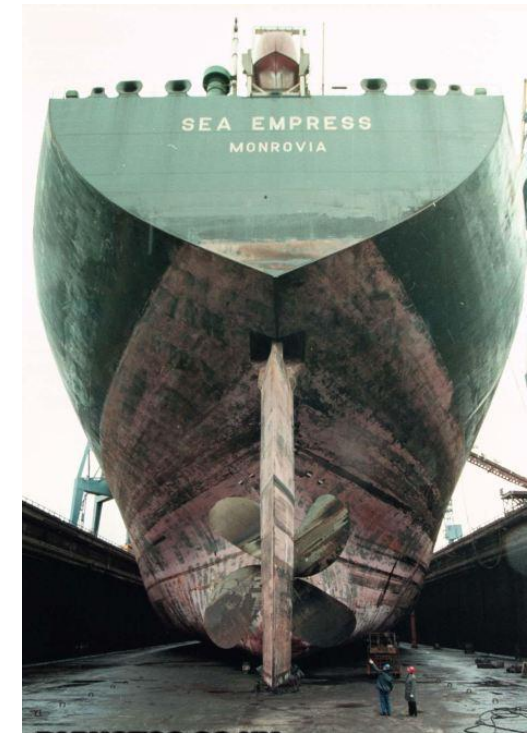
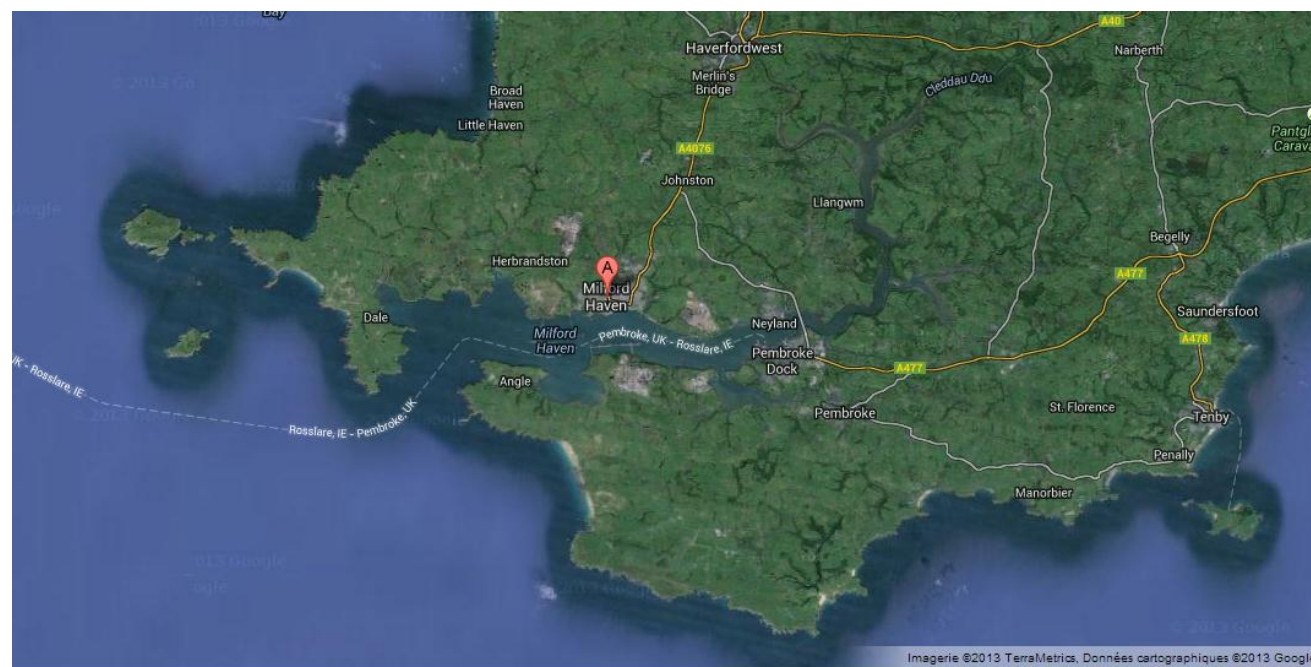
- the damage resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or
- the damage was wholly caused by an act or omission done with the intent to cause damage by a third party; or
- **the damage was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function;**

... the damage was **wholly caused** by the **negligence or other wrongful act** of any Government or other authority responsible for the maintenance of lights or other **navigational aids** in the exercise of that function;

➤ *A navigational aid is any device external to a vessel or aircraft specifically intended to assist navigators in determining their position or safe course, or to warn them of dangers or obstructions to navigation. (USCG)*

The Sea Empress Incident – Feb 15, 1996

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- Single hull build in 1993
- On her way to deliver oil to the Texaco refinery in Milford Haven, UK (this location includes a number of refineries providing the UK with 25 % of its requirements in refined products)
- Laden with 131,000 tons of Crude oil and 2,400 of fuel oil

The Incident

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- The normal practice at Milford Haven is for incoming tankers to take a pilot outside the harbor entrance
- Around 8pm, February 15, 1996, the tanker ran aground in the Middle Channel Rocks at the entrance of Milford Haven
- Within hours, she was maneuvered into deeper water where she could be anchored and held in position with the aid of the harbour tugs from Milford Haven
- The intention was then to lighten the casualty as soon as possible so as to allow her to enter the Haven and discharge the rest of her cargo.



The Incident

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- On 17 February while the preparations for lightening were still underway, they were not able to hold the vessel against the combination of wind and strong tide, and she was swept onto rocks off St. Ann's Head, suffering further damage and releasing more oil
- For the next four days efforts by the salvors to regain control of the casualty were unsuccessful and the casualty went aground again on a number of occasions
- On 21 February that she was successfully refloated and brought under control. She was then taken to a berth inside the Haven where the remainder of her cargo was discharged.

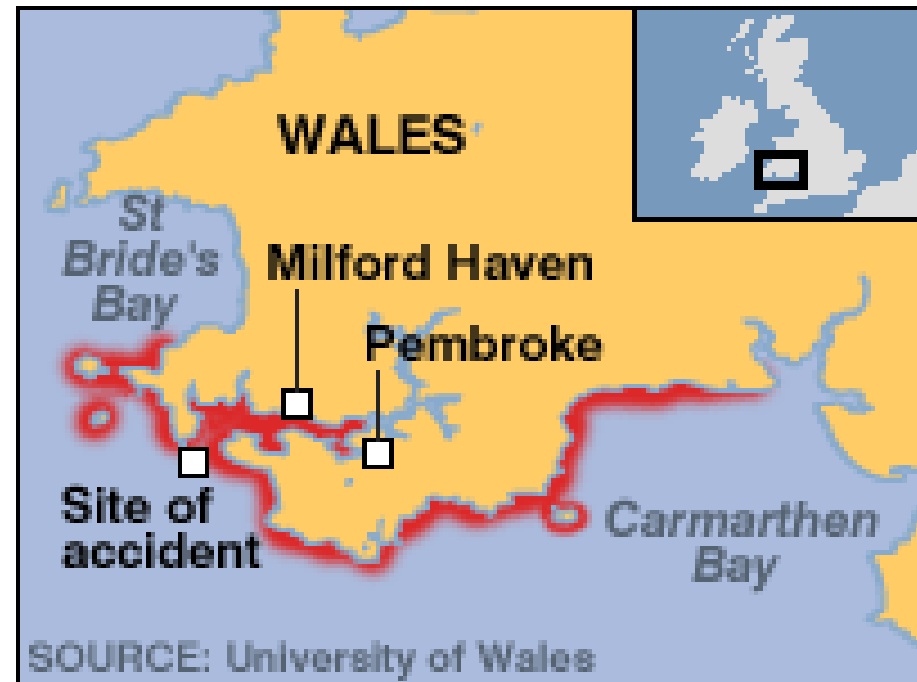


The Response and the Impacts

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- **Successful and effective clean-up operations :** dispersant spraying, mechanical recovery and the use of the protective booms.
- This, coupled with a high rate of evaporation and natural dispersion, greatly reduced the quantity of oil reaching inshore waters.
- Response vessels and other resources were provided from France and the Netherlands under the Manche Plan to assist in the response.
- ~200km of coastline impacted - much of it in a National Park - area rich in seabirds, and two islands affected by the spill are bird sanctuaries

In total, 72,000 tonnes of crude oil and 370 tonnes of heavy fuel oil were released into the sea



The Response and the Impacts

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- Major shoreline clean-up effort: mechanical and manual recovery, trenching, beach washing, and the use of dispersants and sorbents.
- Main recreational beaches cleaned by the Easter holidays
- Other areas required longer treatment throughout the summer.
- Temporary fishing ban
- Several thousand oiled birds washed ashore, leading to a major cleaning and rehabilitation operation

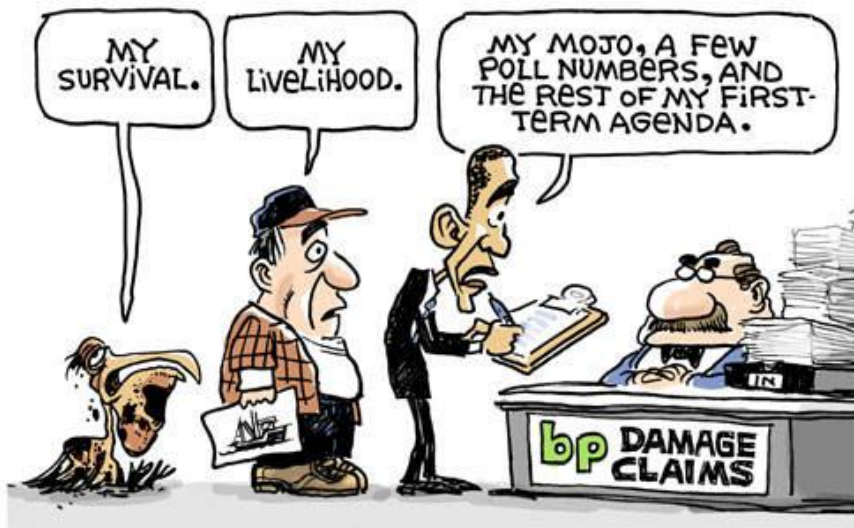


The Aftermaths

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- Questionable salvage operations - The initial grounding resulted in the release of some 2,500 tonnes of crude and then a further 69,300 tonnes was released during the salvage operation.
- The cause of the initial grounding has been found to be due to pilot error. and a lack of understanding of the tidal currents (the simplistic description adopted by MHPA and some of the experienced pilots was potentially misleading.

STAR TRIBUNE
SOK



WHAT HAVE YOU LOST?

- Compensation totaling \$60.2 million has been paid to 797 claimants, of which \$11.3 million has been paid by the shipowner's insurer and \$48.9 million by the Fund.
- Total costs ~ \$250 million

Major oil tanker spills since 1967

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Position	Shipname	Year	Location	Spill Size (tonnes)
1	ATLANTIC EMPRESS	1979	Off Tobago, West Indies	287,000
2	ABT SUMMER	1991	700 nautical miles off Angola	260,000
3	CASTILLO DE BELLVER	1983	Off Saldanha Bay, South Africa	252,000
4	AMOCO CADIZ	1978	Off Brittany, France	223,000
5	HAVEN	1991	Genoa, Italy	144,000
6	ODYSSEY	1988	700 nautical miles off Nova Scotia, Canada	132,000
7	TORREY CANYON	1967	Scilly Isles, UK	119,000
8	SEA STAR	1972	Gulf of Oman	115,000
9	IRENES SERENADE	1980	Navarino Bay, Greece	100,000
10	URQUIOLA	1976	La Coruna, Spain	100,000
11	HAWAIIAN PATRIOT	1977	300 nautical miles off Honolulu	95,000
12	INDEPENDENTA	1979	Bosphorus, Turkey	94,000
13	JAKOB MAERSK	1975	Oporto, Portugal	88,000
14	BRAER	1993	Shetland Islands, UK	85,000
15	KHARK V	1989	120 nautical miles off Atlantic coast of Morocco	80,000
16	AEGEAN SEA	1992	La Coruna, Spain	74,000
17	SEA EMPRESS	1996	Milford Haven, UK	72,000
18	NOVA	1985	Off Kharg Island, Gulf of Iran	70,000
19	KATINA P	1992	Off Maputo, Mozambique	66,700
20	PRESTIGE	2002	Off Galicia, Spain	63,000
35	EXXON VALDEZ	1989	Prince William Sound, Alaska, USA	37,000
131	HEBEI SPIRIT	2007	Taeon, Republic of Korea	11,000

Source: ITOPF

1971 Fund + Skuld Club vs Milford Haven Port Authority

Allegations of negligence and/or breach of duty:

- ✓ (a) MHPA failed to put in place a proper system to satisfy itself that the proposed entry of a particular vessel into Milford Haven at a particular time was safe and/or for refusing permission for a vessel to enter the port at such time unless MHPA was so satisfied;
- ✓ (b) MHPA failed to have in place an effective and fully operational Vessel Traffic Services facility using radar to enable the duty marine officer to give advice and information to vessels and to assist them to remain within the relevant channel boundaries;
- ✓ (c) MHPA failed to properly mark the entrance to the West Channel;
- ✓ (d) MHPA's system of pilot allocation was negligent; and
- ✓ (e) MHPA's system of pilot training was defective.

It is also alleged that MHPA's response to the grounding of the vessel was ad hoc, improvised and negligent and resulted in the unnecessary escape into the Haven of some 69 300 tonnes of crude oil.

- **Sentence:** In October 2003 the Administrative Council approved an out-of court settlement of the recourse action brought by the 1971 Fund against the Milford Haven Port Authority (MHPA). Under the settlement agreement, MHPA's insurers should pay the 1971 Fund £20 million (USD 32.3 million).



BP OIL CLEANUP TAB EXCEEDS \$3 BILLION

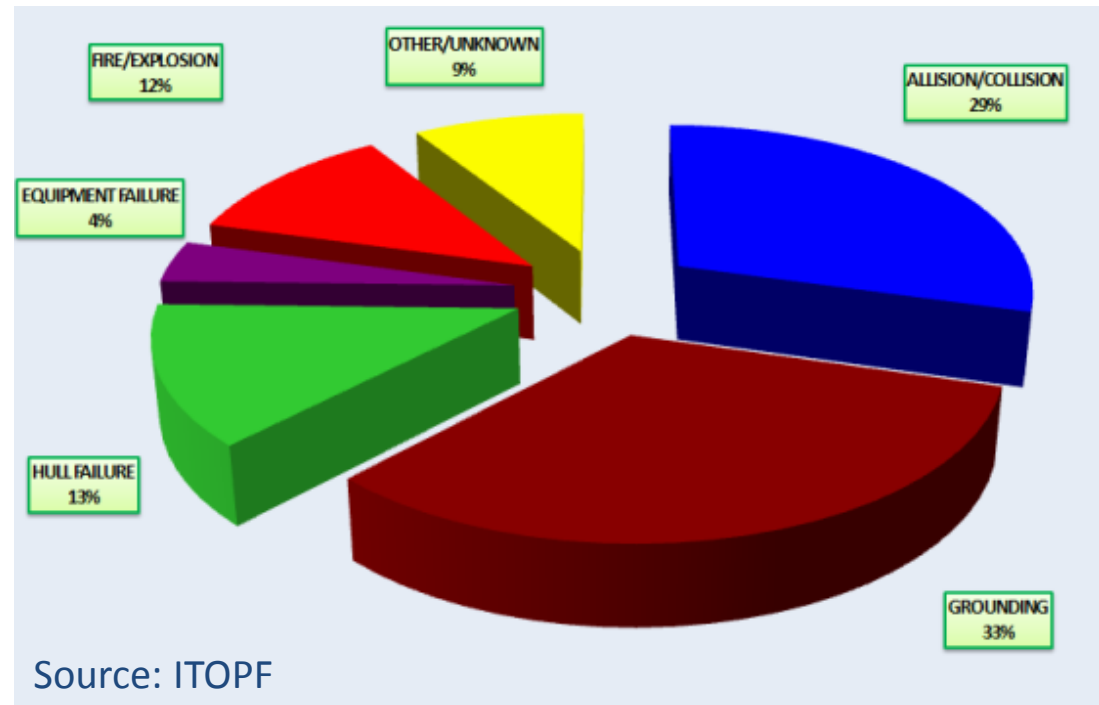
UK Environment Agency vs Milford Haven Port Authority

Criminal proceedings against Milford Haven Port Authority (MHPA) and the Harbour Master in Milford Haven at the time of the incident.

- **Charges:** they caused polluting matter, namely crude oil and bunkers, to enter controlled waters, contrary to Section 85(1) of the Water Resources Act 1991, and that the discharge of crude oil and bunkers amounted to public nuisance. In addition, it was alleged that the MHPA had failed properly to regulate navigation and to provide proper pilotage services in the Haven.
- **Sentence:** The MHPA was ordered to pay a fine of £4 million (USD 6.5 million) and to pay £825 000 (USD 1.4 million) towards the prosecution costs. MHPA appealed against the sentence. The Court of Appeal held that the original fine was excessive and should be reduced to £750 000 (USD 1.2 million).

- Hydrography supports safe and efficient navigation, help to safeguard life and preserve the environment
- WCR: Highly depend on being accessible by waters. Economy relies on ocean transportation (products, food, people...)
- Other cases where the shipowner was immune from liability due to this exemption clause

➔ **Clarion warning**



Causes of oil spills > 700 tonnes (1970-2012)

Thank you for your attention

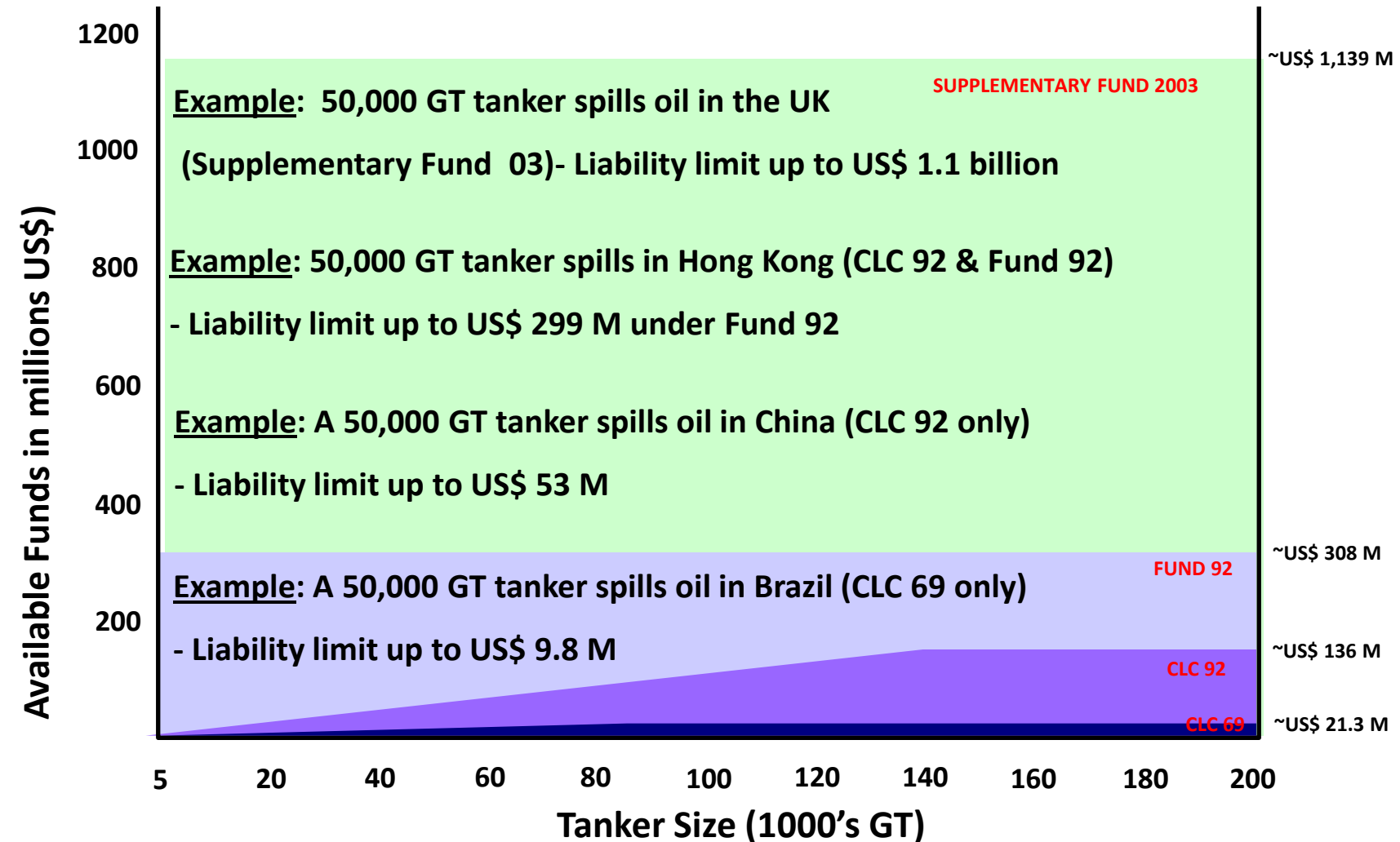
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Any questions or
comments?



Liability limits (October 2012)

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Three tiers of Compensations

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