



1

---

**POLLUTION**

definition

*to make offensive or  
harmful to human,  
animal or plant life*

2

---

## POLLUTION

we will discuss:

- Types of pollution
- Liability and Limitation
- Clean-up and Compensation
- ITOPF

3

---

## TYPES OF POLLUTION

- Persistent oil cargo and bunkers
- Non-persistent oil cargo
- Hazardous and noxious substances
- All other cargo
- Sewage
- Garbage
- Ballast Water
- Exhaust gases
- ?

4

---

## TYPES OF POLLUTION

- Persistent oil cargo and bunkers
- Non-persistent oil cargo
- Hazardous and noxious substances
- All other cargo
- Sewage
- Garbage
- Ballast Water
- Exhaust gases
- **Noise**

5

---

## POLLUTION

Liability and Limitation

Every major development  
has followed a major  
casualty.

Let us take a look ...

6



Torrey Canyon – 1967  
120,000mt crude oil  
12,500mt heavy fuel oil

7

---

## **1967 TORREY CANYON**

the problems

- The supertanker
- Title to sue
- Jurisdiction
- Liability
- Compensation
- Limitation of liability

8

## 1967 TORREY CANYON

the answers

**Prevention:** International Convention for the Prevention of Pollution from Ships 1973/1978 (“Marpol”)

**Response:** International Convention on Oil Pollution Preparedness and Response 1991 (“OPRC”)

**Liability and Limitation:** The Civil Liability and Fund Conventions of 1969 and 1992 (“CLC 92”)

9

## PREVENTION: MARPOL

*“A comprehensive regime resulting in the complete elimination of intentional pollution of the marine environment and the minimisation of accidental discharges”*



10

## PREVENTION: MARPOL

### Shipboard Oil Pollution Emergency Plan ("SOPEP")

- for oil tankers over 150gt
- for all ships over 400gt

### Shipboard Marine Pollution Emergency Plan ("SMPEP")

- for chemical tankers over 150gt



11

## RESPONSE: OPRC

*"To encourage States to develop and maintain an adequate capability to deal with oil pollution emergencies and to facilitate international cooperation and mutual assistance in preparing for and responding to major oil pollution incidents"*



12



13

---

## **1978 AMOCO CADIZ**

the problem

CLC 1969 compensation  
was wholly inadequate

14

---

**1978**

**AMOCO CADIZ**

the answers

***“THE POLLUTER PAYS”***

- CLC 92: paid by the P&I Clubs
- IOPC Fund: paid by oil importers
- Universal application – except Iran and The United States of America

15

---

## CLC 1992

### Method

- Ships over 2,000 GRT must carry a CLC Certificate
- P&I Club issues a 'Blue Card' to confirm entry
- Flag State then issues the CLC Certificate

### Strict (but limited) liability

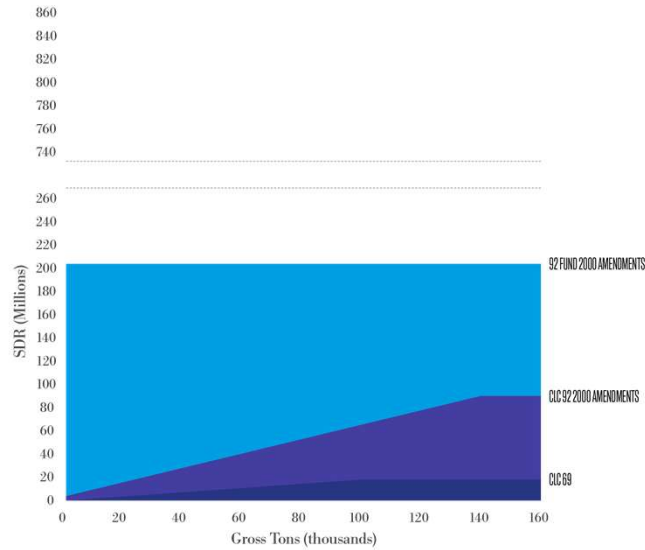
### Defences:

- Act of God
- Act of War
- Terrorism

16



## CLC 1992 & IOPC FUND 1992



17



Exxon Valdez – 1989  
37,854mt crude oil

18

---

## 1989 EXXON VALDEZ

two significant  
outcomes:

- IMO: 'double hull tanker' rule 1992
- USA: Oil Pollution Act 1990

19

---

## OIL POLLUTION ACT 1990

- The '**Responsible Party**' is liable for any ship-source oil pollution in US waters
- Strict but limited liability

20

## **OIL POLLUTION ACT 1990**

- Applies to all ships in the USA's EEZ (200nm)
  - Licensing, manning + equipment requirements
  - Strict liability on owner, operator or bareboat charterer
- Pollution Response
  - National Response Team ("NRT")
  - Environmental Protection Agency ("EPA")
- Liabilities include:
  - Removal costs under the National Contingency Plan, and
  - Compensation, including damage to natural resources

21

## **OPA 90 - PREPAREDNESS**

OPA 90 requires pre-approved:

- Vessel Response Plans ("VRPS")
- Contracts with approved Clean-up Contractors ("OSRO")
- Qualified Individual ("QI")

22

## USA – INDIVIDUAL STATES

- Individual states may impose additional liabilities and response requirements
- California, Washington and Alaska have done so

23

## OPA 90: NON-TANKER LIMITATION

### **'vessels other than tankers'**

\$1,100 per gross ton or \$939,800,  
whichever is greater

### **example**

50,000 GT cargo vessel

$50,000 \times \$1,100 = \$55,000,000$

24

## OPA 90: NON-TANKER LIMITATION - WEF 12 NOV 2019

### 'vessels other than tankers'

**\$1,200** per gross ton or **\$997,100**,  
whichever is greater

### example

50,000 GT cargo vessel

$$50,000 \times \$1,200 = \$60,000,000$$

25

## OPA 90: TANKER LIMITATION

### double hull tanker

3,000 GT or smaller:  
\$2,200 per gross ton or  
\$4,699,200, whichever is  
greater

Larger than 3,000 GT:  
\$2,200 per gross ton or  
\$18,796,800 whichever is  
greater

### example

50,000 GT tanker

$$50,000 \times \$2,200 = \$110,000,000$$

26

## OPA 90: TANKER LIMITATION – **WEF 12 NOVEMBER 2019**

### double hull tanker

3,000 GT or smaller:

**\$2,300** per gross ton or  
**\$4,985,900**, whichever is  
greater

Larger than 3,000 GT:

**\$2,300** per gross ton or  
**\$19,943,400** whichever is  
greater

### example

50,000 GT tanker

$50,000 \times \$2,300 = \$115,000,000$

27

Braer: 1993  
85,000mt crude oil



28



29

---

**1993:**  
**BRAER AND ERIKA**

the problem

Raised serious doubts on  
the levels of available  
compensation

30

## 1993: BRAER AND ERIKA

the answer (1)

- New, minimum CLC limit of SDR 4.51 million
- CLC maximum increased to SDR 89.77 million
- The Fund increased to SDR 203 million
- New “Supplementary Fund” up to SDR 750 million.
- Cover includes the voyage immediately following any loaded passage

31

## 1993: BRAER AND ERIKA

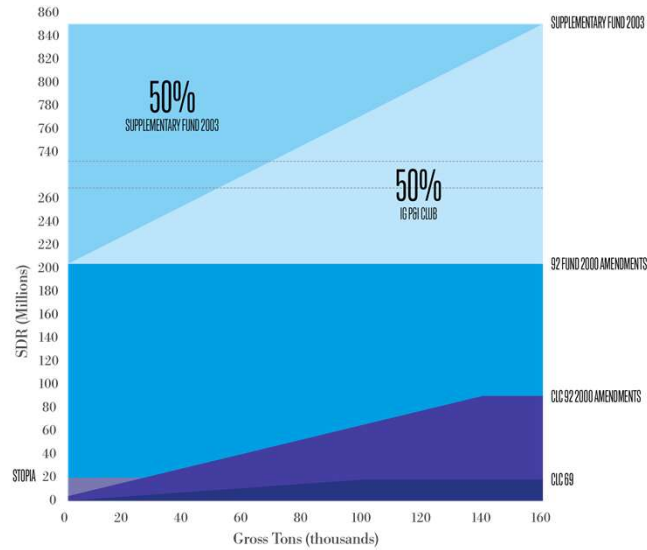
the answer (2)

- **STOPIA 2006** (Small Tanker Oil Pollution Indemnification Agreement)
  - Minimum CLC limit increased to SDR 20 million
- **TOPIA 2006** (Tanker Oil Pollution Indemnification Agreement)
  - P&I Clubs contribute 50% to claims on the Supplementary Fund

32



## THE SUPPLEMENTARY FUND, STOPIA AND TOPIA



33



34

## THE BUNKER CONVENTION 2001

- Applies unless CLC applies
- Liability and defences the same as CLC 92
- Limitation under applicable national or international law eg. LLMC 1976 Convention



35

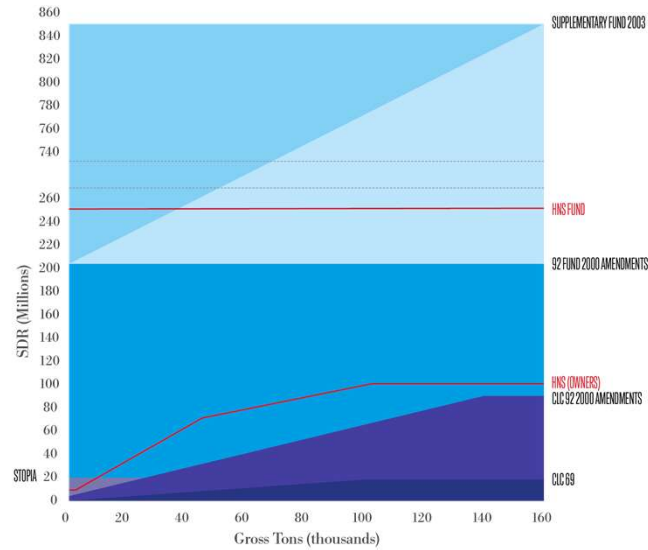
## HAZARDOUS AND NOXIOUS SUBSTANCES CONVENTION 1996

- Based on CLC and Fund Conventions
- Shipowner liable for first tier
- HNS Fund pays second tier to maximum of 250 million SDR
- Not yet in force



36

# HNS 1996



37

**2002: PRESTIGE**

**2003: TASMAN SPIRIT**

**2007: HEIBI SPIRIT**

the low point

## Three major casualties:

- Poor casualty management
- National and international law ignored
- Criminalisation

38



39



40



41

# POLLUTION

claims and  
compensation



42



## CLEAN UP



43



44





45



46

## CLEAN UP

### SCOPIC

In order to encourage salvors to minimise pollution, P&I will indemnify:

- Special Compensation under Article 14 of the Salvage Convention
- SCOPIC awarded under LOF 2000 onwards

47

## COMPENSATION



48



## COMPENSATION

CLC and the IOPC  
Fund have common  
definitions of  
admissible claims

- Direct, physical damage to property
- Economic losses which are the direct result of pollution damage: e.g. closed fishing grounds
- Environmental reinstatement and restoration

49

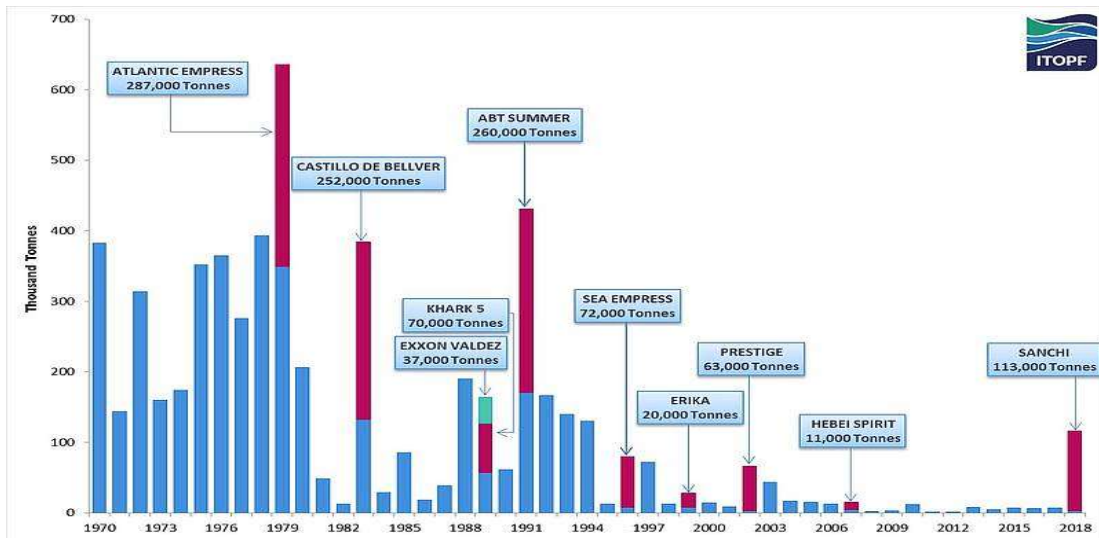
## POLLUTION

Indemnities and  
recoveries

- Charterers
  - Unsafe Port claim
  - Focus on the Master
- “Other Ship”
  - Collision claim
- Third parties
  - Port Authority
  - Pilot

50

## THE GOOD NEWS (1)



51

## THE GOOD NEWS (2)

**OVER 100 YEARS P&I EXPERIENCE - EXPERT CLAIMS HANDLERS**

COLLEAGUES FROM P&I, LOSS PREVENTION AND UNDERWRITING



**5 MASTER MARINERS**



**13 LAWYERS**

RESOURCES & GUIDANCE



IN 2017:

**97** POLLUTION CLAIMS  
**138** POLLUTION ENQUIRIES

POLLUTION ENQUIRY GROUP

**23**

EXPERTS ACROSS FOUR OFFICES  
GIVING ADVICE UPON: REGULATIONS, CONTRACT  
REVIEWS AND CHARTERPARTY CLAUSES

POLLUTION EXPERTISE GROUP

**17**

EXPERTS ACROSS FIVE OFFICES



52

## INTERNATIONAL TANKER OWNERS' POLLUTION FEDERATION (ITOPF)



53

## ITOPF

- Primary role: on-site spill response advice
- Available 24 / 7 / 365
- Independent technical advisors
- Not-for-profit
- 90% funded by the IG Clubs
- Established in 1968 – 50+ years
- Based in London – operate globally



54

## ITOPF - MEMBERSHIP

- ITOPF Members
  - 7,900 tanker owners and bareboat charterers
  - 13,500 tankers, barges, FSUs and FPSOs (426m GT)
- ITOPF Associates
  - Owners of other types of ships (since 1999)
  - All IG Club non-tanker members (792m GT)



55

## ITOPF - RESOURCES

- Office in London with 34 staff
- Technical team with 12 responders:
  - Scientific or technical background
  - Attendance at 15 – 25 incidents per year
  - More than 800 spills in 100 countries
- In-house databases and technical library



56

## ITOPF – CONTINGENCY PLANNING

- *“From our experience the key to efficient clean up is a combination of good contingency planning, organisation and control”*
- Training and education
- Contingency plan preparation
- Drills
- Research & development



57

## ITOPF – INFORMATION, PUBLICATIONS, FILMS (1)

- Technical Information Papers



<http://www.itopf.org/knowledge-resources/documents-guides/technical-information-papers/>

58

## ITOPF – INFORMATION, PUBLICATIONS, FILMS (2)

- Documents & Guides



<http://www.itopf.org/knowledge-resources/documents-guides/>

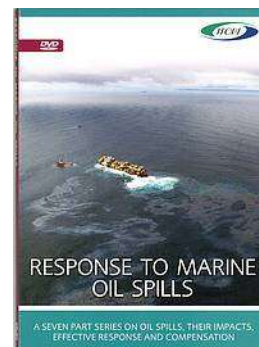
<https://www.itopf.org/knowledge-resources/company-literature/>

59

## ITOPF – INFORMATION, PUBLICATIONS, FILMS (3)

- Films

- *Introduction to Oil Spills* (22 min)
- *Aerial Surveillance* (18 min)
- *At-Sea Response* (24 min)
- *Shoreline Clean-Up* (19 min)
- *Waste Management* (18 min)
- *Environmental Impacts* (18 min)
- *Oil Spill Compensation* (26 min)



DVD or online: <https://www.itopf.org/knowledge-resources/library/video-library/>

60



## ITOPF – SPILL RESPONSE ROLE

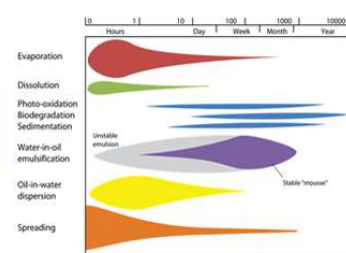
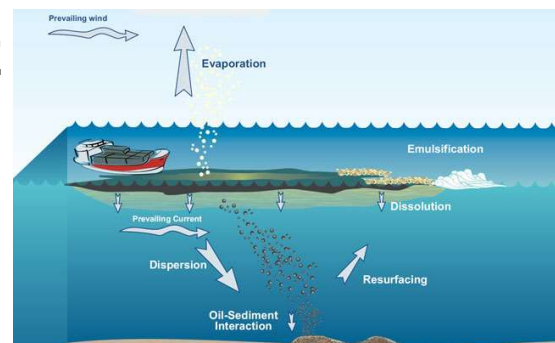
- Provide technical advice to government, responders & victims
- Promote effective response techniques, joint assessments & cooperation
- Monitor spill response & investigate damage to resources
- Help to design and implement post-spill studies / restoration
- Provide technical assessments of claims for compensation



61

## ITOPF – INITIAL RESPONSE

- Once details received ITOPF will utilise a variety of tools and resources to:
  - Predict oil behaviour, drift and fate.
  - Assess in-country response arrangements and preparedness.



62

## ITOPF – ROLE ON-SITE

### SHIPPING INTERESTS

- Correspondents
- Local P&I office
- Lawyers
- Salvors & SCR
- Local surveyors
- Clean up contractors

### OTHER GROUPS

- Media interests
- Environmental groups
- Volunteer groups



### TECHNICAL SPECIALISTS

- **ITOPF**
- Government advisors
- International experts

### GOVERNMENT INTERESTS

- Lead authority (CG / Navy)
- Environmental authorities
- Fisheries authority
- Local government
- Clean up contractor

63

## ITOPF – ROLE ON-SITE (1)

- Advising on:
  - Aerial surveillance
  - Shoreline surveys
  - Clean up techniques
  - Waste management



64



## ITOPF – ROLE ON-SITE (2)

- Advising on:
  - Identifying gaps in resources / expertise
  - Response claims
  - Post-spill monitoring



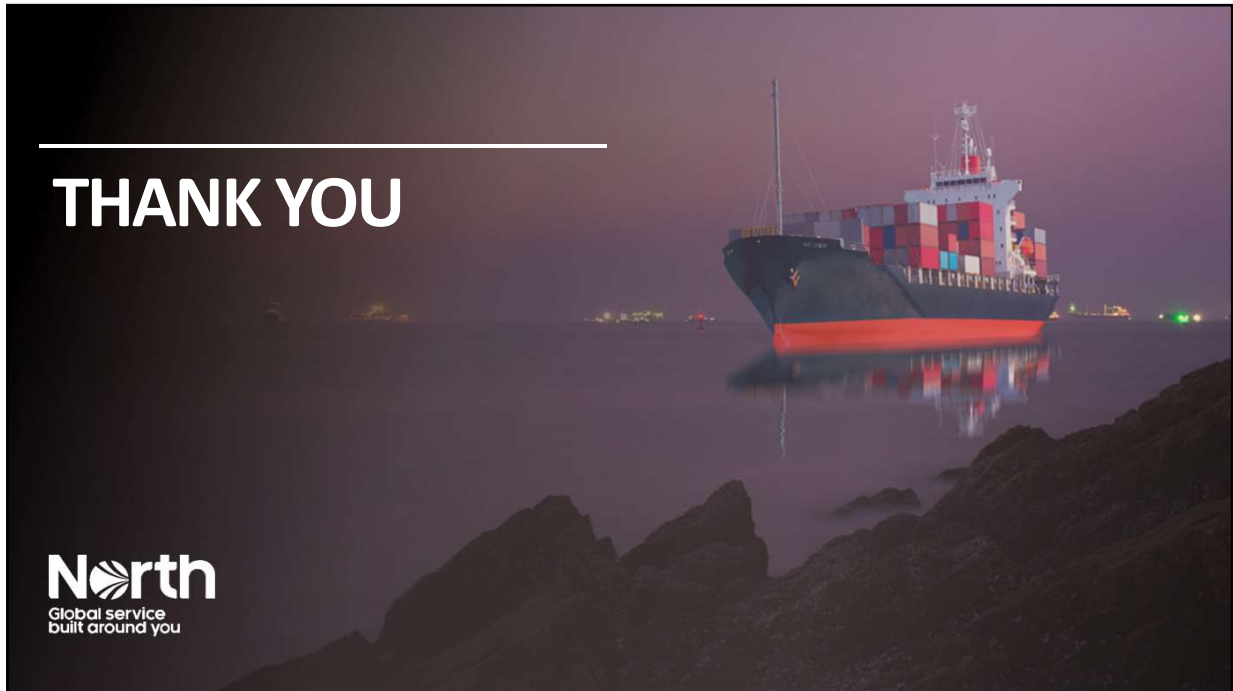
65

## ITOPF – OTHER AREAS...

- Container ships and container losses
  - On average nearly 2,000 containers lost every year
- Marine debris – macro, micro and nano plastic
  - Significant environmental impacts



66



67