



The International Regime on Liability and Compensation

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IOPC Fund 1992

The International Oil Pollution Fund (IOPC Fund) 1992

- An intergovernmental organisation established by the international convention (81 member states)
- Main objective
 - Provide compensation for pollution damage to the extent that the protection afforded by the 1992 Civil Liability Convention is inadequate
- Pollution Damage
 - As a result of spills of persistent oil from tankers

The International Conventions

■ Old Scheme

- 1969 Civil Liability Convention
- 1971 Fund Convention (ceased to be in force)

■ 92 Scheme

- 1992 Civil Liability Convention
- 1992 Fund Convention

■ 2003 Supplementary Compensation Fund

- (not yet enter into force)

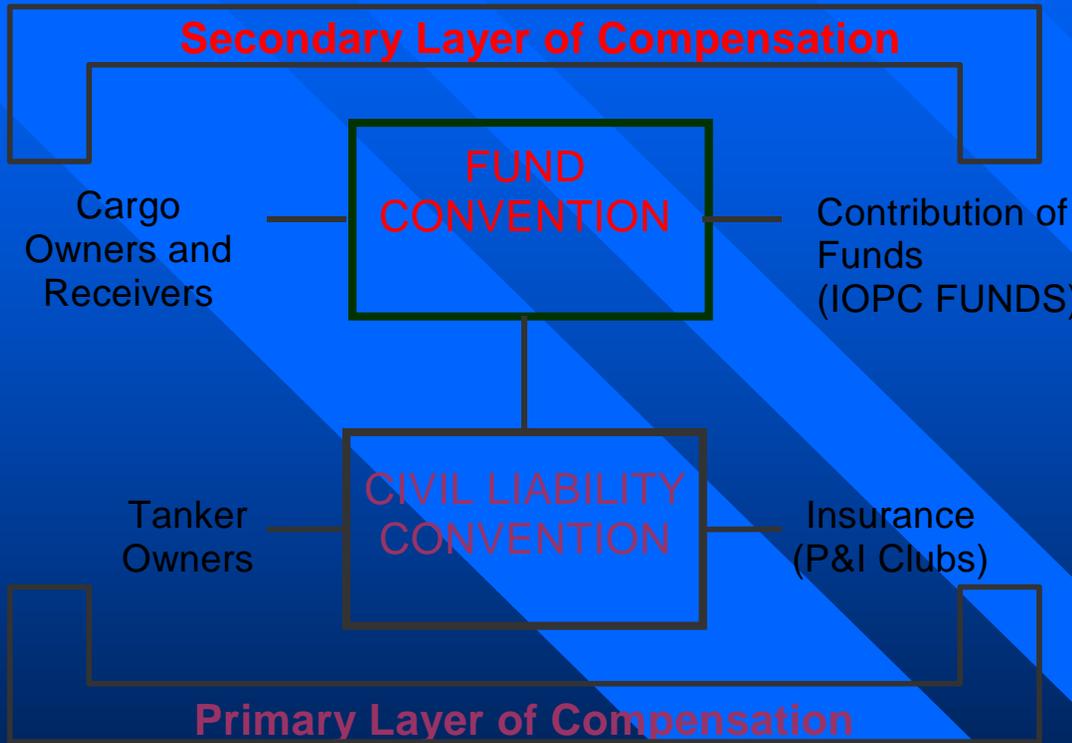
1992 Civil Liability Convention

■ Strict Liability

- The shipowner is liable even in the absence of any fault, for any damage by pollution caused by oil. (except damages caused by war etc)

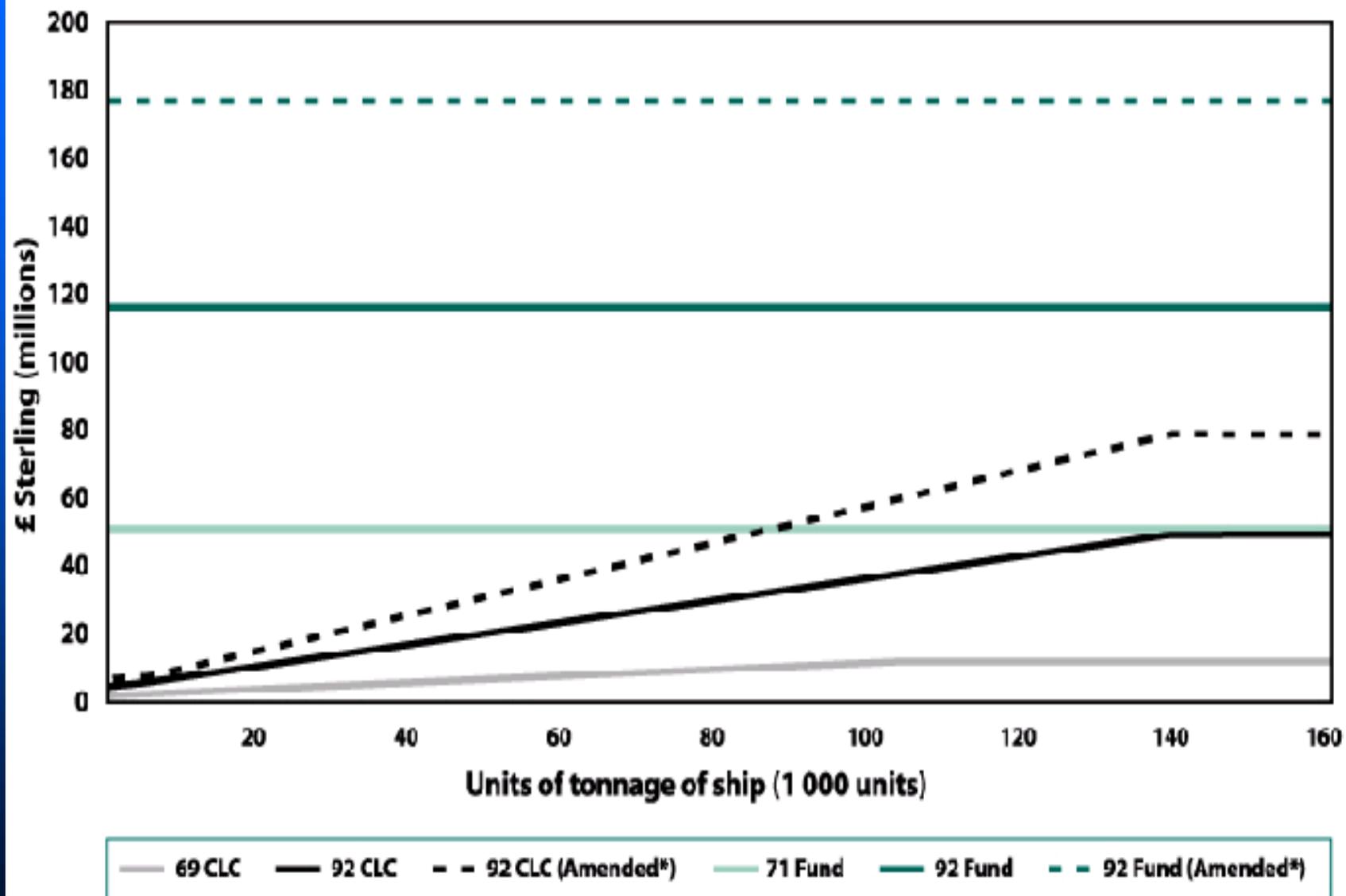
■ Limitation of Liability

- The shipowner can normally limit his financial liability up to an amount established according to the tonnage of the ship. This amount is guaranteed by his liability insurer.



Maximum Amount of Compensation

- 1971 Fund Convention
 - 60 million SDR (US\$ 82 million)
- 1992 Fund Convention
 - 135 million SDR (US\$ 183 million)
 - 203 million SDR (US\$ 276 million)
 - » From 1 November 2003
- 2003 Supplementary Compensation Fund
 - 750 million SDR (US\$ 1 billion)
 - » Not yet enter into force



Claims Handling Procedure

- The IOPC Fund's Criteria decided by the Member States
- IOPC Fund 1992's Claims Manual
 - www.iopcfund.org
- The joint claim handling office
- The joint technical experts in the specific fields

Admissible Claims

General Criteria

- Real expense and actually incurred
- Reasonable and justifiable measures
- Causational link
- Quantifiable economic loss
- Production of appropriate documents and other evidences

Clean-up Operations

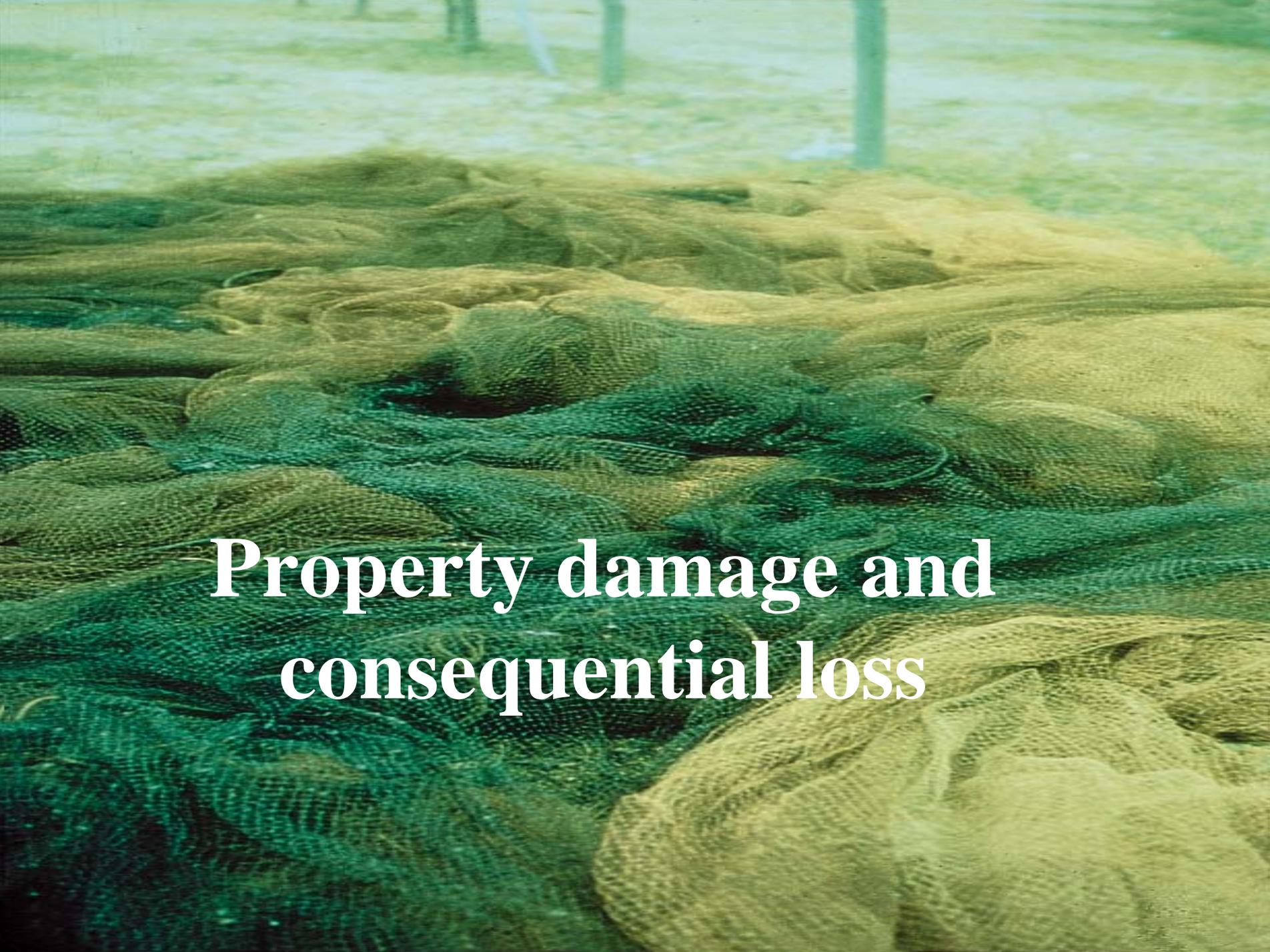
- Preventive measures
 - Any reasonable measures taken by any person after an incident has occurred to prevent or minimize pollution damage
- Operations at sea
 - Deployment of vessels, use of booms etc.
- Onshore operation
- Objective criteria

Preventive measures - clean-up operations at sea



Property Damage

- The cost of cleaning or repairing property which has been contaminated by oil
 - Ex. boats, yachts and fishing gear etc.
 - If it is not possible for the property to be cleaned or repaired, then replacement costs are accepted, though with a reduction for wear and tear.

A large pile of green and yellow fishing nets is spread out on a boat deck. The nets are tangled and cover most of the visible surface. In the background, the white hull of the boat and several vertical support poles are visible. The overall scene suggests a fishing operation or a storage area for fishing gear.

Property damage and consequential loss

Contamination of Fisheries and Aquaculture Produce

- The criteria of the assessment
 - Whether the produce was contaminated
 - The likelihood that the contamination would disappear before the normal harvesting time
 - Whether the retention of the produce in the water would prevent further production
 - The likelihood that the produce would be marketable at the time of normal harvesting

Economic Losses in the Tourism Sector

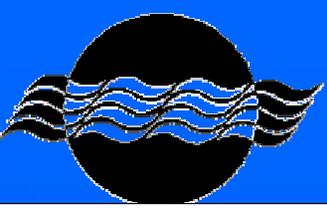
- The criteria of the assessment
 - The geographic proximity between the claimant's activity and the contamination
 - The degree to which a claimant was economically dependent on an affected resource
 - The extent to which a claimant had alternative sources of supply or business opportunities
 - The extent to which a claimant's business formed an integral part of the economic activity within the area affected by the spill



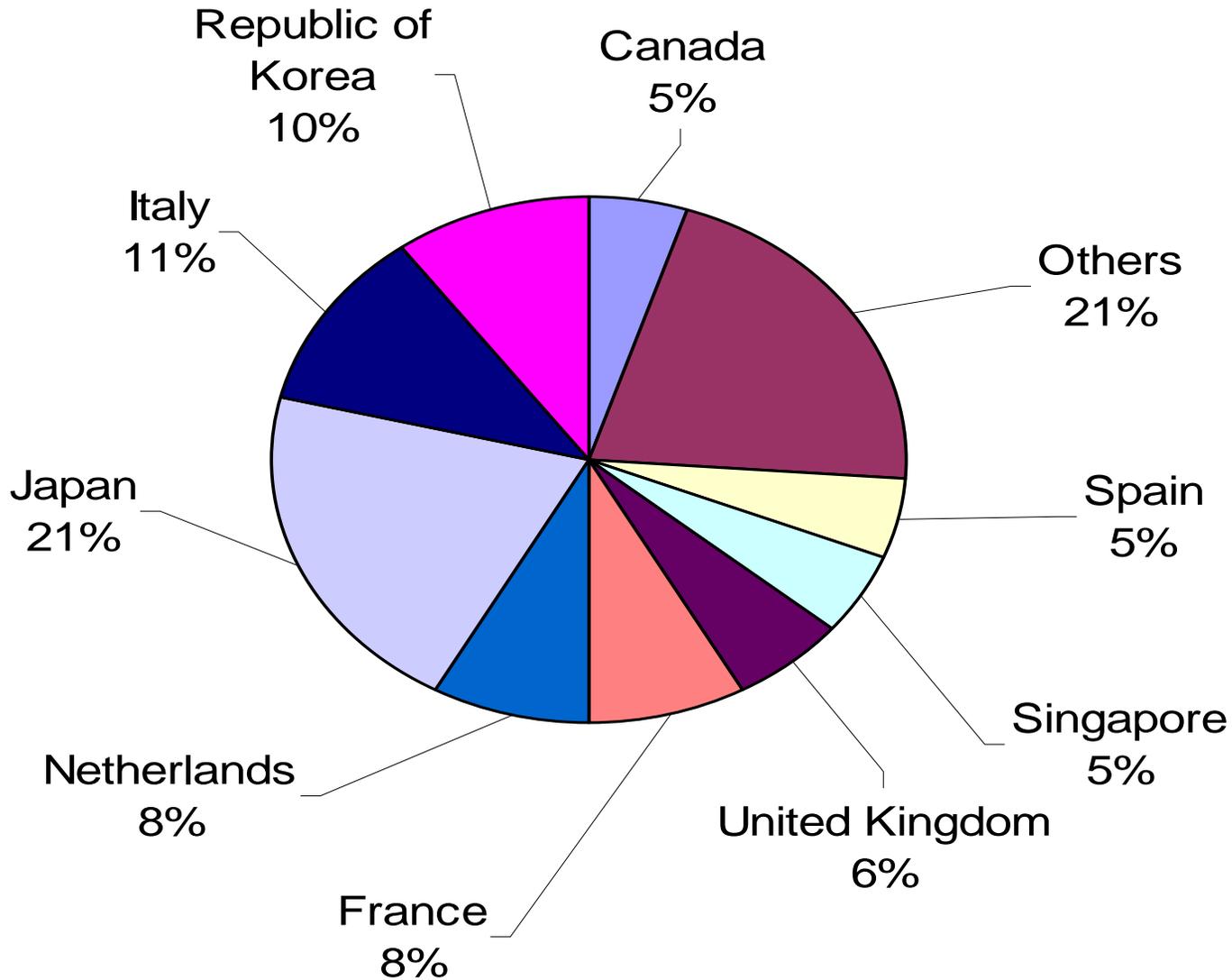
Consequential and/or pure economic loss

Financing the IOPC Fund 1992

- The contributors and the amount of contribution
 - Any person who has received in total quantities exceeding 150,000 tons of crude oil or heavy fuel-oil during the preceding calendar year in the Member States
 - The amounts to be levied are decided each year by the Assembly in order to enable the Fund to pay compensation.
 - The amount to be paid by each contributors is determined by the quantity of oil received.



2001 Contributions



The Supplementary Compensation Fund

- The maximum amount of compensation
 - 750 million SDR (US\$1 billion)
- The capping provision
 - The maximum contributing share of a particular state would not exceed 20 %.
- The minimum amount of the contributing oil
 - Despite of the actual amount of receiving oil, the minimum amount of the contributing oil shall be deemed to be 1 million tons in each Contracting State

Possible Amendments of 92 CLC and Fund Conventions

- 1992 Fund Working Group
- Main Issues
 - Distribution of financial burden between shipping and oil industries
 - Review of shipowner's liability
 - » Criterion governing the shipowner's right to limitation
 - » Channelling of liability

HNS Convention

- International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996
- Modelled on the 1992 Conventions
- Maximum Compensation Amount: 250 million SDR (US\$358 million)
- Four Separate Accounts
 - Oil, LNG, LPG, General

Conclusions

- The international compensation regime under 1992 Conventions has in general worked well
- 130 incidents in 25 years
- US \$ 710 million paid to victims
- The existing regime is being reviewed so as to ensure that it meets the needs of society in the 21 century