



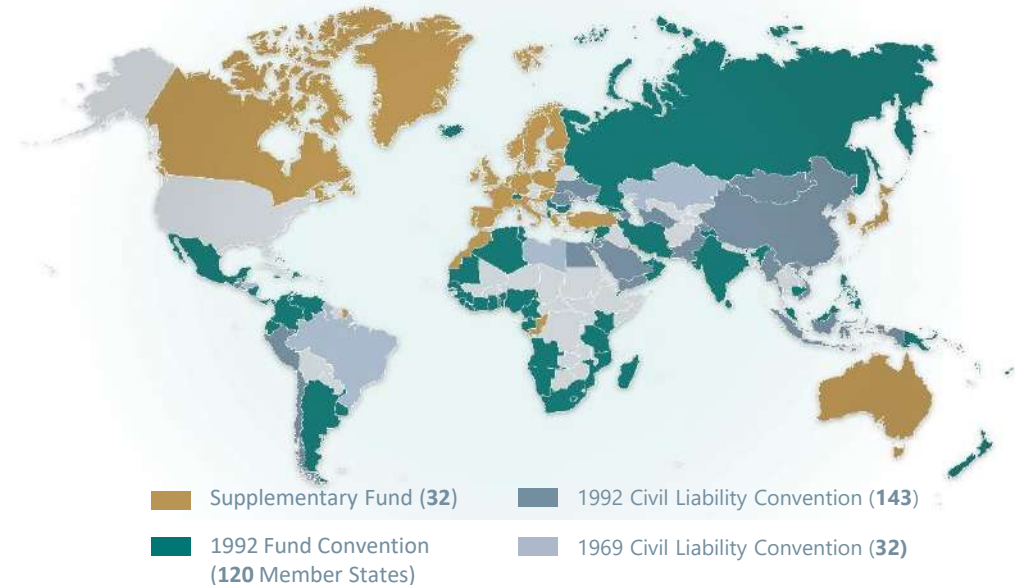
The international civil liability and compensation regime for oil pollution damage

1992 Civil Liability and Fund Conventions

2003 Supplementary Fund Protocol

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- The CLC/Fund regime provide compensation for oil pollution damage resulting from spills of persistent oil from tankers
- The 1992 Fund Convention and 2003 Protocol create two intergovernmental organisations
 - 1992 Fund
 - Supplementary Fund
- Ensure uniform consistent application of compensation regime
- Ensure equal treatment of all claimants





Outline of the regime

Scope of the Conventions

- Provide compensation to victims of pollution damage through amicable settlement
- Covers pollution damage caused by spills of persistent oil from tankers
- Applies to territory, territorial waters and Exclusive Economic Zone (or equivalent) of Member States



Source KOMOS

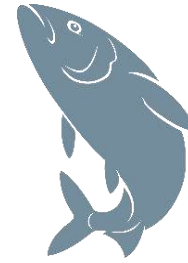


Types of claims

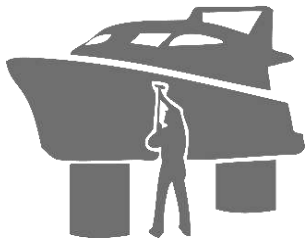
What is covered



Costs of clean-up
and preventive
measures



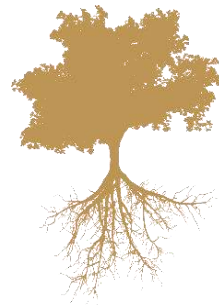
Economic losses by
fisherfolk or those
engaged in mariculture



Property damage



Economic losses in
the tourism sector



Costs of reinstatement
to the environment



How the regime works

Three tier system

Source of money

Oil receivers in
Supplementary Fund
States Parties

Contribution

Oil receivers in
1992 Fund States
Parties

Contribution

Shipowner

Insurance
Premium

Paying organisation/ Compensation regime

Supplementary Fund
Supplementary Fund Protocol
Third Tier

1992 Fund
1992 Fund Convention
Second Tier

Insurer (P&I Clubs)
1992 Civil Liability Convention
First Tier

Payment

Claimants



1992 Civil Liability Convention

First Tier – the shipowner

- **Strict liability** of registered shipowner (channelling of liability to shipowner)
- **Limitation of liability** based on the gross tonnage of the ship
- Shipowners required to have **compulsory third party insurance** and **certificate**
- Few exceptions to liability



Shipowner is **exempt** from liability

if it is proved that

- damage resulted from an act of war or natural phenomenon (*force majeure*)
- damage was a result of an intentional act by a third party
- damage was caused by negligence or wrongful act of public authorities

Shipowner **cannot limit** liability

if it is proved that

- damage resulted from the owner's personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result



Source CGC



Source GMS





1992 Fund Convention

Second Tier – the 1992 Fund



Source KOMOS

- Pays compensation when:
 - damage exceeds shipowner's liability under the 1992 CLC
 - shipowner financially incapable of meeting their obligations
 - no liability under the 1992 CLC
- Maximum compensation **SDR 203 million**, including CLC
- **Contributions** from oil receivers in State Parties to the 1992 Fund Convention
- Very limited exceptions
 - damage resulted from an act of war, damage caused by a State ship
 - claimant cannot prove that damage resulted from incident involving ship(s)



Supplementary Fund protocol

Third Tier – the Supplementary Fund

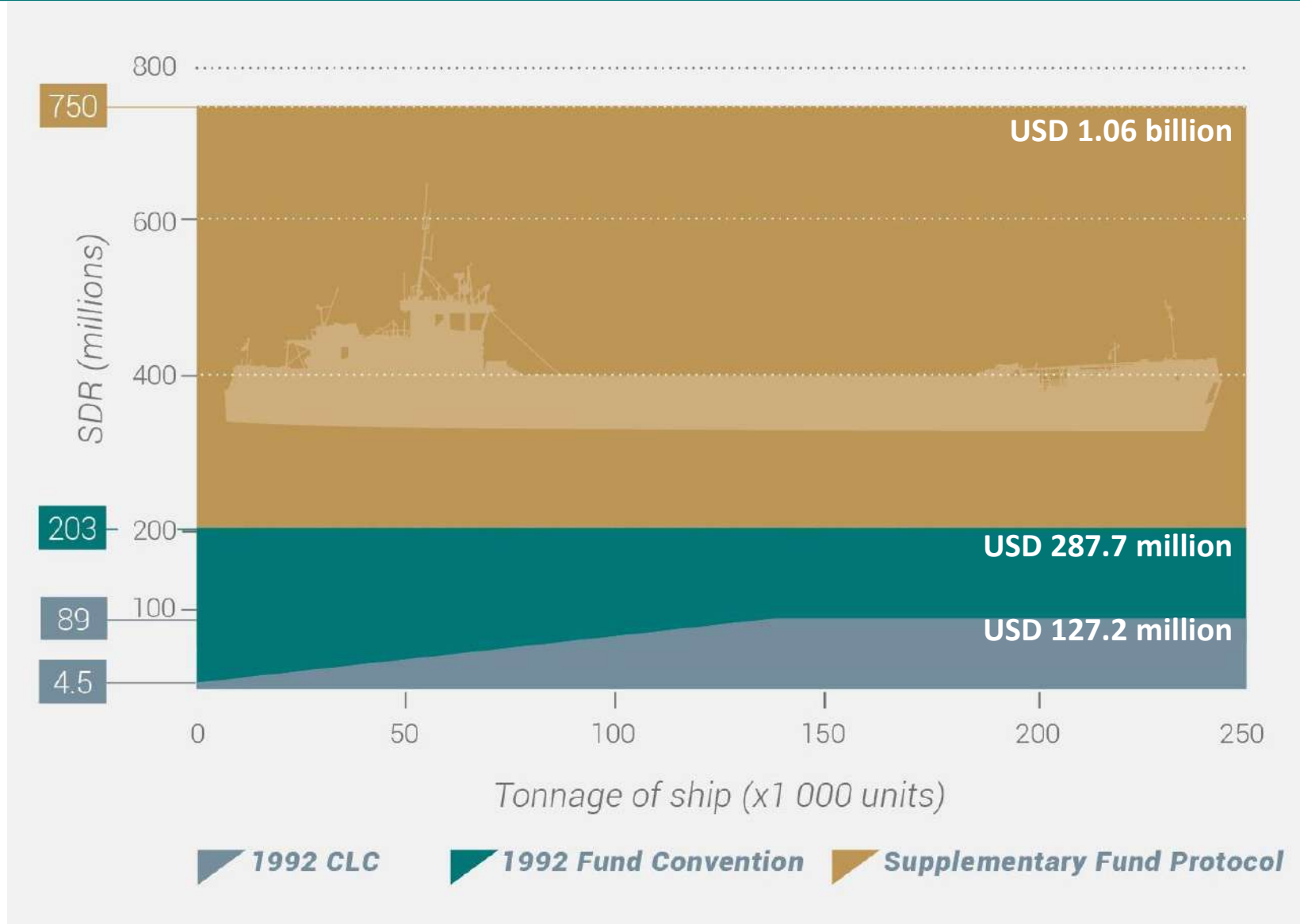


- **Pays compensation** when damage exceeds, or there is a risk that it will exceed, the applicable limit under 1992 Fund
- Maximum compensation **SDR 750 million**, including amounts payable under 1992 Conventions
- **Contributions** from oil receivers in State Parties to Supplementary Fund Protocol
- **Minimum contribution**: 1 million tonnes of contributing oil are deemed to be received in each State Party



Compensation

Liability limits under the Conventions



• *Exchange rates as at 24 August 2021



Compensation

Geographical coverage in the GI WACAF region



1992 CLC, 1992 FC and SFP

- Congo

1992 CLC and 1992 Fund Convention

- Angola
- Benin
- Cabo Verde
- Cameroon
- Côte d'Ivoire
- Gabon
- Gambia
- Ghana
- Guinea
- Liberia
- Mauritania
- Namibia
- Nigeria
- Senegal
- Sierra Leone
- South Africa



1992 CLC

- Togo

1969 CLC

- Equatorial Guinea
- São Tomé and Príncipe

No convention

- Democratic Republic of Congo
- Guinea Bissau



Compensation

Time bar



Source RPullin

Rights to compensation under the 1992 CLC, the 1992 Fund Convention and the Supplementary Fund Protocol shall be extinguished unless action is brought within **3 years** from the **date of damage**

However, in no case shall an action be brought after **6 years** from the **date of the incident**

Majority of claims are settled out of court within **3 years**



The international liability regime

What has been paid



Supplementary Fund	<ul style="list-style-type: none">• No incident• No compensation paid
The 1992 Fund	<ul style="list-style-type: none">• Has been involved in 49 incidents• Paid about \$576 million in compensation
The 1971 Fund	<ul style="list-style-type: none">• Was involved in 107 incidents• Paid about \$458 million in compensation and/or indemnification
Total	<ul style="list-style-type: none">• Incidents: 156• Paid about \$1 billion in compensation and/or indemnification

Figures as at 30 June 2021



The international liability regime

Question 1



Question:

Which International Convention(s) deal(s) with compensation arising from marine pollution from persistent oil from tankers in the GI WACAF region?

Answers:

- A. 1992 CLC & Fund Conventions (1992 Fund Convention & Supplementary Fund Protocol) in the entire region
- B. 1992 CLC only in the entire region
- C. It depends on ratification and implementation of the Conventions in each country



The international liability regime

Question 2



Question:

A spill occurred in a 1992 Fund Member state in November 2018. A claimant submitted a claim in early 2021. The Fund assessed the claim but in September 2021 the claimant disagreed with the amount offered by the 1992 Fund. What is the first thing the claimant should do?

Answers:

- A. Provide further information to the IOPC Funds.
- B. Scream and shout at the Claims Handler.
- C. Start legal proceedings to protect the right to compensation.