





The impact of changes to limitation of liability

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The concept of limitation of liability



- “Limitation of liability is not a matter of justice. It is a matter of public policy which has its origin in history and its justification in convenience”
- The reasons behind limitation

The development of limitation

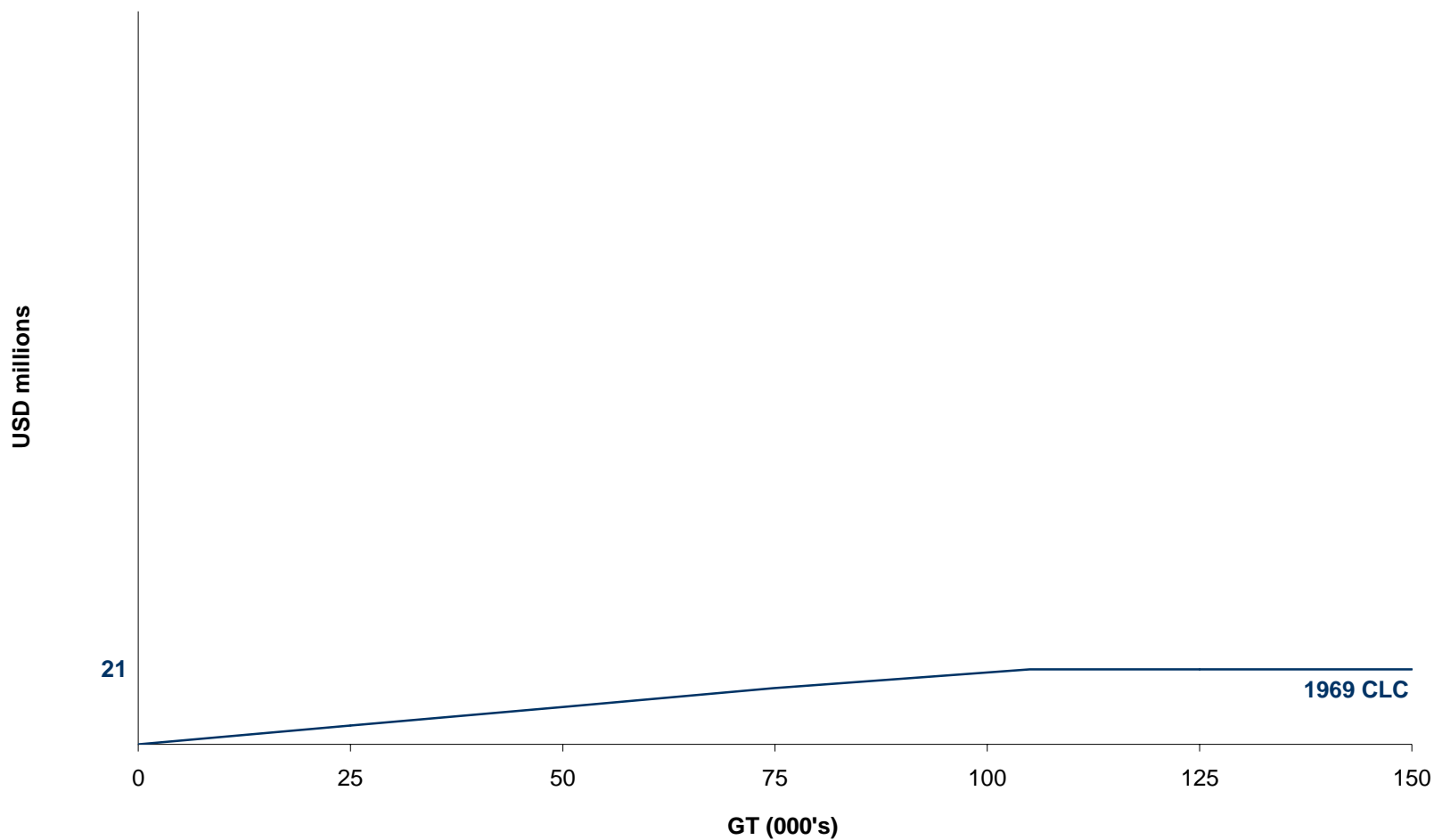


- Civil Liability Convention
- Fund Convention
- OPA 90

Limits under the oil pollution conventions



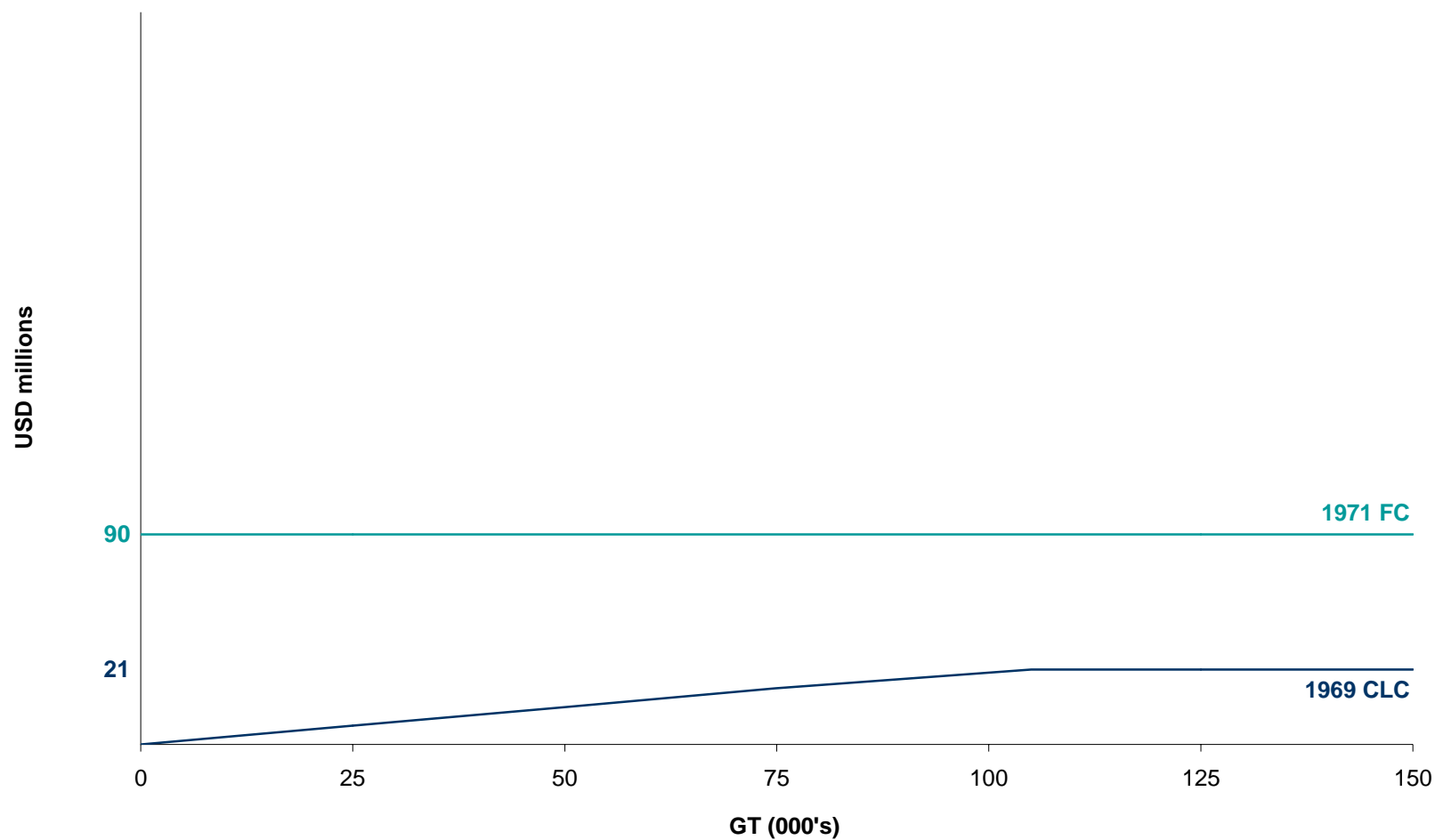
R/ex SDR1 = USD1.5



Limits under the oil pollution conventions



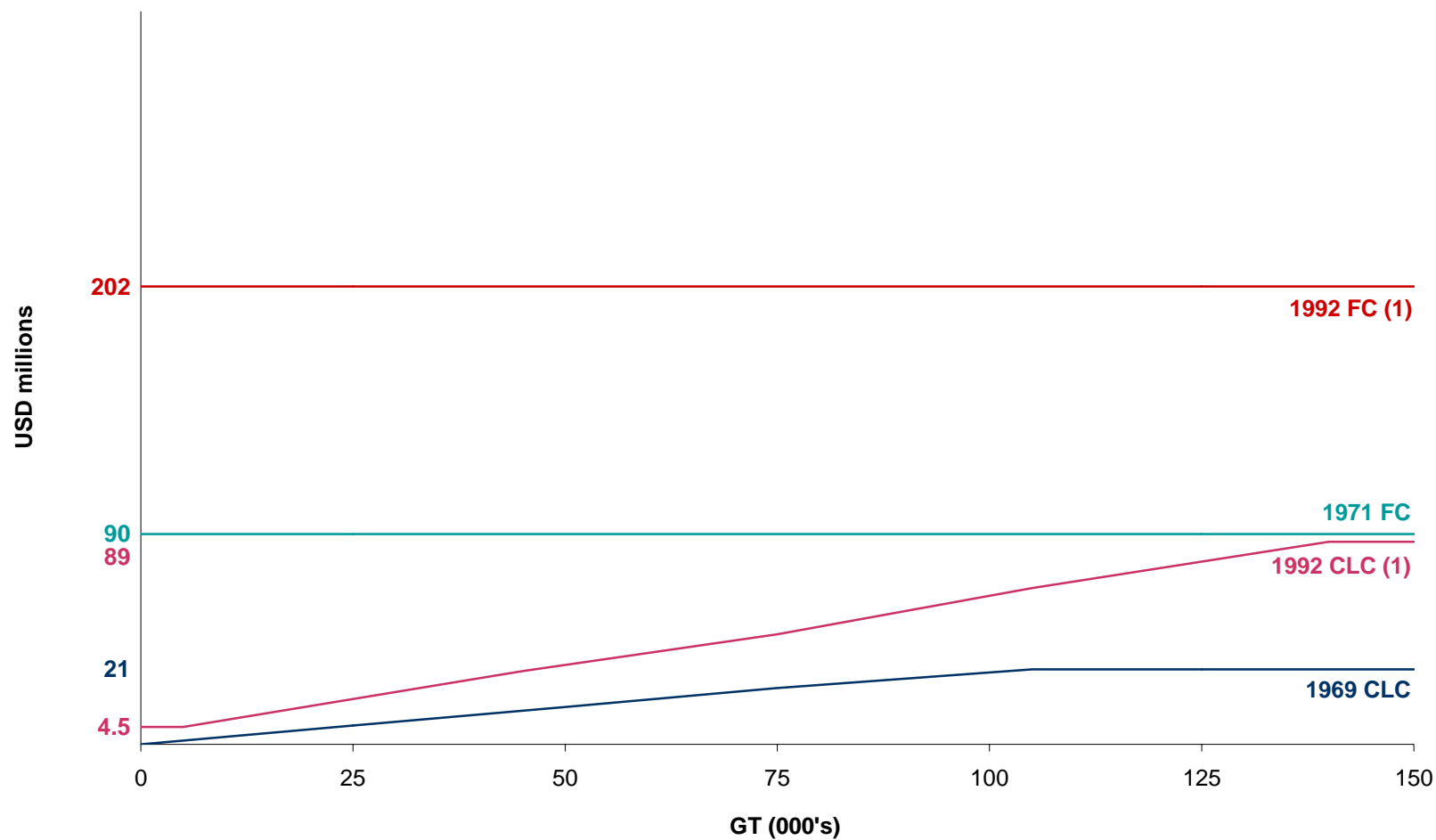
R/ex SDR1 = USD1.5



Limits under the oil pollution conventions



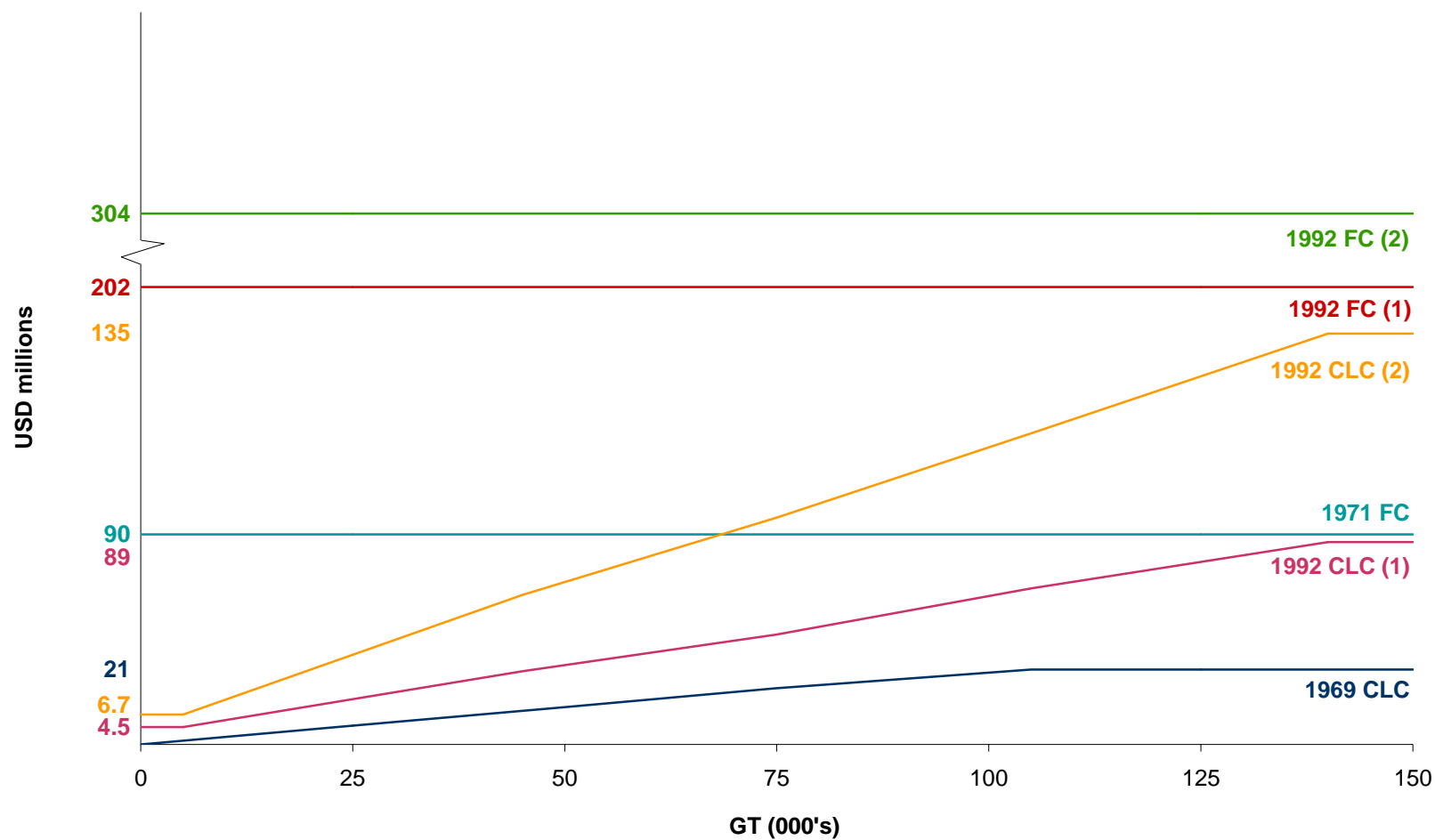
R/ex SDR1 = USD1.5



Limits under the oil pollution conventions



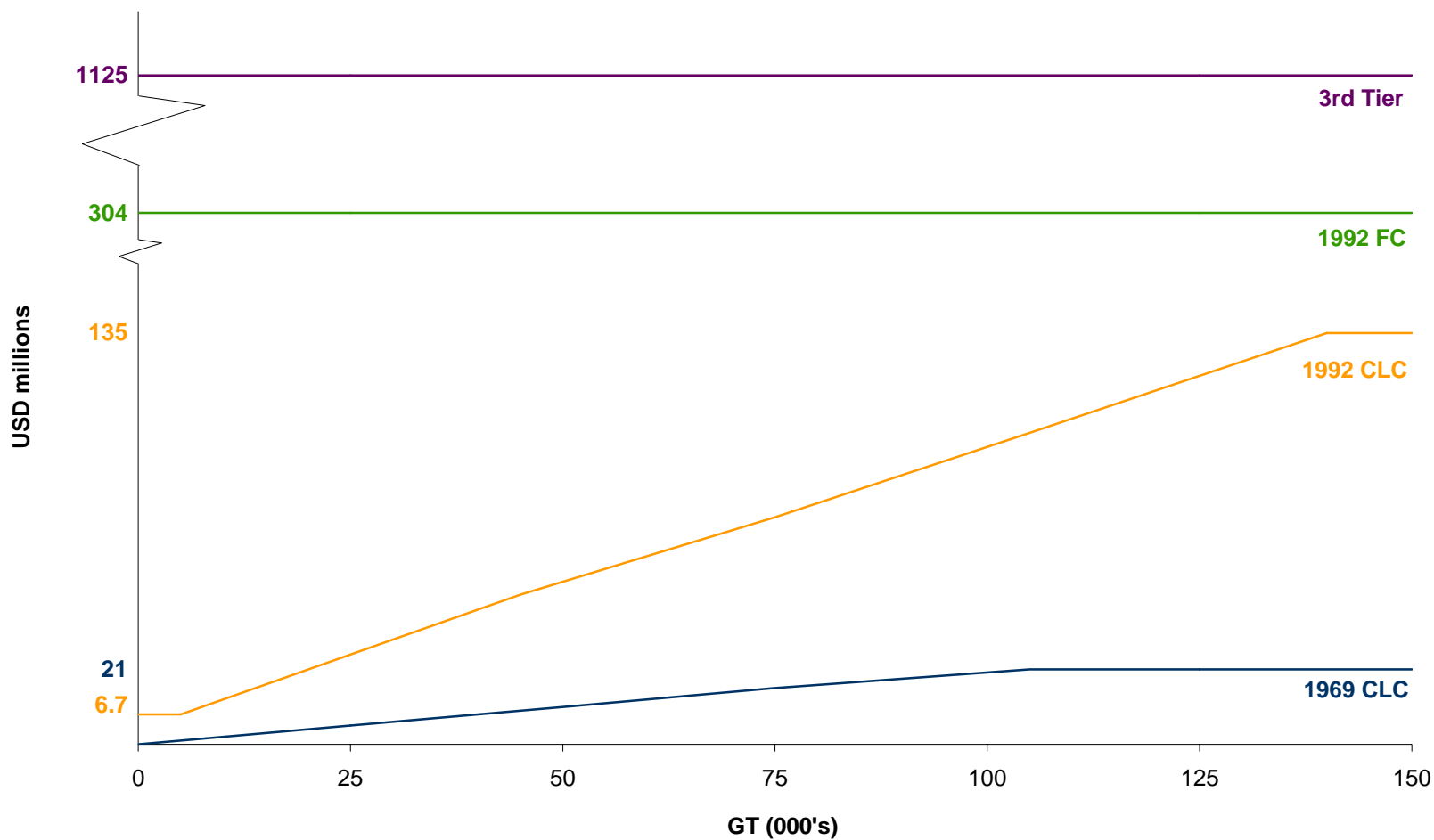
R/ex SDR1 = USD1.5



Limits under the oil pollution conventions



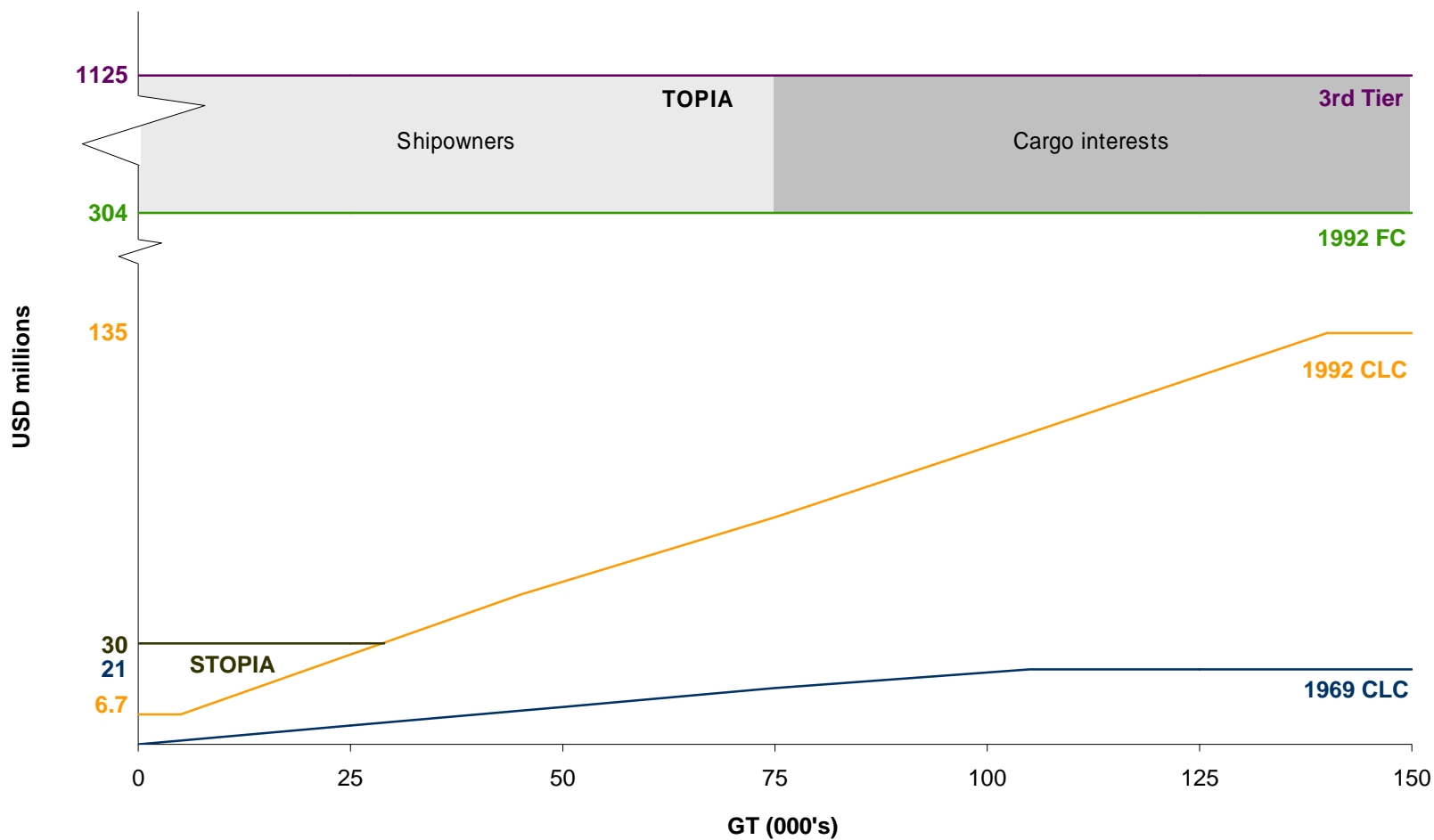
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Limits under the oil pollution conventions



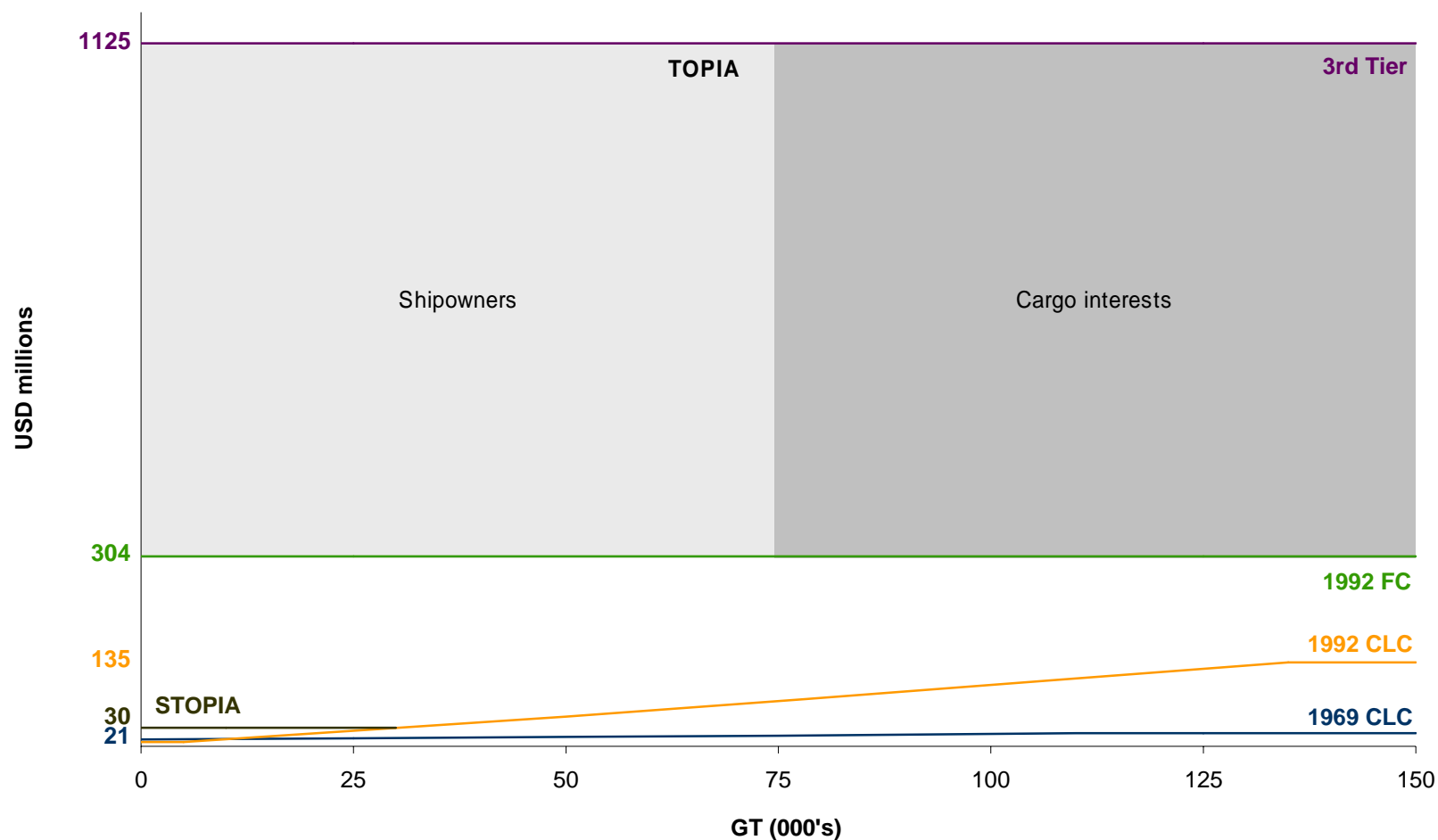
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Limits under the oil pollution conventions



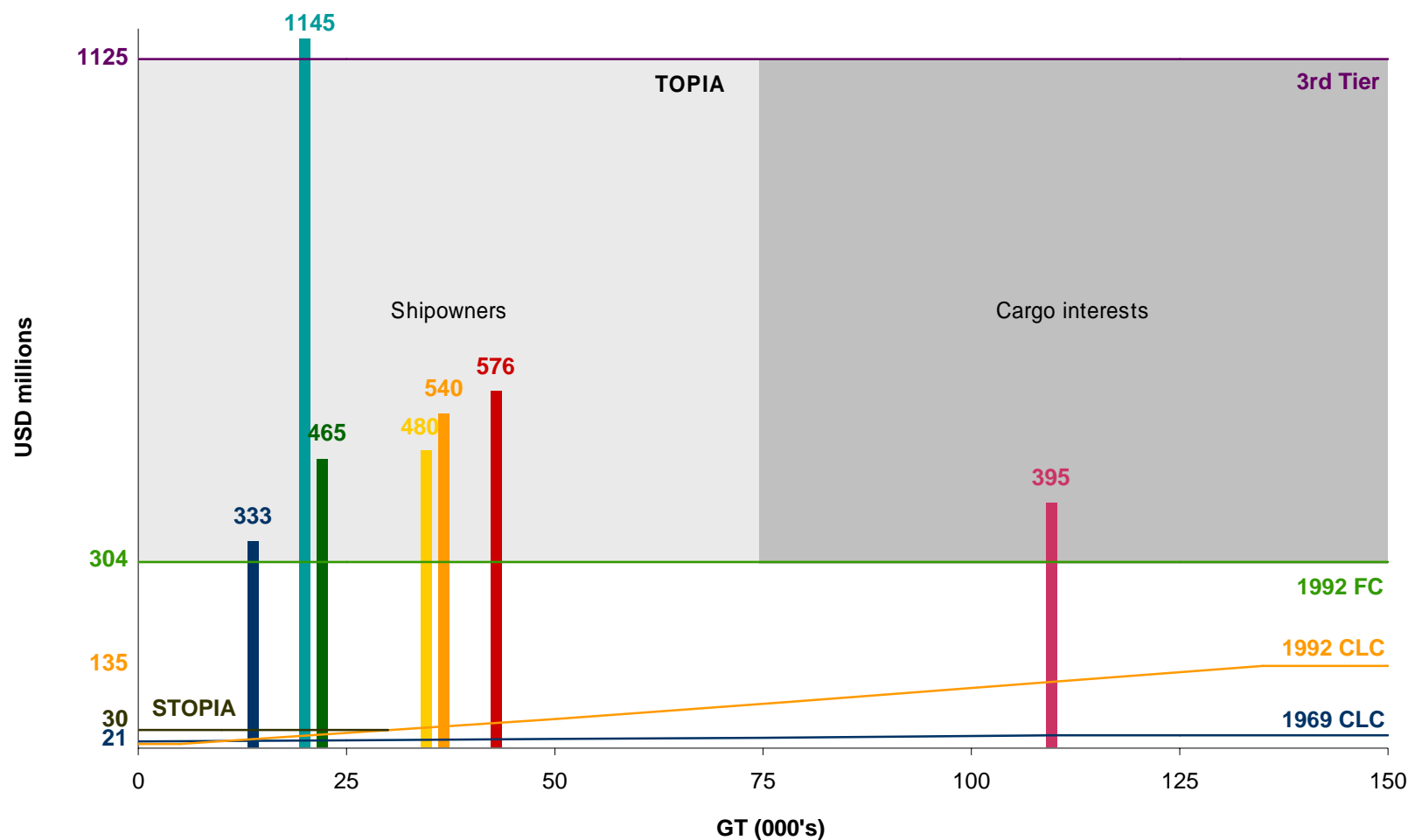
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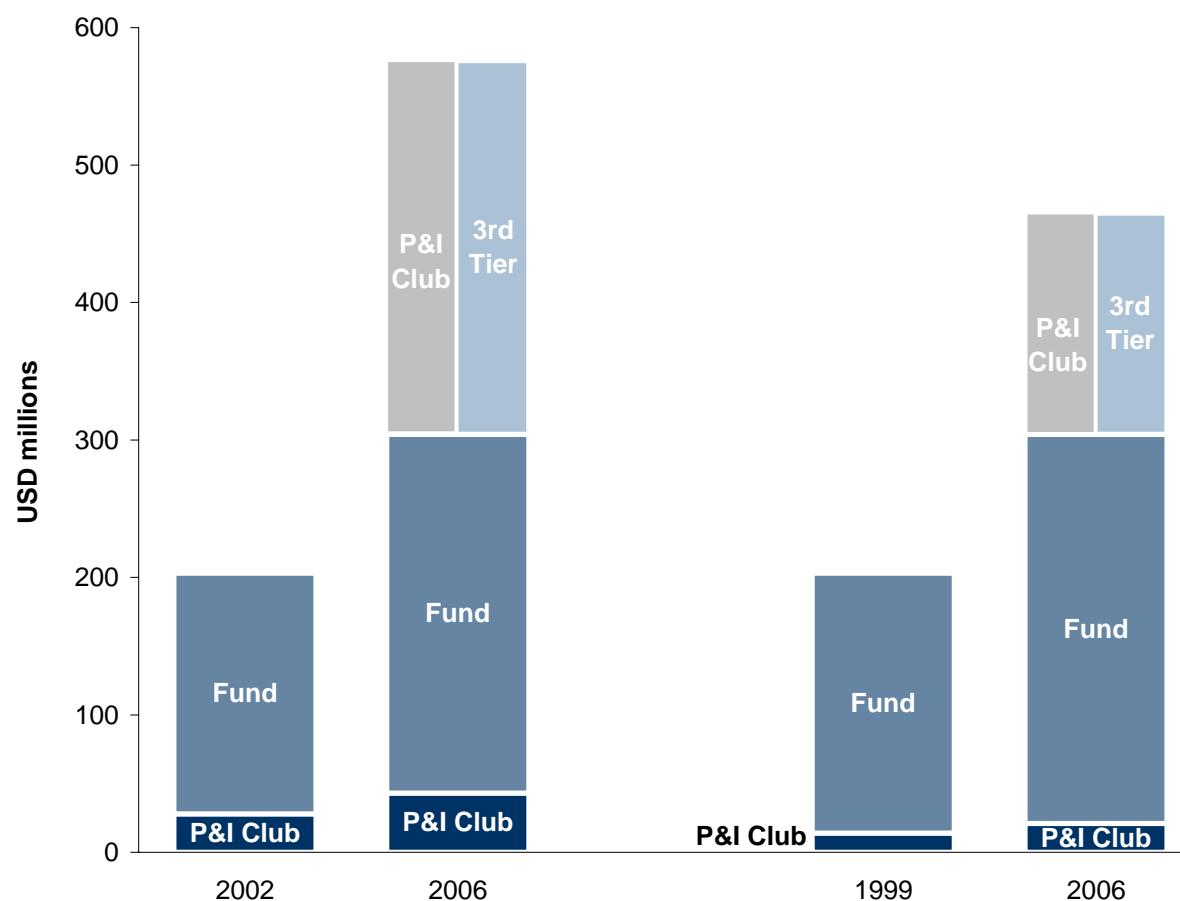
Largest oil spills

Cost of the largest oil spills outside the US inflated to 2002 monetary values

R/ex SDR1 = USD1.5

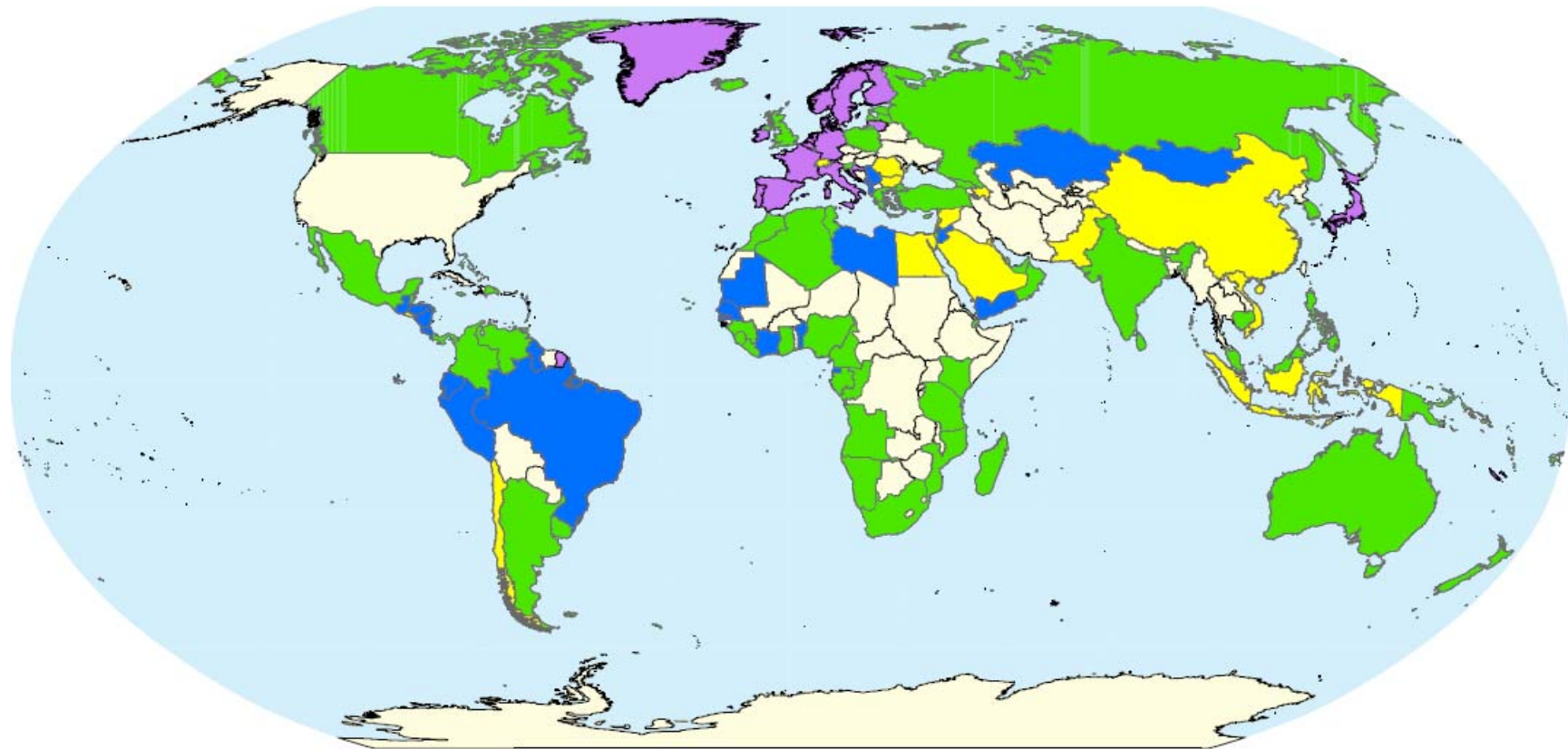


Prestige and Erika – shipowners' liability



	Prestige	Erika
Then	USD 28m	USD 14m
Now	USD 179m	USD 102m
	= 539% increase	= 629% increase

Civil Liability and Fund Conventions in force at May 2006



■ CLC 69 only ■ CLC 92 only ■ CLC 92 and Fund 92 ■ Supplementary Fund

The development of limitation



- Bunker Convention 2001
 - Not yet in force
 - Closes the gap

Bunker Convention 2001



- Modelled on CLC
- Strict liability
- Limitation of liability but limit shared with other property claimants
- Compulsory insurance
- Certification

Bunker Convention 2001



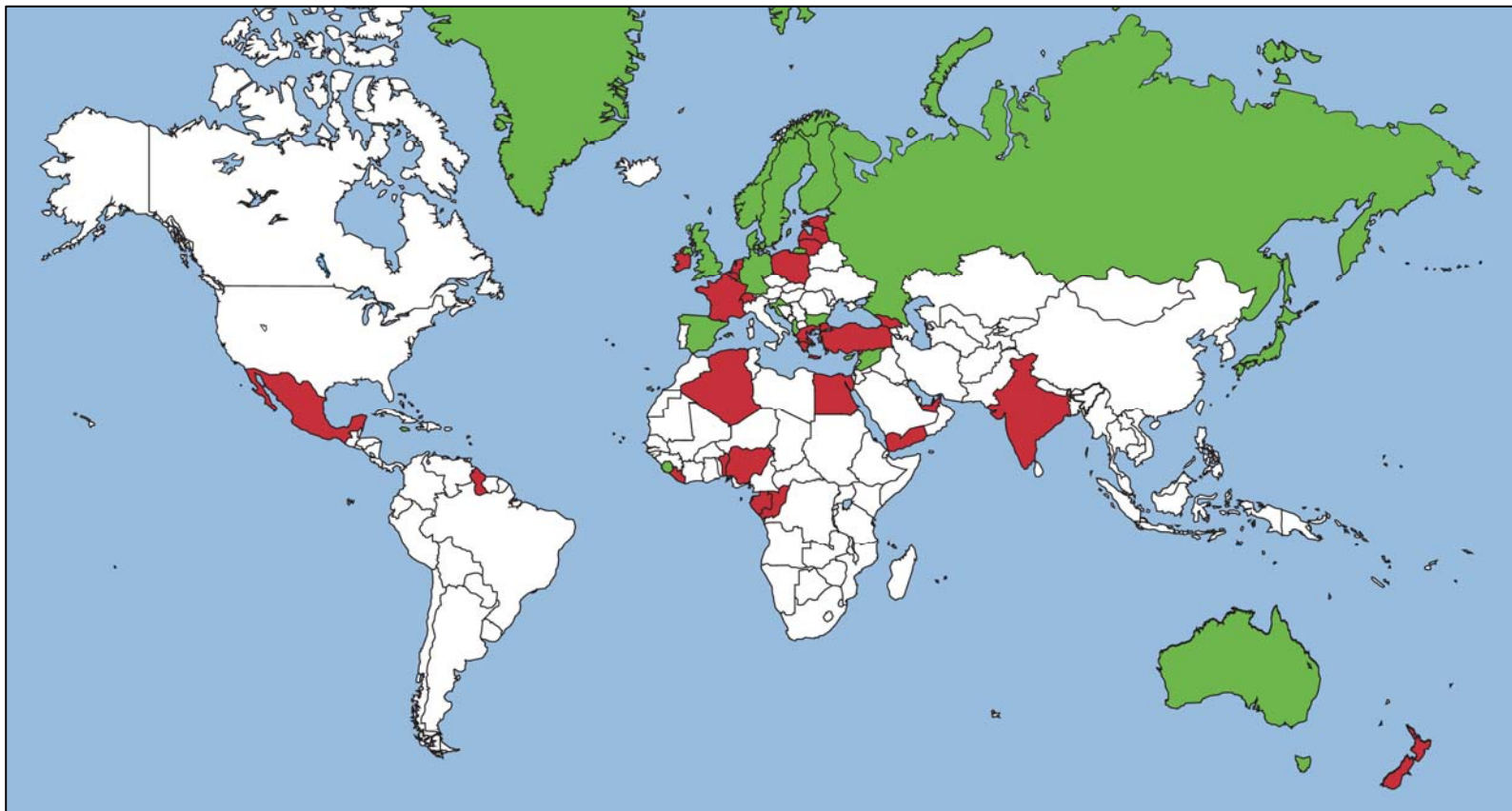
- Large vessels carry more oil as bunkers than small tankers carry as cargo
- Half the number of pollution claims arise from incidents involving ships not carrying oil as cargo
- Even for larger oil spills the number of non-tanker spills is significantly greater than the number of tanker spills

The development of limitation



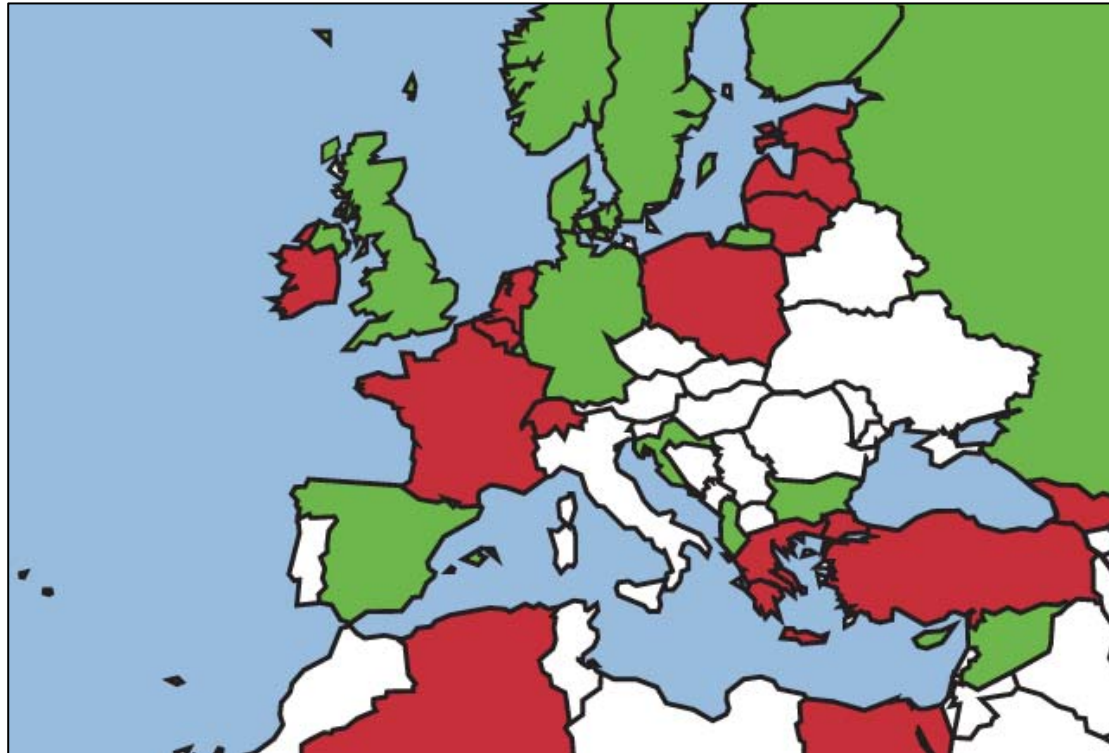
- 1976 Convention
- 1996 Protocol

LLMC World Map as at May 2006



■ LLMC 1976 ■ 1996 Protocol

LLMC Europe Map as at May 2006



■ LLMC 1976 ■ 1996 Protocol

1976 Convention limits (USD)



Vessel type	GT	1976 Loss of life/ personal injury & property damage
ULCC	300,000	132,251,250
VLCC	200,000	94,751,250
LNG/Aframax	90,000	53,501,250
Panamax	80,000	49,751,250
Cruise	50,000	34,751,250
OBO	42,000	30,251,250
Handysize	30,000	23,501,250

1976 Convention limits and 1996 Protocol limits (USD)



Vessel type	GT	1976 Loss of life/ personal injury & property damage	1996 Loss of life/ personal injury & property damage
ULCC	300,000	132,251,250	315,900,000
VLCC	200,000	94,751,250	225,900,000
LNG/Aframax	90,000	53,501,250	126,900,000
Panamax	80,000	49,751,250	117,900,000
Cruise	50,000	34,751,250	81,900,000
OBO	42,000	30,251,250	71,100,000
Handysize	30,000	23,501,250	54,900,000

US Federal Law



- Limitation of Vessel Owner's Liability Act 1851
 - Differences with 1976 Convention
 - Overridden by OPA and CERCLA

The development of limitation

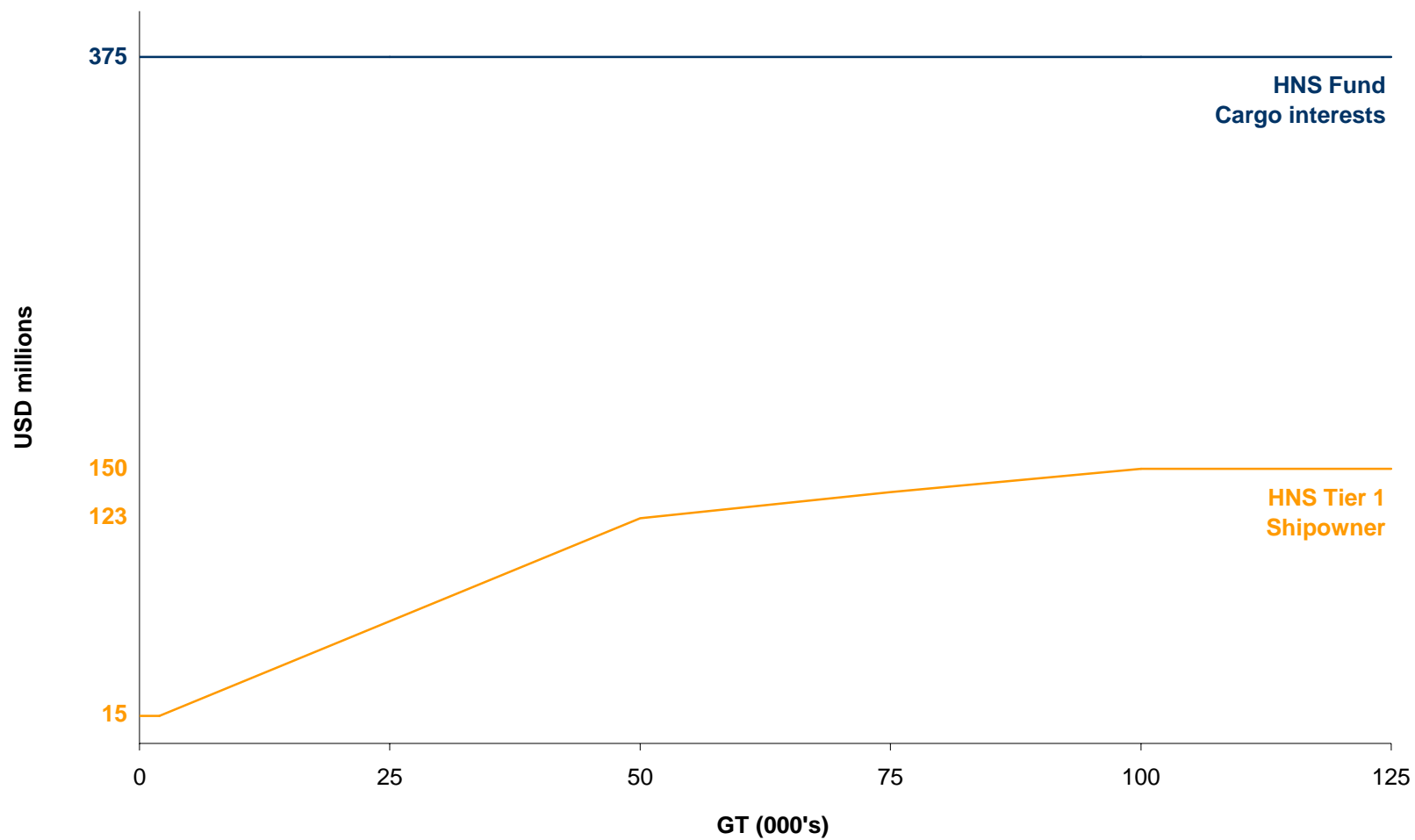


- HNS Convention

Limits under the 1996 HNS Convention



R/ex SDR1 = USD1.5



Ievoli Sun incident English Channel 2000



Cason incident Spain 1997



The development of limitation



- Athens Convention
 - Adopted 1974
 - Entered into force 1987

Passenger liabilities



- Development of liability limits for death or personal injury

Athens Convention 1974	USD 70,000 per passenger
UK Government 1987	USD 145,000 per passenger
1990 Protocol (not in force)	USD 260,000 per passenger
UK Government 1998	USD 450,000 per passenger
2002 Protocol (not yet in force)	USD 375,000 per passenger + USD 225,000 per passenger = USD 600,000 per passenger

Passenger liabilities



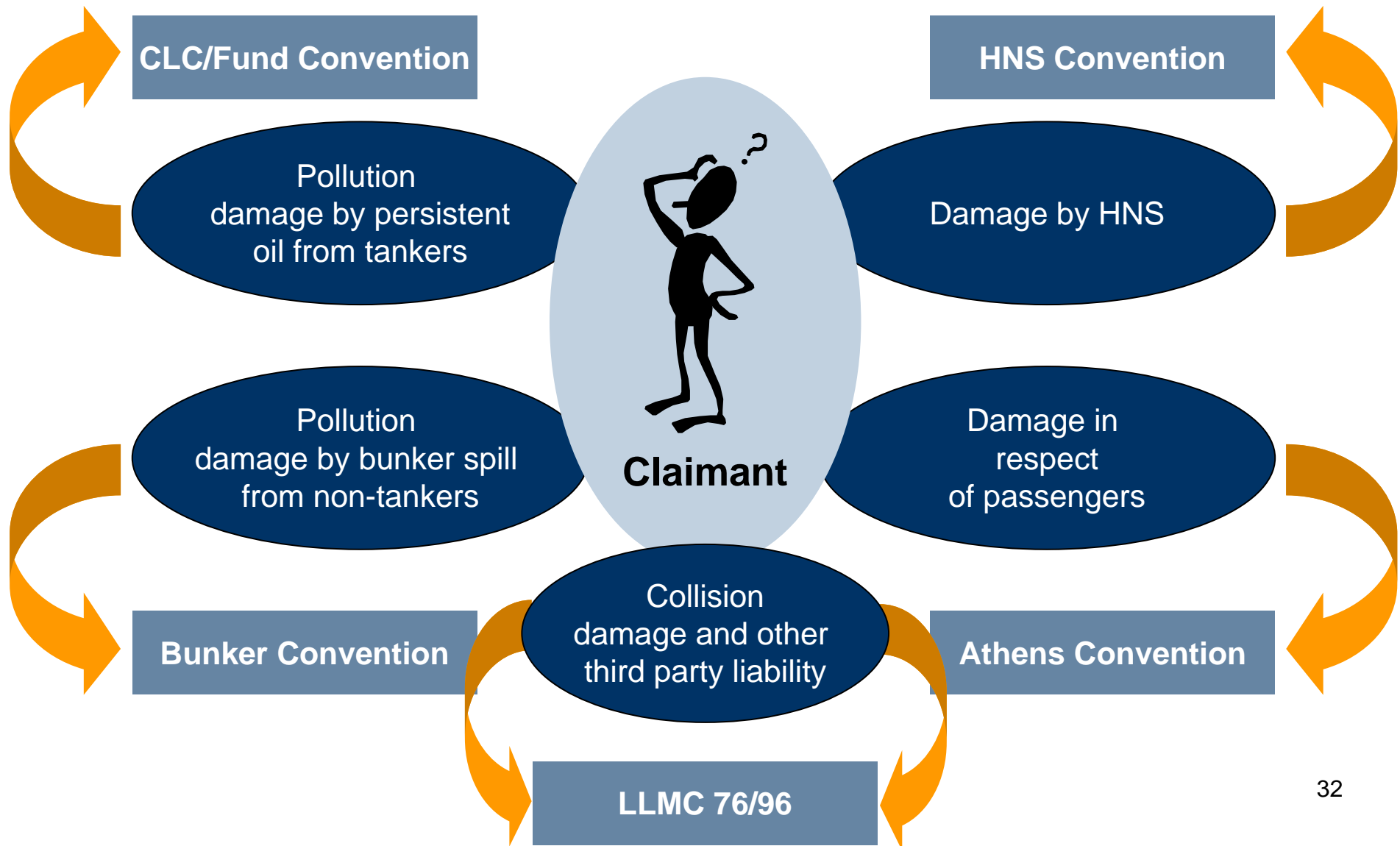
- 2002 Protocol

Number of passengers	Total liability exposure
3,600	USD 2,160,000,000
3,000	USD 1,800,000,000
2,000	USD 1,200,000,000
1,000	USD 600,000,000

Maritime conventions concerning liability and compensation

- Civil Liability Convention
- Fund Convention
- Supplementary Fund Protocol
- Bunker Convention
- Convention on Limitation of Liability for Maritime Claims and Protocol
- HNS Convention
- Athens Convention and Protocol

Interrelationships between maritime liability conventions



HNS Convention, CLC/Fund Convention, Athens Convention and LLMC 96

Chemical tanker (20,000 GT) and cruise ship (85,000 GT) collide, killing 50 and injuring 100 passengers and breaching the cruise ship's bunker tanks. The tanker spills some of its cargoes of lube oil and epichlorohydrin, killing 20 more passengers.

HNS Convention

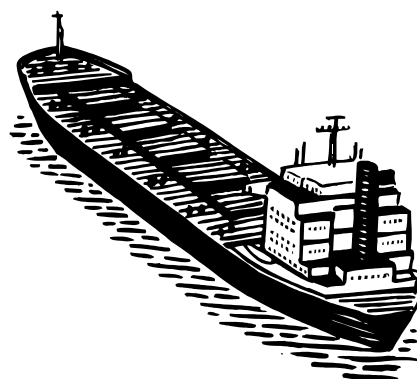
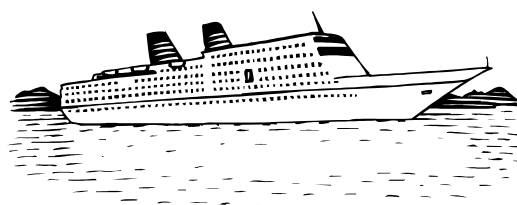
Shipowner	USD	55,500,000
HNS Fund	USD	319,500,000
Total	USD	375,000,000

Damage caused by epichlorohydrin including passenger deaths

Athens Convention

With fault		
Carrier	USD	600,000 per passenger
Total	USD	102,000,000

Passenger deaths and injuries



CLC/Fund Convention

Shipowner	USD	20,962,500
1992 Fund	USD	283,537,500
Supp. Fund	USD	820,500,000
Total	USD	1,125,000,000

Damage caused by lube oil including clean up, property damage etc

Bunker Convention

Shipowner	USD	40,800,000
Total	USD	40,800,000

Damage caused by bunker fuel including clean up, property damage, consequential economic loss

LLMC 96

Shipowner (tanker)	USD	36,900,000
Shipowner (cruise)	USD	122,400,000

Total to be shared with Bunker Convention

Damage caused by collision and removal of wreck costs

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Conclusion

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Conclusion

- Blame culture
- Political responses to shipping incidents

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Conclusion

- Blame culture
- Political responses to shipping incidents
- The European Commission threat

The impact of changes to limitation of liability



Conclusion

- Blame culture
- Political responses to shipping incidents
- The European Commission threat
- Increased shipowner liabilities

The impact of changes to limitation of liability



Conclusion

- Erosion of the protection of limitation by very high limits and strict liability threatens shipowners and insurers with financial ruin and will stifle trade