

Transport Canada Marine Update

CBMU Spring Conference

May 2024

Guiding Principles

- Polluter-pays principle
- Strict liability
- Direct action
- Compulsory insurance
- Limitation of liability
- Shared liability between the shipowner and the cargo owner
- Vessel registry
- Well-maintained ships
- Ship inspections



Agia Zoni II Incident (Piraeus, Greece)

- On September 10th 2017 the oil tanker Agia Zoni II sank while at anchorage in Piraeus, Greece
- The vessel was loaded with over 2500 tonnes of fuel oils, and spilled approximately 500 tonnes.
- Significant damage occurred to the shipping, fishing and tourism industries of the nearby islands
- In November 2017, the wreck was removed and decommissioned.



Agia Zoni II Concerns

- Shipowner liability limit under the Civil Liability Convention was SDR 4.51 million (EUR 5.53 million)
- Shipowner was insured for oil pollution damage below convention requirements (EUR 5 million)
- Insurer issued a blue card indicating that the insurance was in line with the conventions – the flag state issued an insurance certificate
- Claims to the IOPC Funds have exceeded EUR 100 million



Alfa I Incident (Piraeus, Greece)

- On March 5th 2012 the *Alfa I*, a 1,648 gross tonnage tanker, hit a submerged object near Piraeus, Greece and sank.
- The ship had a nearly 30 meter gash torn into it and sunk rapidly, leaving its bow still exposed above seawater.
- The vessel was carrying over 1700 tonnes of fuel oils with around 330 mt estimated to have been spilled.



Alfa I Insurance Concerns

- Shipowner liability limit under the Civil Liability Convention was SDR 5.41 million (EUR 5.53 million)
- Shipowner was insured for oil pollution damage below convention requirements (EUR 2 million)
- Insurer issued a blue card indicating that the insurance was in line with the appropriate conventions – the flag state issued an insurance certificate
- Authorities revoked the insurers license and is liquidating the insurer's assets to pay claims, including claims covered by IOPC.
- Claims to the IOPC Funds have exceeded EUR 16 million.



Dark Fleet

- Typically old, uninsured, or under insured, uninspected, and unclassed vessels, with questionable registry and ownership.
- Moving vast quantities of oil, while skirting safety regulations and operating in risky areas, including war zones.
- In the first 3 months of 2024, it was reported that 191 crude tankers were tracked leaving Russia's Baltic ports, 140 of which had no insurance from reliable insurers.
- Reports also indicate that about 70% of Russian oil is transported on tankers of more than 15 years old.



Andromeda Star Incident

- In December 2023 the oil tanker *Andromeda Star* was sold to unknown buyers and is now a known ship in the “dark fleet” moving sanctioned oil on uninsured vessels.
- On March 2nd 2024 the *Andromeda Star* collided with another vessel off the coast of Denmark. It was only filled with ballast and no spill occurred.
- On April 26th 2024 the same ship was attacked by Houthi rockets in the Red Sea. The attack resulted in only minor damage and no oil spill was reported.



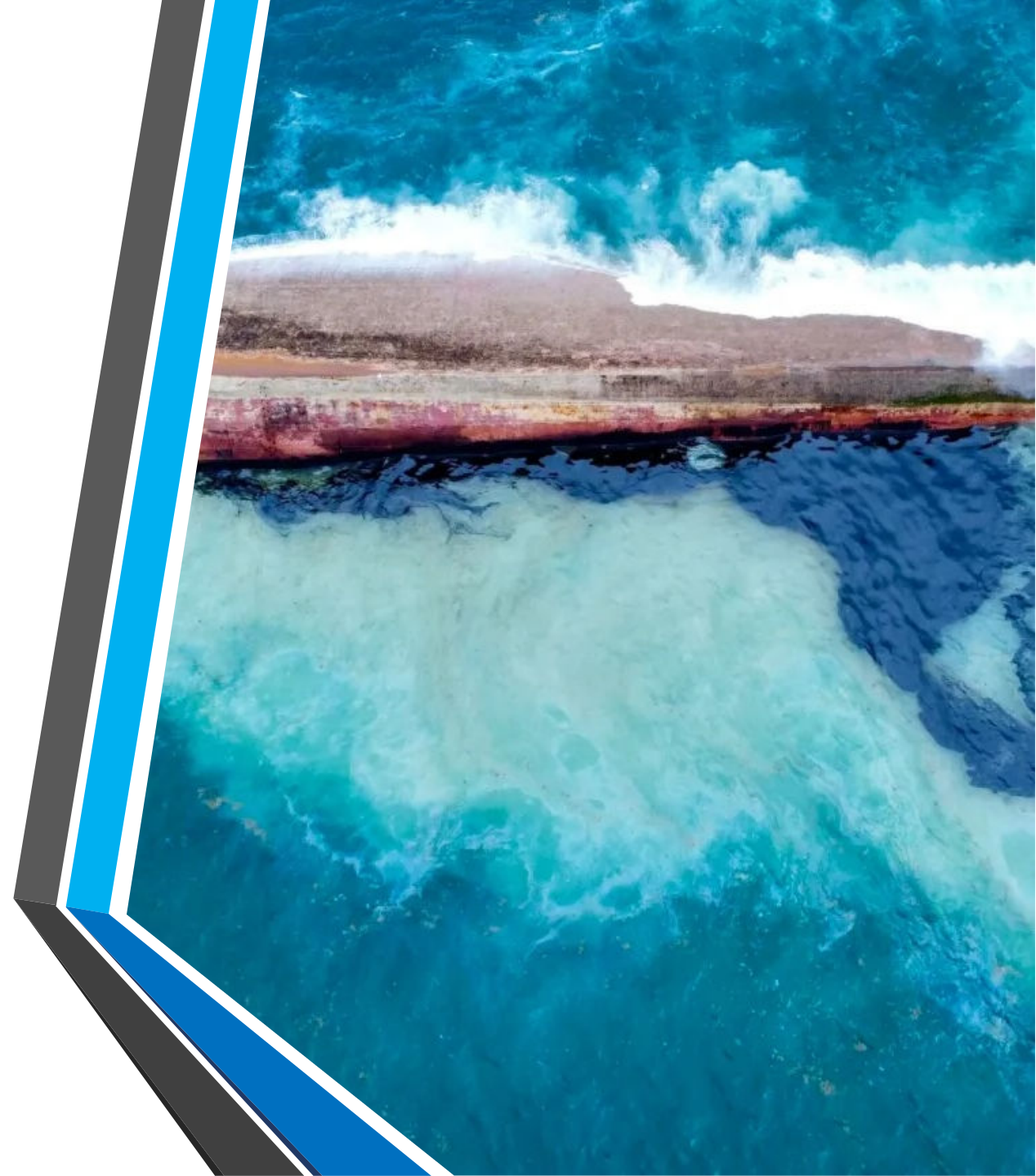
Andromeda Star Concerns

- The *Andromeda Star* has no clear ownership structure or a reputable insurer, raising questions about liability coverage in the event of a pollution incident.
- Despite this, it was sailing through a known high-risk area.
- The Houthi attacked based on outdated vessel registry information, believing it was still British-owned.
- Though no pollution damage was reported, the potential for damage was high.



Gulfstream Incident (Trinidad & Tobago)

- In February 2024 the barge *Gulfstream*, being towed by the tug *Solo Creed* capsized off the coast of Tobago
- Up to 4650 mt of Bunker Fuel was spilled
- 15 km of shoreline has been polluted
- Recovery operations are still ongoing



Gulf Stream Incident

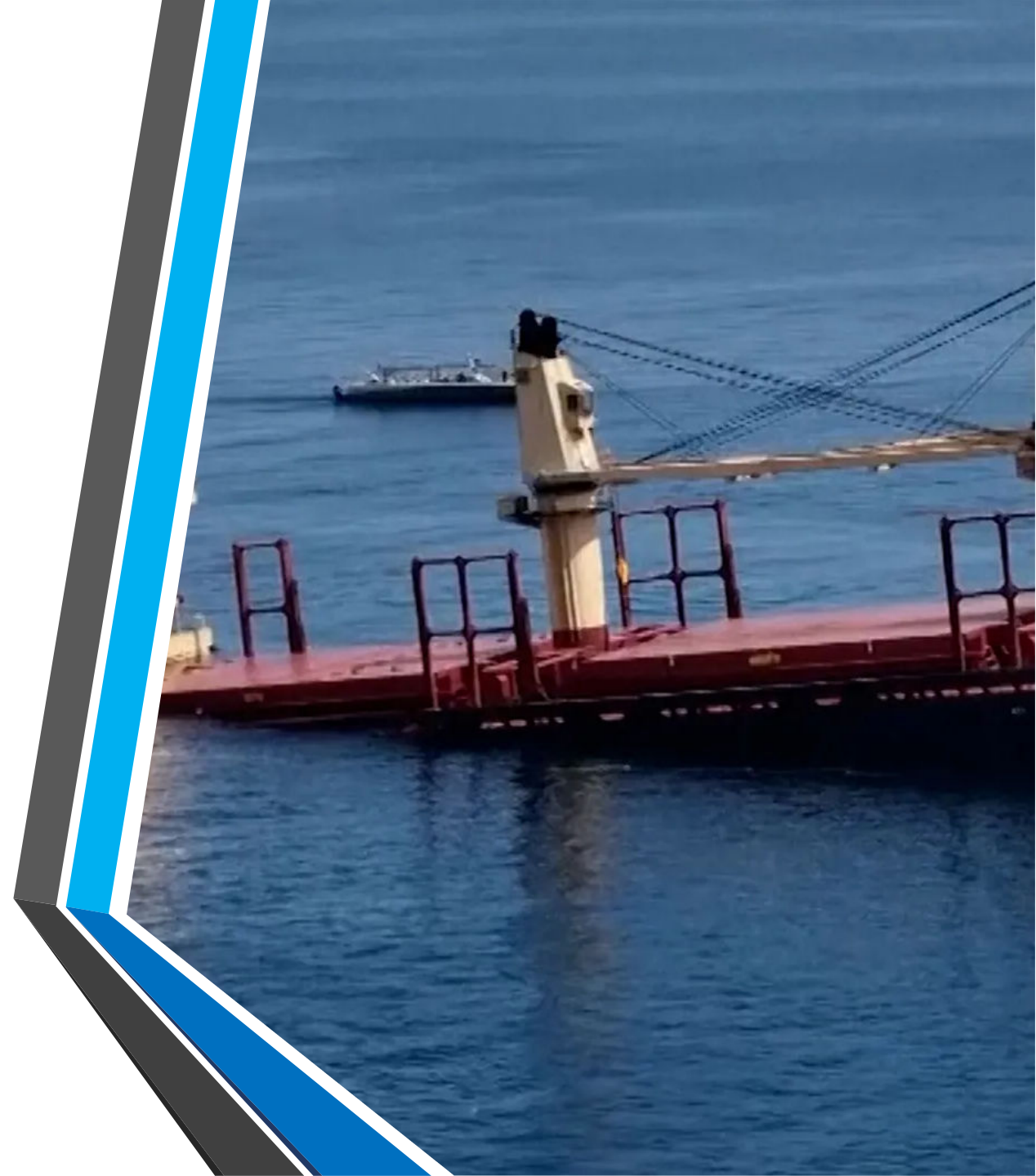
When the System Breaks Down

- The tug boat disappeared
- The owner is unknown and the ship's registration is questionable
- The barge was uninsured, uninspected, not maintained
- Trinidad and Tobago is a 1992 Fund Member State.
- Without an owner, liability falls to the IOPC Funds and the state.



Rubymar Incident (Red Sea)

- The *Rubymar* was a British owned vessel, flying the Belizean flag, that was sunk by a Houthi rebel rocket in late February 2024.
- The vessel spilled not only bunker oil, but over 20,000 tonnes of fertilizer into the Red Sea and posed a navigational risk to other ships in the passage.
- The vessel and possible pollution from spilled cargo has not been properly remedied due to concerns around the ongoing conflict zone.



Rubymar Concerns

- The Red Sea is classified as a high-risk zone.
- The incident involved hazardous and noxious substances.
- The *Rubymar's* sinking raises questions about liability for pollution damage due to terrorism and other conflicts.
- The international conventions absolve the shipowner of liability in cases of conflict, such as an act of war, and potentially due to an act of terrorism.
- It remains to be seen how the legal issues will play out.



Summing Up

- Incidents involving ships that do not adhere to the relevant international conventions undermine the integrity of the international safety and liability regime that has been built over decades.
 - Impacts all players in the marine industry, including insurers, as well as the general public.
 - Causes slower response, increased risk of damage, higher costs, slower compensation, and misplaced liability.
 - Undermines the polluter pays principle by making the IOPC Funds, and its contributors (cargo interests), liable from the first dollar up.



Summing Up (cont'd)

- Current high-conflict international environment is testing legal concepts and best practices, with outcomes still to be seen.
 - Higher risks associated with the transportation of HNS through high-conflict areas, making the HNS Convention more important.
 - Rising war risk insurance premiums, and possible testing of state war risk reinsurance regimes.
 - Testing of legal concepts such as liability for pollution incidents caused by acts of war or terrorism



Work at the International Maritime Organization

IMO's Legal Committee met the week of April 22, 2024 to share updates on key issues, complete projects to enhance guidance for shipowners and states and decide on future work to improve maritime safety, liability, and environmental protection.

HNS Convention

- Several European states that receive significant amounts of HNS are nearing ratification and will likely do so as a block.
- Based on preliminary reporting numbers, this would trigger coming-into-force.

Ship Registry

- Legal Committee will develop best practices on the registration of ships in support of safety, security, environmental protection and the well-being of seafarers.

Circular 3464

- Revisions to enhance Circular 3464, Guidelines for Accepting Insurance Companies, Financial Security Providers and the IG P&I Clubs were approved.

Pamphlets

- The IMO published pamphlets providing detailed information on the roles and responsibilities of shipowners, insurers, flag states and port states under the liability conventions.



International Guidance on the Dark Fleet

Various guidance has been issued at the international level to help attenuate the risks associated with the dark fleet:

- The Price Cap Coalition, made of the G7 and Australia and New Zealand, has issued a Price Cap Alert that includes concrete actions that can be taken by the shipping industry to ensure that oil is safely transported.
- The IMO Assembly has also adopted Resolution A.1192 urging Member States and all relevant stakeholders to promote actions to prevent illegal operations in the maritime sector by the dark fleet.



Future Work

Liability and Insurance:

- Enhanced guidance for insurance certificate applications
- Work to determine the extent to which the Canadian marine industry is insured

Oceans Protection Plan - HNS Response:

- *Canada Shipping Act, 2001* amended in 2023 to allow for the development of new rules and processes respecting marine emergency management and preparedness and response.
 - Engagement is expected to begin in the Summer of 2024 on proposed regulations.



Resources

International Maritime Organization's Bunkers Claims Manual

[Claims Manual for the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 \(imo.org\)](#)

International Maritime Organizations' Liability and Insurance Pamphlets

[Liability and compensation \(imo.org\)](#)

IMO Assembly Resolution A. 1192

[A 1192 33 \(imo.org\)](#)

Oil Price Cap Alert

[Price Cap Coalition - Oil Price Cap \(OPC\) Compliance and Enforcement Alert \(international.gc.ca\)](#)

Marine Insurance Unit

[Get a marine insurance certificate \(canada.ca\)](#)

Liability and Compensation Websites

[Expanding Liability and Compensation for Marine Incidents \(canada.ca\)](#)



Contact

- Thank you for your time!
- Should you want to discuss further, you can contact us at MarineLiability-ResponsabiliteMaritime@tc.gc.ca

