

Civil Liability for Oil Pollution Damage



Activities analyzed

- Maritime transport (Oil tankers)
- Offshore Oil and Gas Exploration and Production

United Nations Convention on the Law of the Sea

Article 235 (Responsibility and liability)

With the objective of assuring prompt and adequate compensation in respect of all damage caused by pollution of the marine environment, States shall cooperate in the implementation of existing international law and the further development of international law relating to responsibility and liability for the assessment of and compensation for damage and the settlement of related disputes, as well as, where appropriate, development of criteria and procedures for payment of adequate compensation, such as compulsory insurance or compensation funds.

Maritime transport (Oil tankers)

Torrey Canyon - 1967



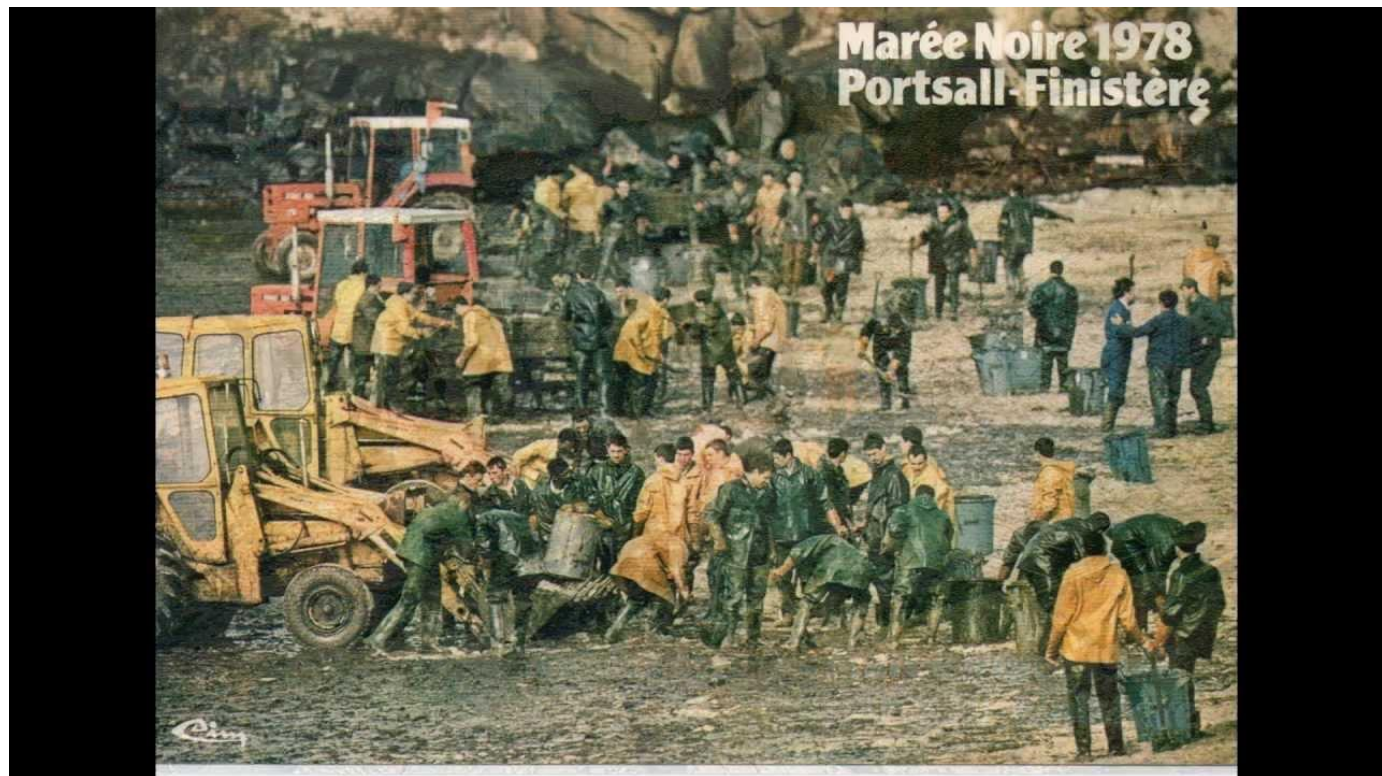
Maritime transport (Oil tankers)

Amoco Cadiz - 1978



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Maritime transport (Oil tankers)

Erika - 1999



Maritime transport (Oil tankers)

Prestige - 2002



Maritime transport (Oil tankers)

Prestige - 2002



Maritime transport (Oil tankers)

- Civil Liability Convention – CLC

International Oil Pollution Compensation Funds

- to minimize insolvency risks, CLC regime has financial guarantees that can be used in cases of pollution damage caused by oil tankers**
- two-tier guarantee system where risks are borne by ship owners and the oil industry.**

Maritime transport (Oil tankers)

- Civil Liability Convention – CLC

- Strict liability**

- Limitation of liability**

- Exceptions to liability**

Offshore Oil and Gas Exploration and Production

MODU Deepwater Horizon - 2009



Offshore Oil and Gas Exploration and Production

MODU Deepwater Horizon - 2009



Offshore Oil and Gas Exploration and Production

FPSO Bonga - 2008



Offshore Oil and Gas Exploration and Production

Lack of international legal instrument

Vide juridique dans le contexte international

Offshore Oil and Gas Exploration and Production

International Regulatory Attempts

- Convention on Civil Liability for Oil Pollution Damage Resulting from Exploration for And Exploitation Of Seabed Mineral Resources CLEE/1977
- Convention on Offshore Mobile Craft, 1977 (Rio Draft)
- Sidney Draft, 1994 (update of the Rio Draft)
- Canadian Maritime Law Association Draft Convention on Offshore Units, Artificial Islands, and Related Structures used in the Exploration for and Exploitation of Petroleum and Seabed Mineral Resources, 2001

Offshore Oil and Gas Exploration and Production

International Regulatory Attempts

States did not agree:

- exclusive jurisdiction to regulate exploration and exploitation activities in maritime areas under national jurisdiction;
- the function of the IMO is limited to ships (shipping activities)
- need for bilateral and regional agreements (this is not an international problem)

Offshore Oil and Gas Exploration and Production

Lack of international legal instrument effects:

- Legal uncertainty and therefore risk of political conflict between States;
- Non-payment or partial payment of damages due to lack of clear rules;
- Insolvency (need for guarantee or compensation fund).

Tack.
Thank you.
Merci.
Obrigado.

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