

THE FUTURE OF THE REGIMES REGULATING OIL POLLUTION  
LIABILITY AND COMPENSATION

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## ABSTRACT

In spite of the pursuit of a universal regime addressing the issues of ship-source oil spill liability and compensation, the maritime community continues to face a dichotomy between the U.S. approach and the approach accepted by the rest of the world. Both regimes impose liability on the shipping industry based on the principle that the polluter pays, not the government or the public. They have also established their respective funds financed by the oil industry to supplement the liability of the shipping industry. The U.S. regime differs considerably from the international regime in two respects: liability limits of the responsible party and the scope of recoverable damages. Since the adoption of new U.S. legislation in 1990, substantially unlimited liability and expanded recoverable damages have raised concerns in not only the shipping industry and the insurance industry, but also the oil industry. On the other hand, there has been a great change in the underlying interests of the participants in the international regime, shipping and oil imports, in the almost 30 years since the formulation of the regime. This paper investigates the feasibility of an approach toward a new unified international regime by analyzing both the unintended marginality of the U.S. regime and the limitations of the present international regime. This paper argues for the assignment of oil pollution costs to the relevant economic sector in the oil production, transportation and consumption nexus that mitigates and internalizes such pollution costs most effectively, economically, and equitably.

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