

The logo for IGP&I is centered in a dark blue rectangular box. The letters 'IG' are in a light blue color, while 'P&I' are in white. The font is a bold, sans-serif typeface.

**IGP&I**

The background of the slide is a photograph of an arctic scene. In the foreground, several large, white icebergs of various shapes float in dark, calm water. The water reflects the colors of the sky. In the distance, a low sun is setting or rising, creating a warm orange and yellow glow across the horizon. The sky transitions from a deep blue at the top to a lighter blue and then to the warm colors near the horizon.

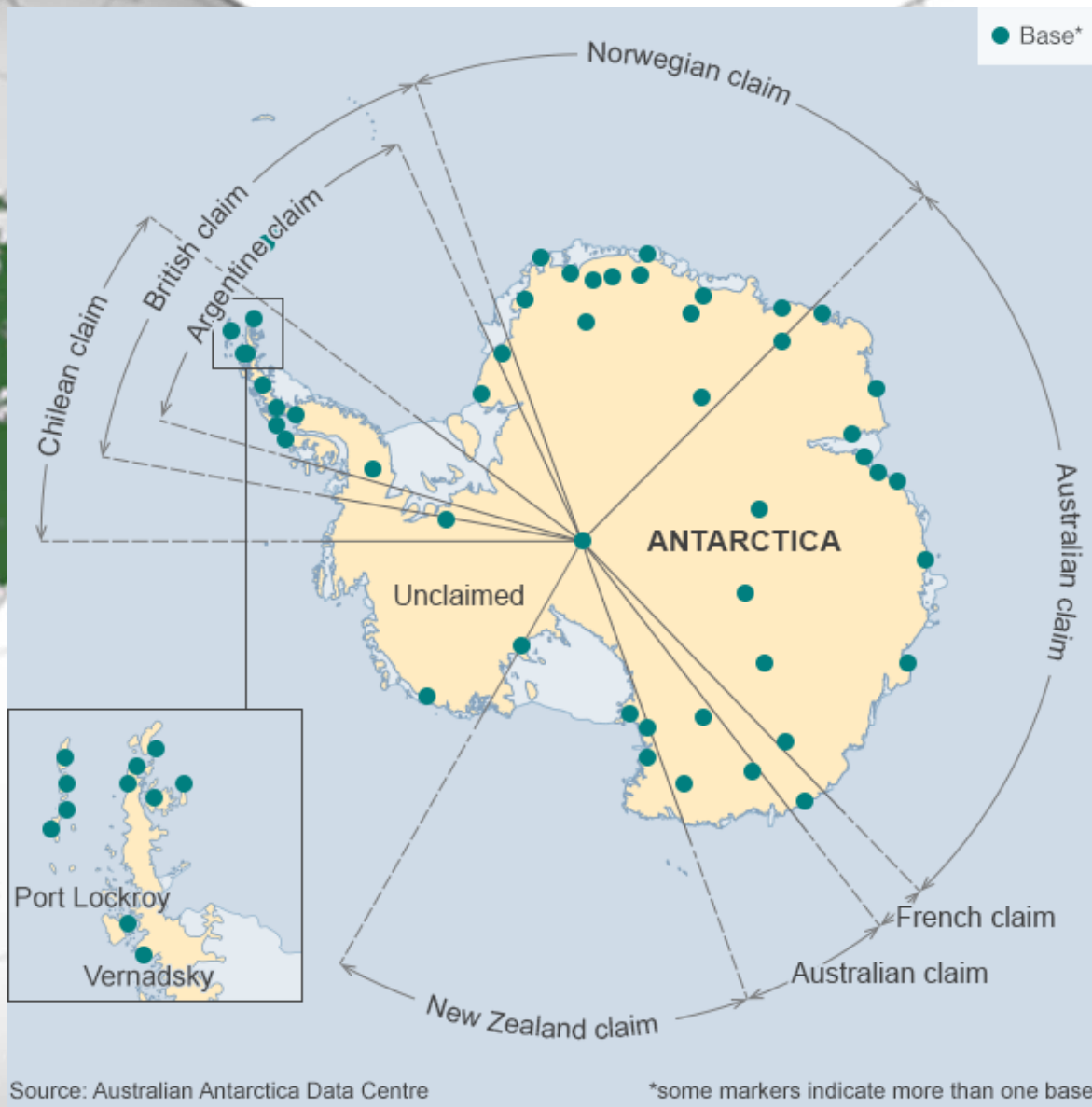
**David Baker  
New York - 2016**

**[www.igpandi.org](http://www.igpandi.org)**

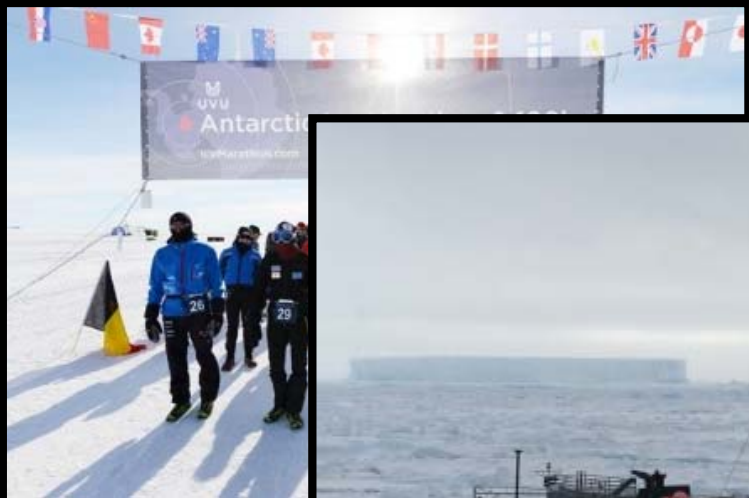
## The International Group of P&I Clubs

Liability and compensation for ship sourced pollution in Antarctic waters:

1. Tourism activities in Antarctic waters
2. Existing Regulatory regime, if any
3. Liability Annex to the Environmental Protocol to the Antarctic Treaty
4. Fit for purpose?
5. Incidents in Antarctic waters



# Tourism and fisheries activities:



© Amos Nachoum



# Tourism in Antarctica: 2007/8 to 2015/16



|                                   | 2015-16<br>Season<br>(estimated) | 2014-15<br>Season | 2013-14<br>Season | 2009-10<br>Season | 2008-09<br>Season | 2007-08<br>Season |
|-----------------------------------|----------------------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| Seaborne tourism with landings    | 28,304                           | 25,341            | 25,526            | 21,622            | 26,921            | 32,637            |
| Seaborne tourism with no landings | 8,900                            | 9,459             | 9,670             | 15,020            | 10,652            | 13,015            |
| <b>Total</b>                      | <b>37,204</b>                    | <b>34,800</b>     | <b>35,196</b>     | <b>36,642</b>     | <b>37,573</b>     | <b>45,652</b>     |
| No. of operators                  | 40                               | 37                | 42                | 44                | 44                | 48                |
| No. of ships & yachts             | 47                               | 44                | 51                | 51                | 53                | 55                |
| No. of voyages                    | 308                              | 290               | 239               | 283               | 268               | 306               |

Source: IAATO

## Regulatory regime – The Antarctic Treaty

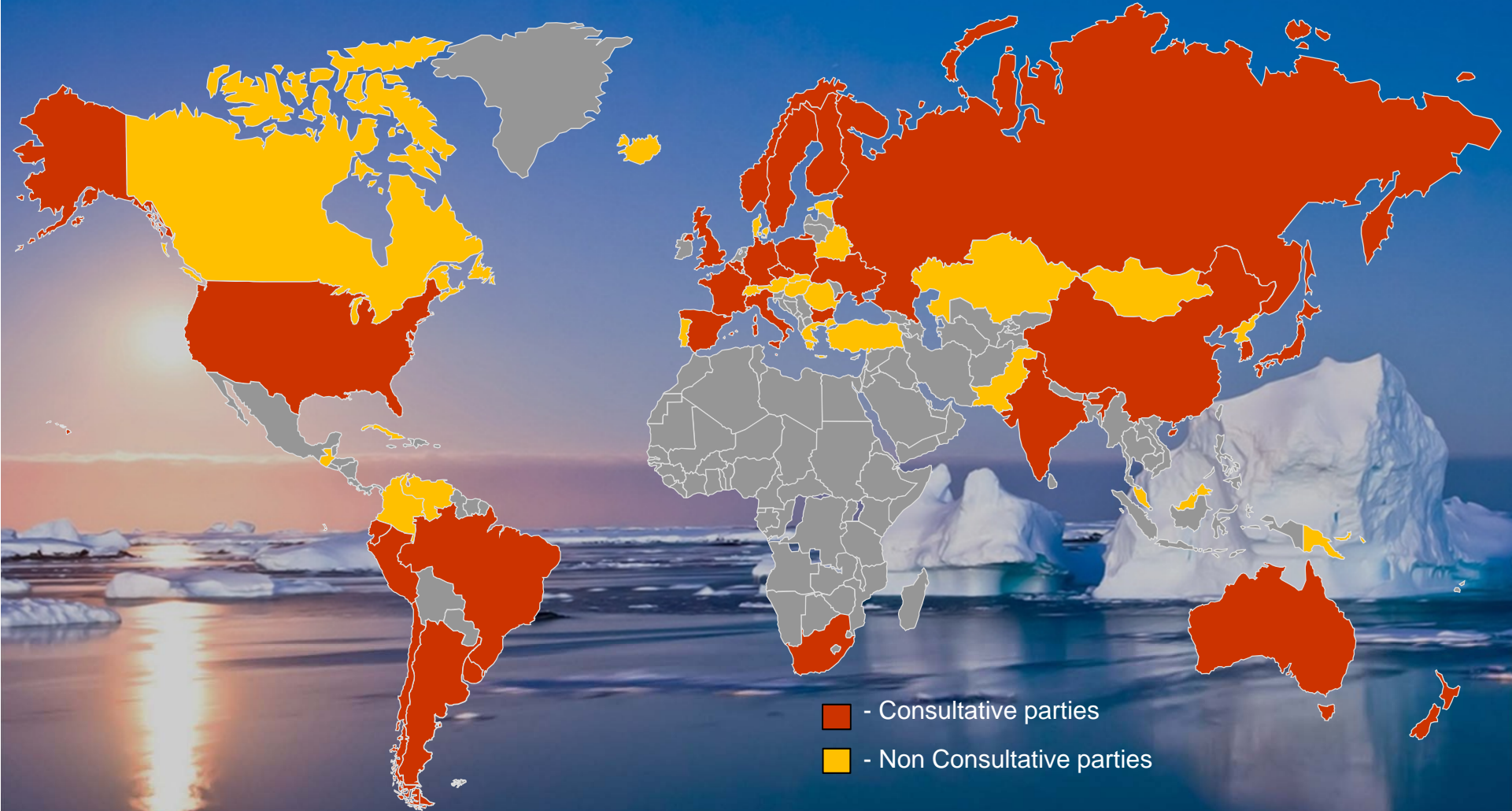
- Adopted in 1959 and entered into force in 1961
- Established a mechanism for international co-operation to protect and preserve Antarctica
- *“Antarctica shall be used for peaceful purposes only”* (Art. 1)
- Territorial claims, but all new claims frozen under the Treaty
- No provisions relating to liability and compensation
- 53 States Parties
- 29 Consultative Parties & 24 non-Consultative Parties

# Consultative & Non-consultative parties to the Treaty:



■ - Consultative and Non consultative parties

# Consultative & Non-consultative parties to the Treaty:





## Regulatory Regime



- Application of the IMO liability and compensation regimes?
- No coastal States

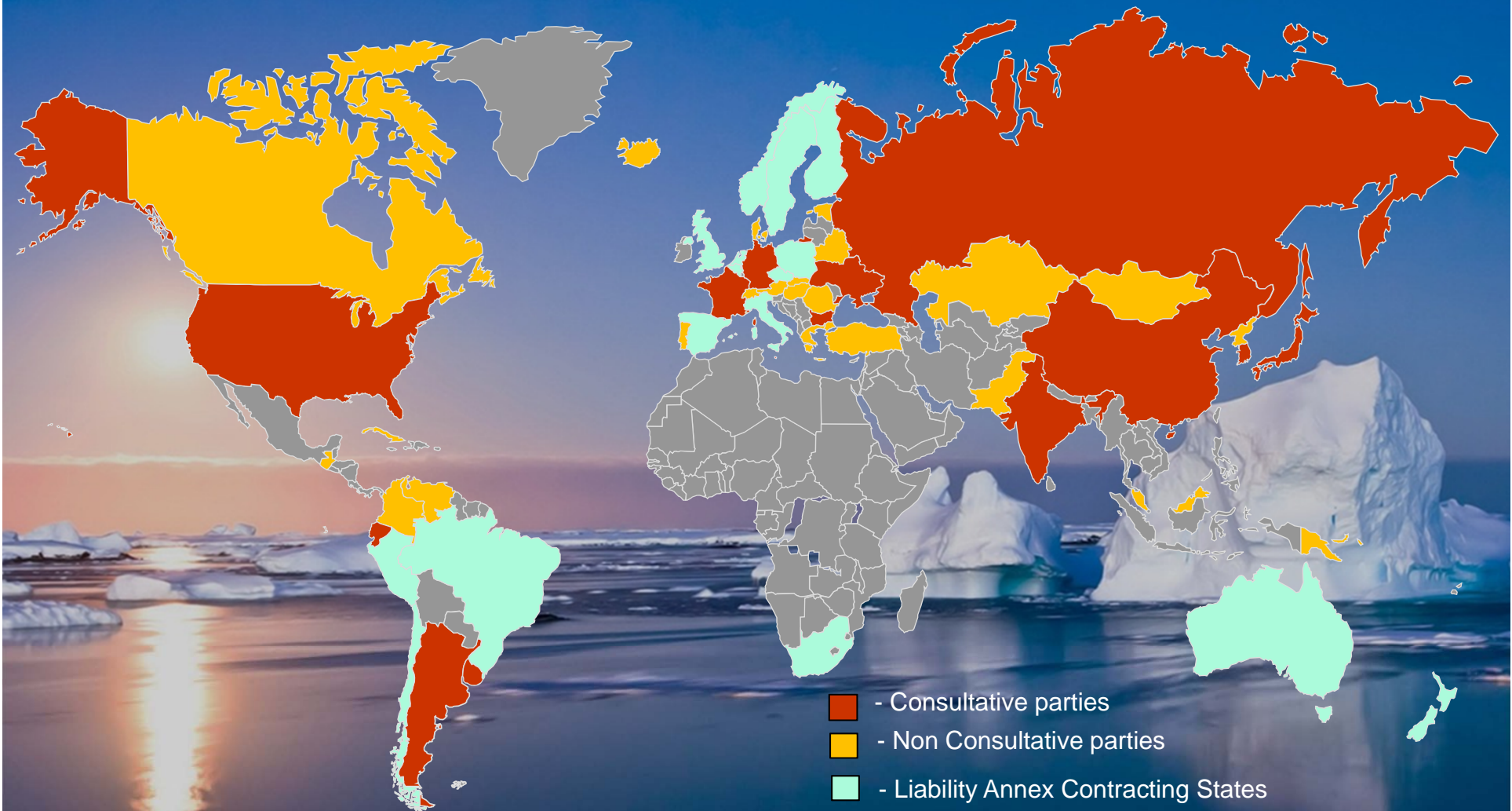
*“pollution damage caused in the territory, including in the territorial sea, of a State Party, and in the exclusive economic zone of a State Party, established in accordance with international law....”*

- No extension by AT State Parties to their Antarctic territories
- Convention financial security requirements

## Annex VI – “Liability Arising from Environmental Emergencies”

- Adopted in 2005 – not yet in force
- All 29 Consultative States needed; 13 so far
- Take prompt and effective response action to environmental emergencies
- Establish a *liability* on the operator for costs taken by States Parties in the event that the operator fails to respond
- Establish a *fund* to provide for the reimbursement of reasonable costs taken by a State
- Establish a *limitation* regime
- Require *financial security* to the limits established
- *Terrorism* defence

## Consultative & Non-consultative parties – Liability Annex:



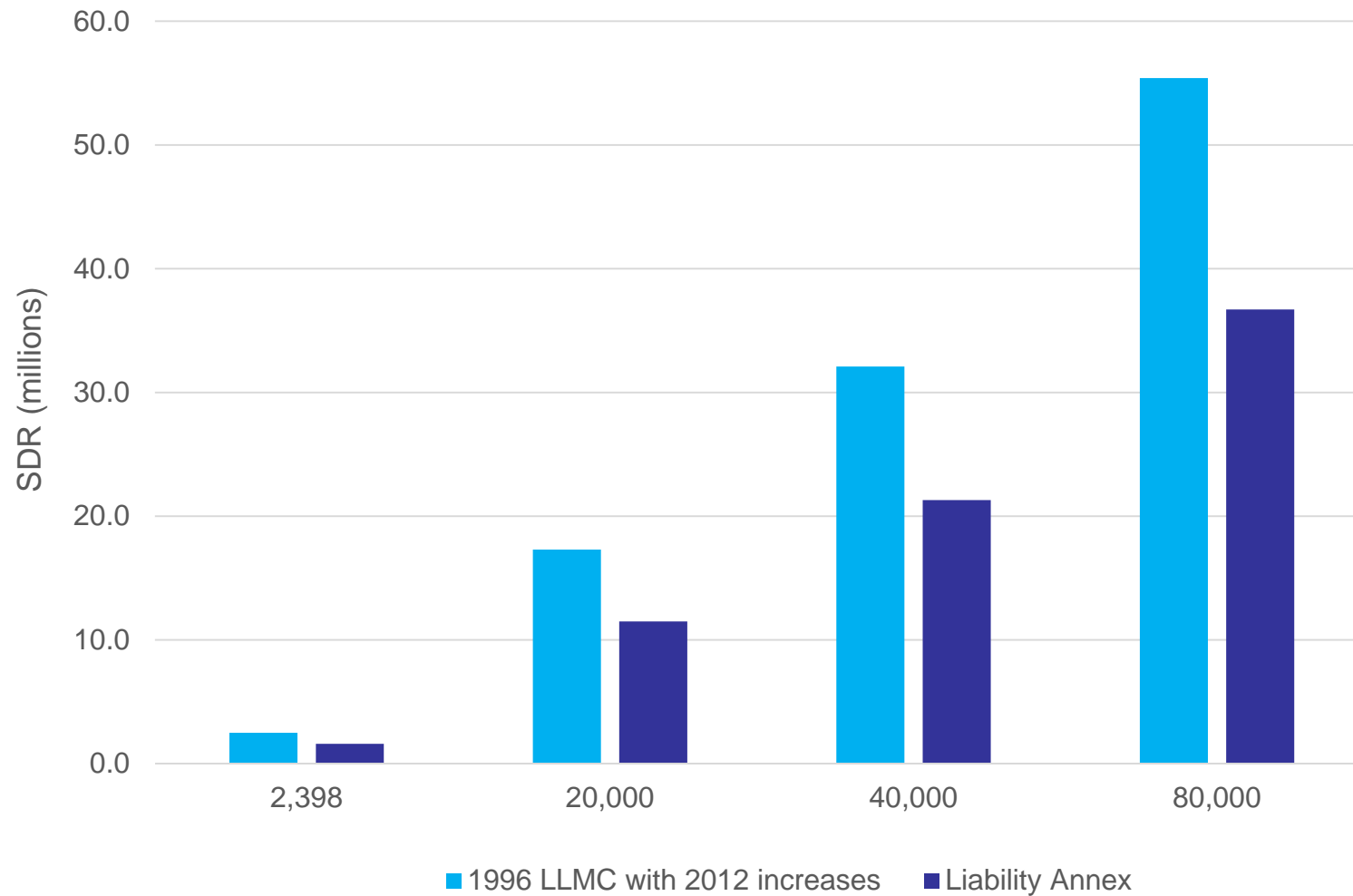
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- *Terrorism* defence

## Annex VI – “Liability Arising from Environmental Emergencies”

- No rights of direct action against the providers of financial security
- No Flag State certification provisions
- Albeit no additional administrative burden on IG P&I Clubs
- Limits do not take account of recent IMO increases
- Limits are therefore already out of date

## 1996 LLMC Protocol limits and AT Protocol Liability Annex limits



*M/V Explorer – 22<sup>nd</sup> November 2007:*



<https://www.youtube.com/watch?v=r2cfYYIbRNA>

## Conclusion:

- Unclear at best the regulatory regime in place, if any, that applies at present
- Liability Annex is clearly some way off entry into force
- Key provisions from the IMO liability and compensation regimes are not included in the Liability Annex, that could make for a more comprehensive regime
- IG Club cover is in place though
- Nonetheless, there may be areas of the Liability Annex that the AT States may wish to consider in the run up to entry into force



# What is the biggest threat facing Antarctica today?

# To be ignored

For people not to know about it.

If you don't know about something, how can you  
care for or protect it?

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The background of the slide is a photograph of a vast, icy landscape. In the foreground, several large, white icebergs of various shapes and sizes are scattered across a dark, calm body of water. The water reflects the light from the sky. In the distance, a low horizon line separates the water from a sky that is transitioning from a deep blue at the top to a warm, orange glow near the horizon, where a bright sun is setting or rising. The overall scene is serene and evokes a sense of a cold, remote environment.

**New York - 2016**

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