



2001:BUNKERS CONVENTION



WHAT ?





St. Petersburg. Summer 2019





05/07/2019



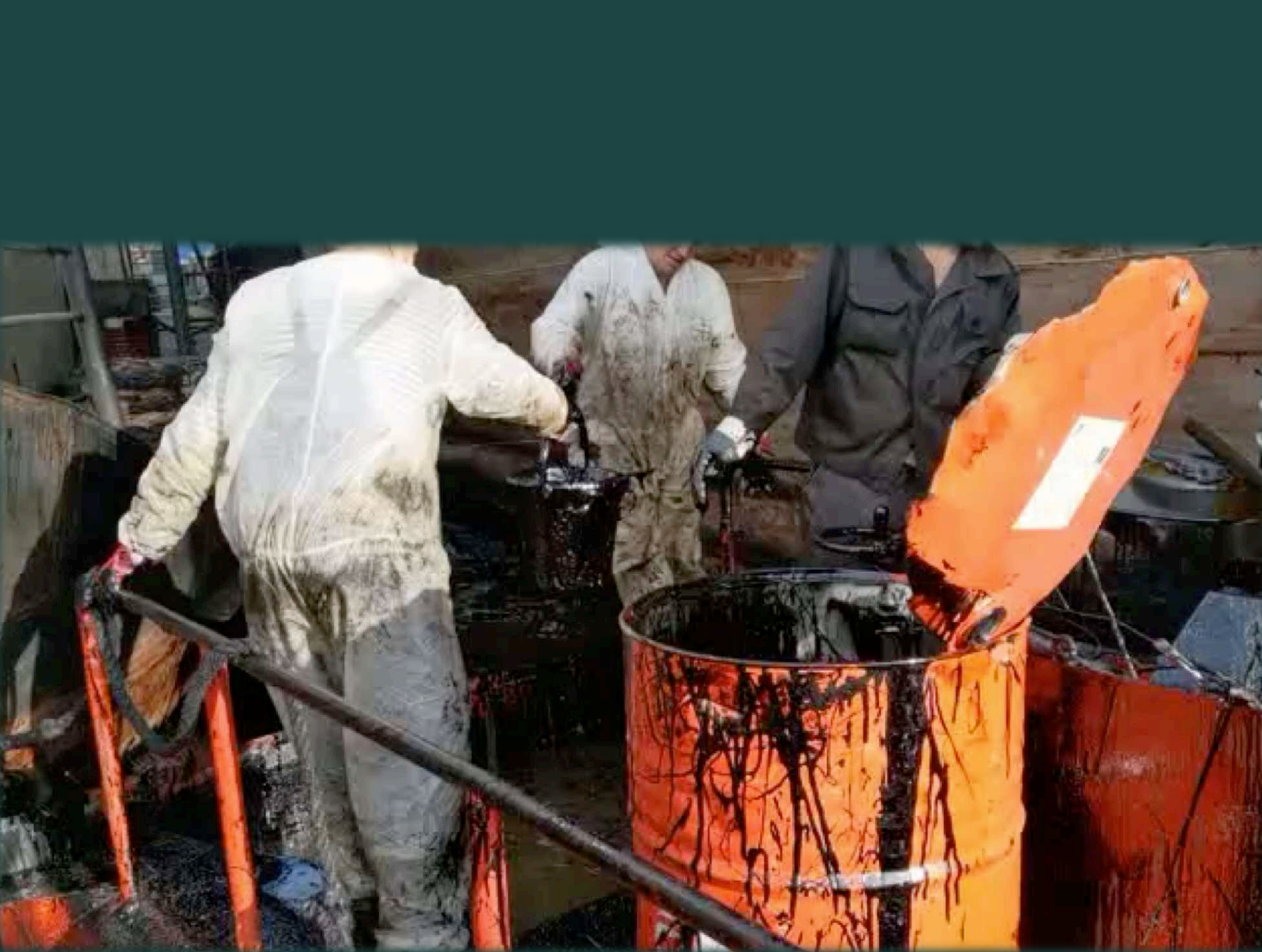
03/07/2019



05/07/2019



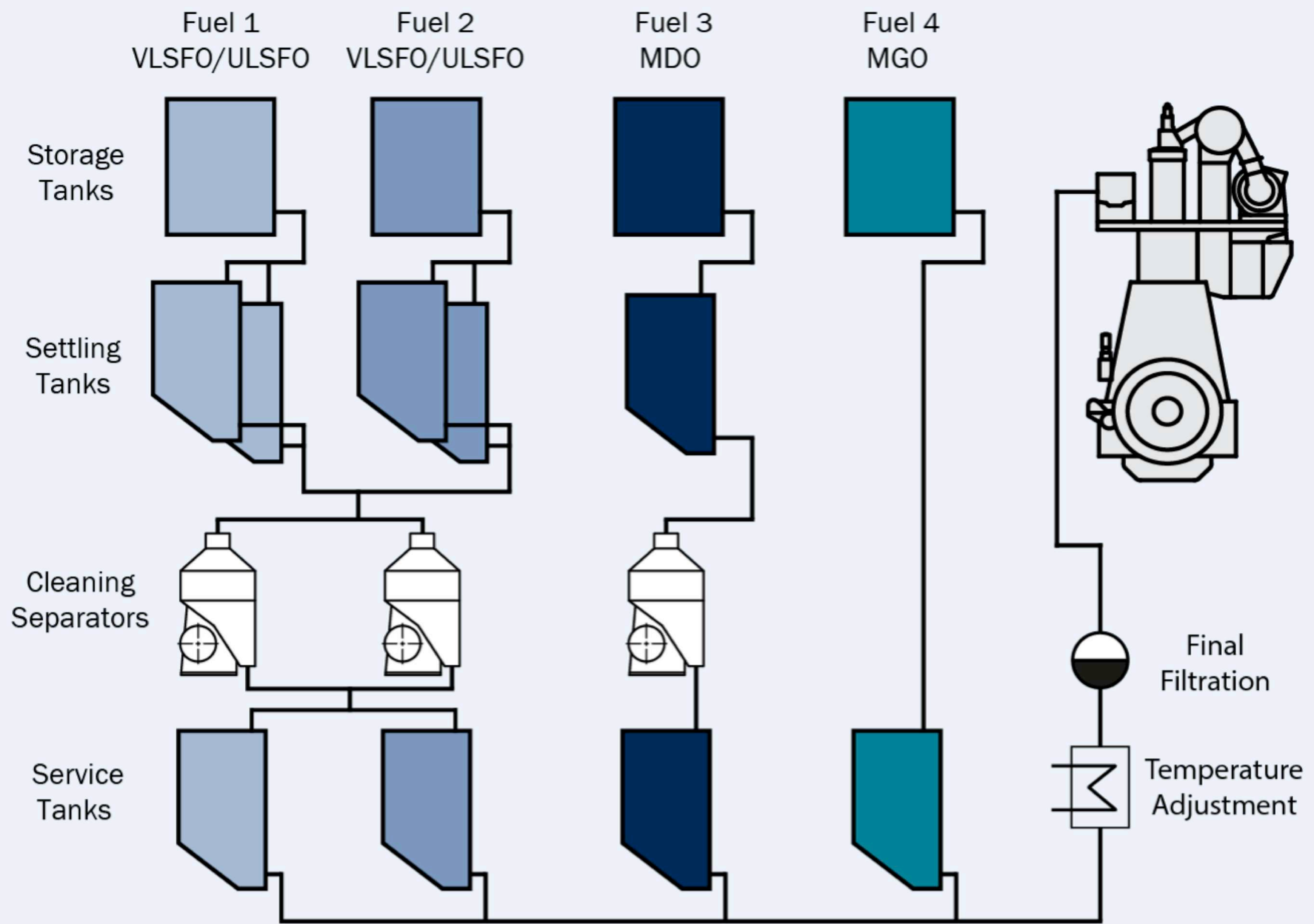
St. Petersburg. Summer 2019



HOW ?

$$2+2=3$$





HOW MUCH ?

$$2+2=5$$



- **95 mt declared upon entry into the port
(customs declaration)**
- **105 mt found onboard the vessel after the spill
(surveyor's measurement)**
- **150 mt found after the customs authority
measurement**

(approximate figures)



The background image shows the deck of an oil tanker. A large, dark, irregular spill is visible on the dark grey metal surface. In the upper right corner, there is an inset photograph of a man wearing a yellow hard hat and an orange safety jacket, smiling and making a peace sign. The text "150-200 litres spilled" is overlaid in white on the left side of the image.

150-200 litres spilled

(as reported by the Master)



Claims & Arrests

Public law

- Police interrogation
- Criminal case
- Arrest / detention

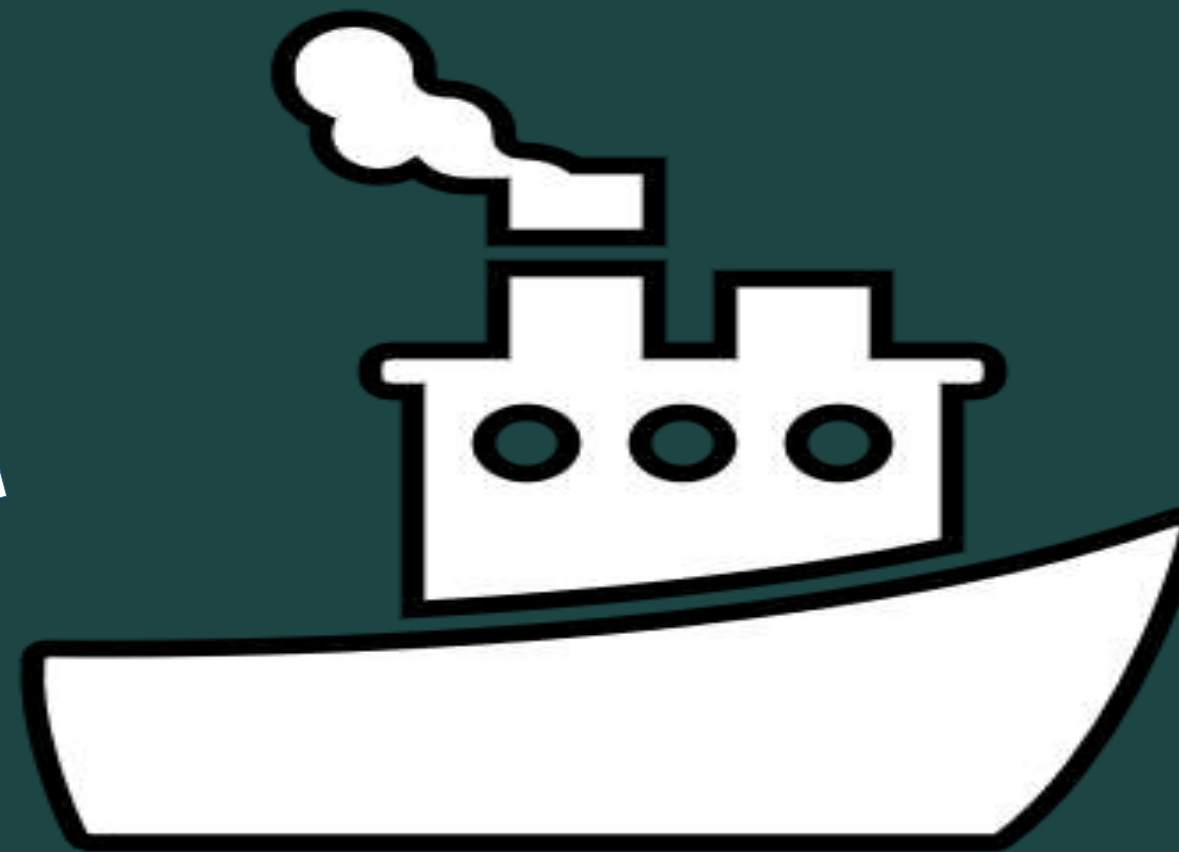
- Customs investigation
- Arrest / detention

Private law (civil law claims)

Environmental
Authority

Container Terminal

Port Administration /
Oil response team



Police Interrogation

- Article 263 of the Criminal Code of Russia: violation of the safety regulations, including as regards operation of seagoing vessels
- Master of the ship was interrogated, crewmembers were transported in the luggage boot from the seaport to the airport
- NB: a seagoing vessel may be considered as an instrument of a crime =>
- the vessel may be arrested for the whole period of a criminal investigation: 6-12-18 months and more



Customs Investigation



- Obviously, customs were not happy to see the difference between
 - the bunker oil declared (95 mt) and
 - found afterwards onboard the vessel (105/150 mt)
- Sanctions for violations of customs regulations:
 - Arrest of the bunker oil
 - Confiscation of the vessel
 - Fine amounting up to 200 % of the undeclared oil



Applicable law and jurisdiction

- The 1952 Arrest Convention
- The 2001 Bunker Convention
- Chapters XIX.1 and XXIII of the MSC of Russia (implementation of the conventions)
- Commercial Procedure Code of Russia

Commercial Court of Saint Petersburg and Leningrad Region – place of harm and the vessel

Article 6 of the 1952 Convention

...

The rules of procedure relating to the arrest of a ship ... and to all matters of procedure which the arrest may entail, shall be governed by the law of the Contracting State in which the arrest was made or applied for.

Article 90 of the Commercial Procedure Code:

the applicant must prove on a probability basis the difficulty or impossibility of enforcing the future judgement on the merits.



FIRST CIVIL CLAIM

(by Environmental
Authority)



HOW DO YOU ESTABLISH BUNKER POLLUTION DAMAGE?

$$Y = K_{\text{вг}} \times K_{\text{в}} \times K_{\text{ин}} \times K_{\text{дп}} \times \sum_{i=1}^n H_i$$

RUB 99,999,999

=

or

US \$ 1.6 million



Article 1(1)(a):

“Maritime Claim” means a claim arising out of one or more of the following:
damage caused by any ship either in collision or otherwise...

Article 3(4): When in the case of a charter by demise of a ship the charterer and not the registered owner is liable in respect of a maritime claim relating to that ship, the claimant may arrest such ship...

Main points of the Environmental Authority:

- The bunker pollution damage amounts to RUB 99,000,000
- The environmental claim is a maritime claim under the MSC of Russia / 1952 Arrest Convention
- The vessel shall be arrested



© 2005 Blackwell Publishing Ltd *Journal of Internal Medicine* 258: 103–110

[illegible][illegible]

В соответствии с п. 7 ст. 4 Трудового договора работодатель обязан ПР (или - ИП) предоставить рабочие карты и выдать денежные суммы за проживание, питание и проезд, а также суммы компенсации, если таковые предусмотрены трудовым договором. Работодатель обязан возместить расходы на проезд работника на рабочее место и обратно, а также на проезд работника и его иждивенцев к месту работы и обратно (путешествия), если это предусмотрено трудовым договором.

Spencer and his staff drafted these programs and presented them to the board and Spencer's program committee. Spencer's program committee consisted of seven members, including Spencer, and was responsible for reviewing and recommending programs to the board.

Revised manuscript received 10 May 2013; accepted 17 May 2013

Illegitimate access to services or information through computer systems is a crime in Switzerland and is punishable by up to 5 years imprisonment or a fine of up to 100,000 Swiss francs. The law also provides for the seizure of the computer system and the destruction of the data stored on it.

Figurațiile sunt în funcție de dimensiunile și tipul sistemului de iluminat, de dimensiunile și tipul spațiului iluminat, de dimensiunile și tipul spațiului de lucru.

Примечание: все данные приведены в % к общему числу в исследуемой группе

© 2000 Blackwell Science Ltd

The court refused to impose an arrest and held that the Applicant did not comply with the mandatory pre-trial complaint procedure

the manufacturer's or manufacturer's representative request to participate in the program.

Эта моя личная точка зрения, основанная исключительно на моем личном опыте работы в области и, конечно, может оказаться неверной. Но, тем не менее.

Journal: *Journal of Management Education*



SECOND CIVIL CLAIM

(by Container Terminal)



Main points of the Container Terminal:

- There is no claim on the merits yet, but the arrest should be imposed as a preliminary interim measure
- Applicant's claim is a maritime claim under the Convention (Art. 1(1)(a) of the 1952 Convention)
- Maritime arrest is a special measure in comparison to the ordinary interim measures of the local procedural law
- The shipowner has no other property in Russia, so the enforcement of the future judgement on the merits may become impossible (Art. 3(4) of the 1952 Convention)
- The vessel shall be arrested





Федеральное агентство по рыболовству
Федеральное агентство по рыболовству
Федеральное агентство по рыболовству

<http://www.fishery.ru>

ОБЪЕКТ ЗАЩИТЫ

Объект защиты

Судоводитель
Судоводитель

Судоводитель

Судоводитель

Судоводитель

Судоводитель

Судоводитель

Судоводитель

Судоводитель

Судоводитель

Судоводитель

Судоводитель

Судоводитель

Судоводитель

Судоводитель

Судоводитель

Судоводитель

Судоводитель

Судоводитель

The court refused to impose an arrest and held that

- The Applicant asked for a preliminary interim measure before filing the claim on the merits, but at the same time,
- The Applicant did not comply with the rules of the Commercial Procedure Code of Russia and did not provide a counter-security against the preliminary arrest of the vessel

Судоводитель

Судоводитель

Судоводитель



THIRD CIVIL CLAIM

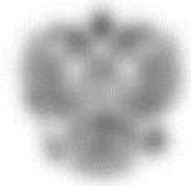
(by Port Administration)



Same points as for the Container Terminal:

- There is no claim on the merits yet, but the arrest should be imposed as a preliminary interim measure
- Applicant's claim is a maritime claim under the Convention (Art. 1(1)(a) of the 1952 Convention)
- Maritime arrest is a special measure in comparison to the ordinary interim measures of the local procedural law
- The shipowner has no other property in Russia, so the enforcement of the future judgement on the merits may become impossible (Art. 3(4) of the 1952 Convention)
- The vessel shall be arrested





Aglycyron 153 species (Genus *Aglycyron* is transparent to us)

Journal of American Studies, 33 (1999), 1, 1–12. Printed in the United Kingdom
© 1999 Cambridge University Press

http://www.elsevier.com/locate/jmb

CHOPRE, DE. DE 1998.
de observaciones y reportes

The court imposed an arrest and held that

- The Applicant has taken preventive measures to eliminate bunker pollution damage
- The Applicant's claim is a maritime claim (Art. 1(1)(a) of the 1952 Convention)
- Provision of a counter-security against the preliminary arrest of the vessel is not an imperative procedural rule, and
- Failure to provide a counter-security cannot serve as the only sufficient reason to dismiss the application for preliminary arrest of the vessel
- Articles 3(1) and 3(4) of the 1952 Convention



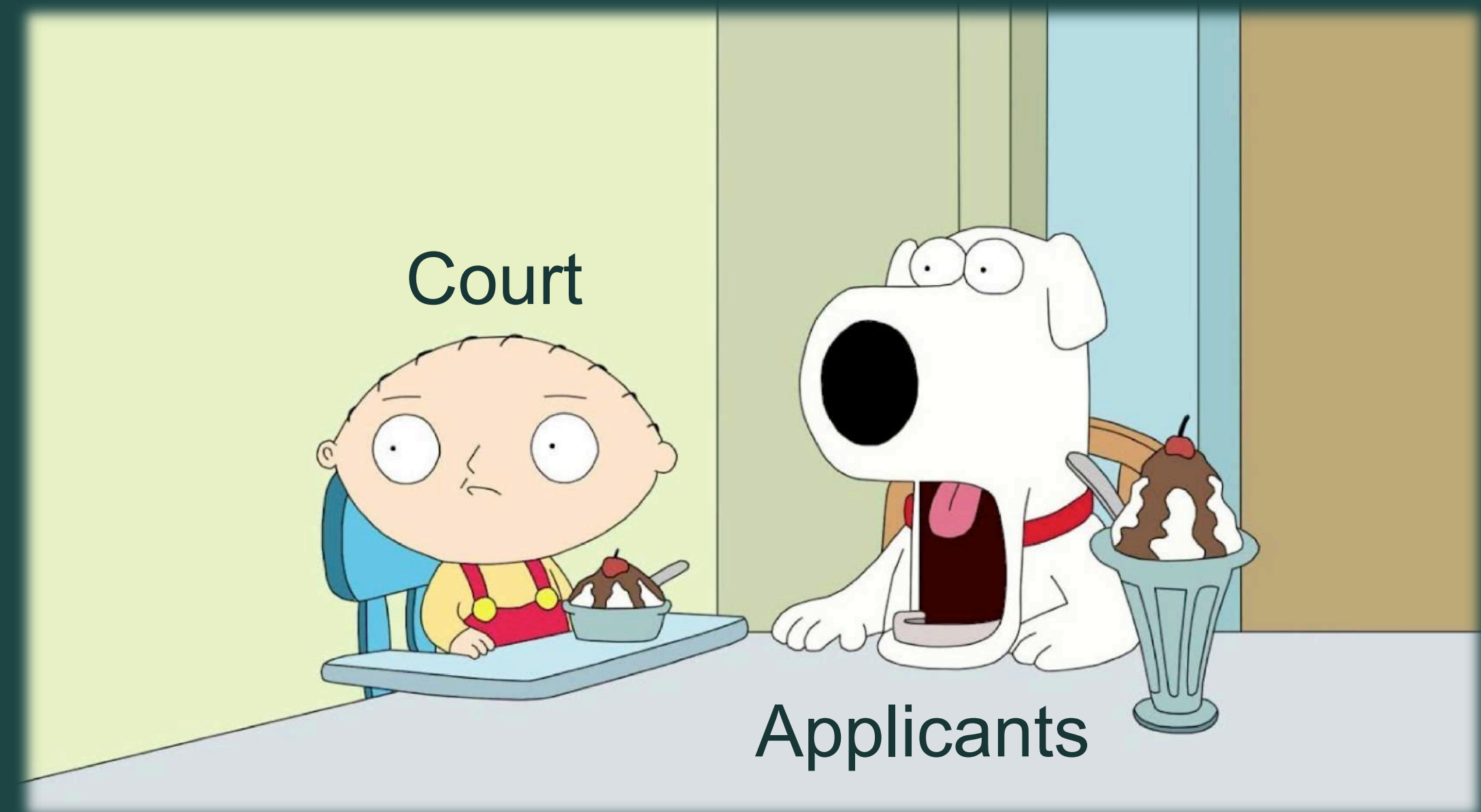
Lifting the Arrest

- Thursday – P&I Club makes a payment of US \$ 580,000 as a preliminary reimbursement of losses
- Friday – Club issues a LoU for another US \$ 580 000 to be paid after the court proceedings
- Sunday – vessel leaves the seaport



Lifting the Arrest

- Monday – joint application to lift the arrest against the LoU
- Wednesday – hearings as to lift the arrest or not
- Thursday – the arrest is officially lifted (though the vessel is already far away from St. Petersburg)





T.: +7 495 640 07 98 (Moscow)

T.: +7 812 640 07 98 (St.
Petersburg)

E-mail: navicus@navicus.law

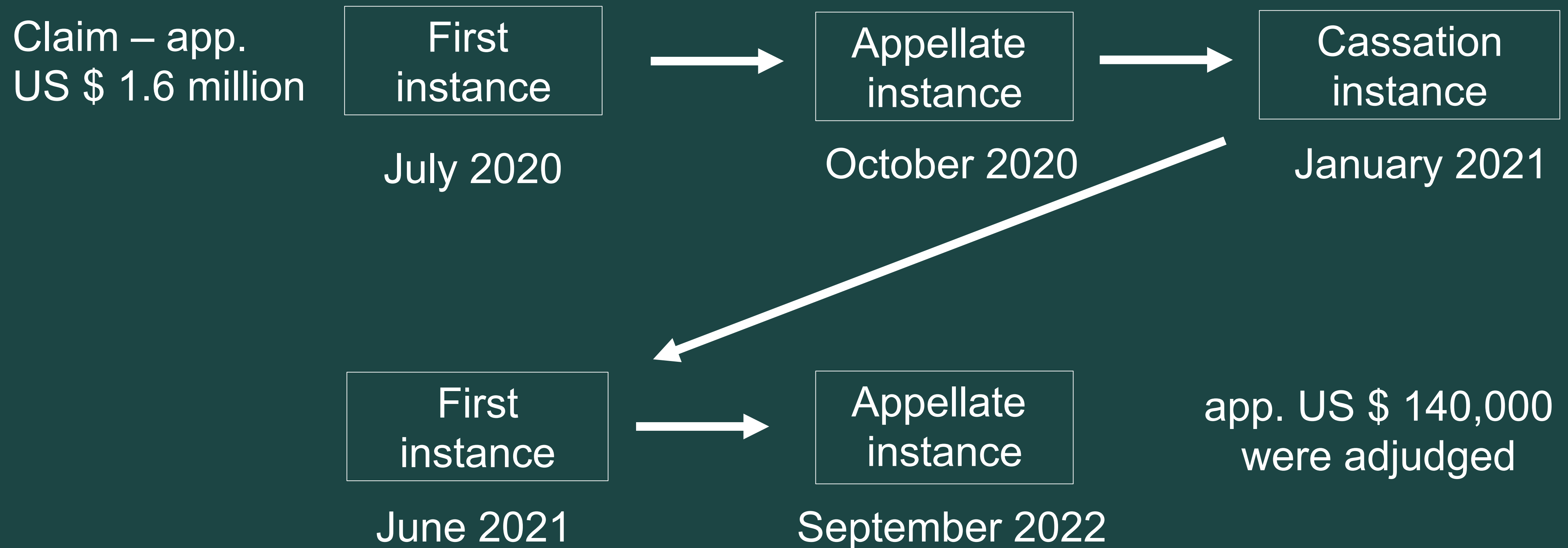
1-A Orlovskaya street, office 31-H,
St. Petersburg, 191124, Russia



P.S.



Claim of the Port Administration in Courts





T.: +7 495 640 07 98 (Moscow)

T.: +7 812 640 07 98 (St.
Petersburg)

E-mail: navicus@navicus.law

1-A Orlovskaya street, office 31-H,
St. Petersburg, 191124, Russia

