



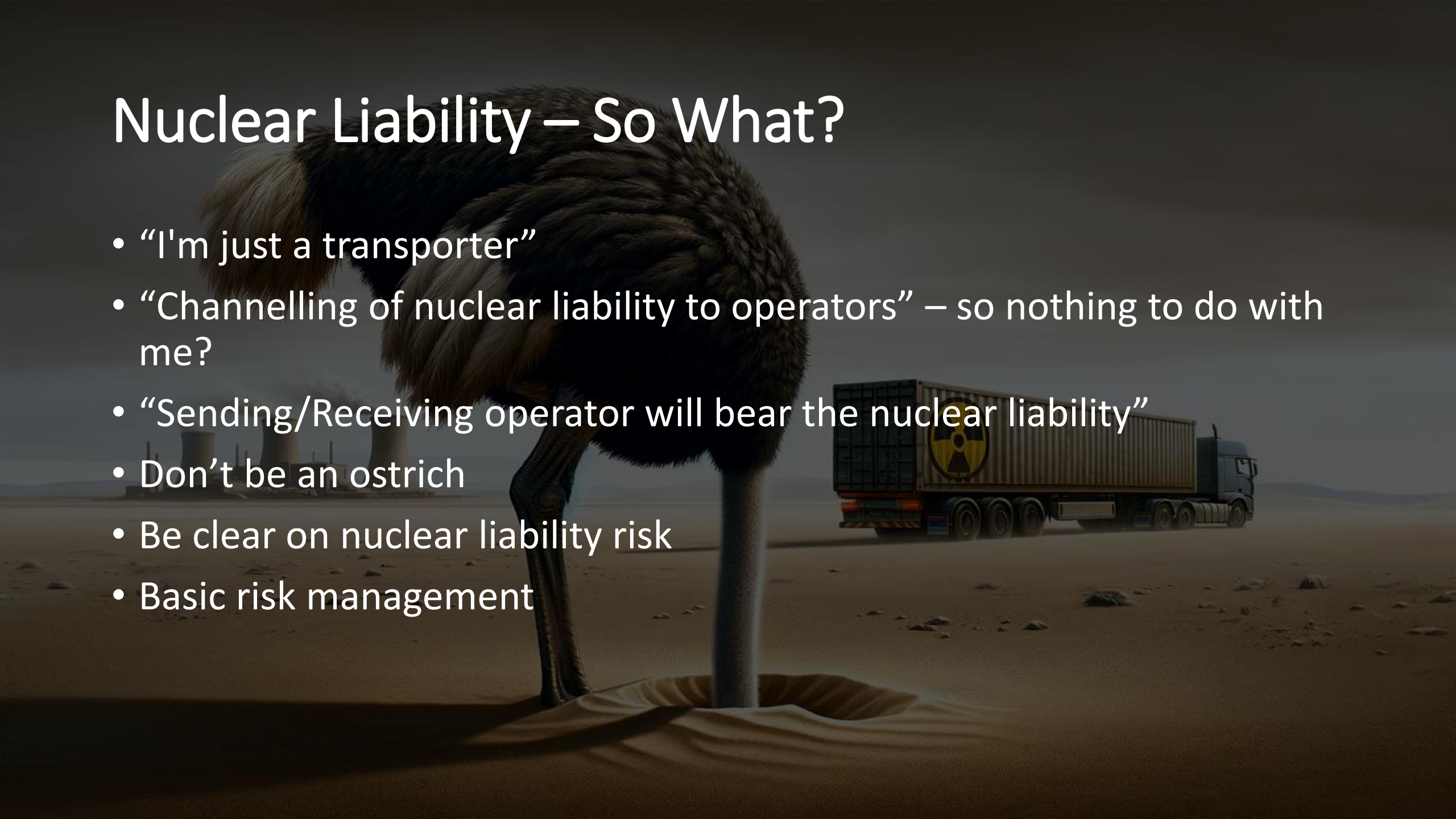
Nuclear Liability in Transport

Khalil Bukhari

Chair, INLA Transport Law Working Group 7

Nuclear Liability – So What?

- “I’m just a transporter”
- “Channelling of nuclear liability to operators” – so nothing to do with me?
- “Sending/Receiving operator will bear the nuclear liability”
- Don’t be an ostrich
- Be clear on nuclear liability risk
- Basic risk management



Basic Risk Management

- Understanding nuclear liability => understanding risk and exposure
- Don't be caught holding the Nuclear Liability baby
- Appropriate and agreed allocation of risk:
 - Customer
 - Suppliers
 - Insurers
- Clarity on costs and pricing => profits



What to watch out for

- Nuclear liability Transfer
- Non convention/Tort claims
- Carrier liability
- Third Party Supplier Protection
- Contractual Protection
- Mixed shipments
- Insurance limits/exclusions
- Damage to the means of transport



Nuclear Liability Transfer

Who is liable for nuclear liability – When and Where?

Avoid misalignment between the parties

“nuclear liability for an operator can end or begin when the cargo is unloaded from or loaded onto the means of transport”

Clarity on definition of point of transfer & unloading/loading

Clear contracts avoid delays/disputes

Gaps in nuclear liability cover can leave transporters exposed

Differentiate nuclear liability from non-nuclear liability



Non- convention/Tort claims

- Claims outside scope of Nuclear Liability regimes.
- Claimants from non-signatory states
- Judges sympathetic to claimants preferring to claim in their home jurisdiction (US Navy personnel Claims post Fukushima)
- Claimant lawyers' focus on clients' best interests
- Nuclear liability regime limits could be avoided
- Transporters at risk due to being publicly in charge of the material
- Protections:
 - Insurance
 - Legal expenses cover
 - Indemnities
 - Know the risks

Carrier Liability

- Some countries allow for nuclear liability to be passed onto carriers
- In specific scenarios only, but inexperience =>unnecessary delays/disputes/costs
- Some countries allow for any subcontractors to be liable
- Protection:
 - Indemnities
 - Named party on insurance policies
 - Don't be an ostrich



Third Party Supplier Protection

- Usually require extensive indemnities
- Understanding nuclear liability will help avoid indemnities
- Explain channelling principle
- Some jurisdictions allow for suppliers to be liable
- Protections:
 - customer indemnities
 - named party insurance policies
 - have your customer employ them directly

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Contractual Protection

Clear contracts

Contracting party financial status

Parental guarantees

Insurance

Beware quick acceptance - could be too good to be true!

Mixed shipments

Understand interplay of different nuclear liability regimes if shipping material to/from different facilities in different states

Straightforward on paper, not so in practice

May not be immediately clear which package has released radiation/which liability regime applies.

Responsible operator and insurer may require clarity/time before confirming coverage.

Claims may come to transporter as 'public face' of incident.

Agreed claims management plan owned by operators/owners and insurers.

Make it contractual - indemnities, legal expenses cover

Insurance – Limits & Exclusions

- For nuclear damage - Nuclear Pools and Nuclear Mutuals available.
- P&I Club covers shipowners for natural uranium and isotopes (considered as excepted materials), not fissile Class 7.
- Means of Transport – Nuclear 3rd Party Transport Policies
- If no escape of radioactive materials involved:
 - Shut down of port – financial losses – **no cover**
 - Delay to cargo in port – **no cover**
 - Delay/losses of other port users – **no cover**
 - Management time – **no cover**
 - Damage to ship – Hull & Machinery (H&M) – **possible but deductible?**
 - Damage to other cargo – **covered by P&I**
 - Additional discharge expenses – **yes, P&I but limited to non-fissile related**
 - Survey and legal expenses – **yes, P&I but limited to non- fissile related**
- Main uninsured exposure - incident involving a nuclear cargo leading to full/partial closure of port operations until breach/no breach is confirmed.
- Be clear on limitations & exclusions

Takeaways

Nuclear/Non-nuclear liability

Contracts/written agreement?

Liability transfer

Point of loading/unloading

Conventions/contracts/insurance - limited

Limits/exclusions/financial strength

Residual risk/liability

Non convention/Tort claims

Means of Transport/Salvage

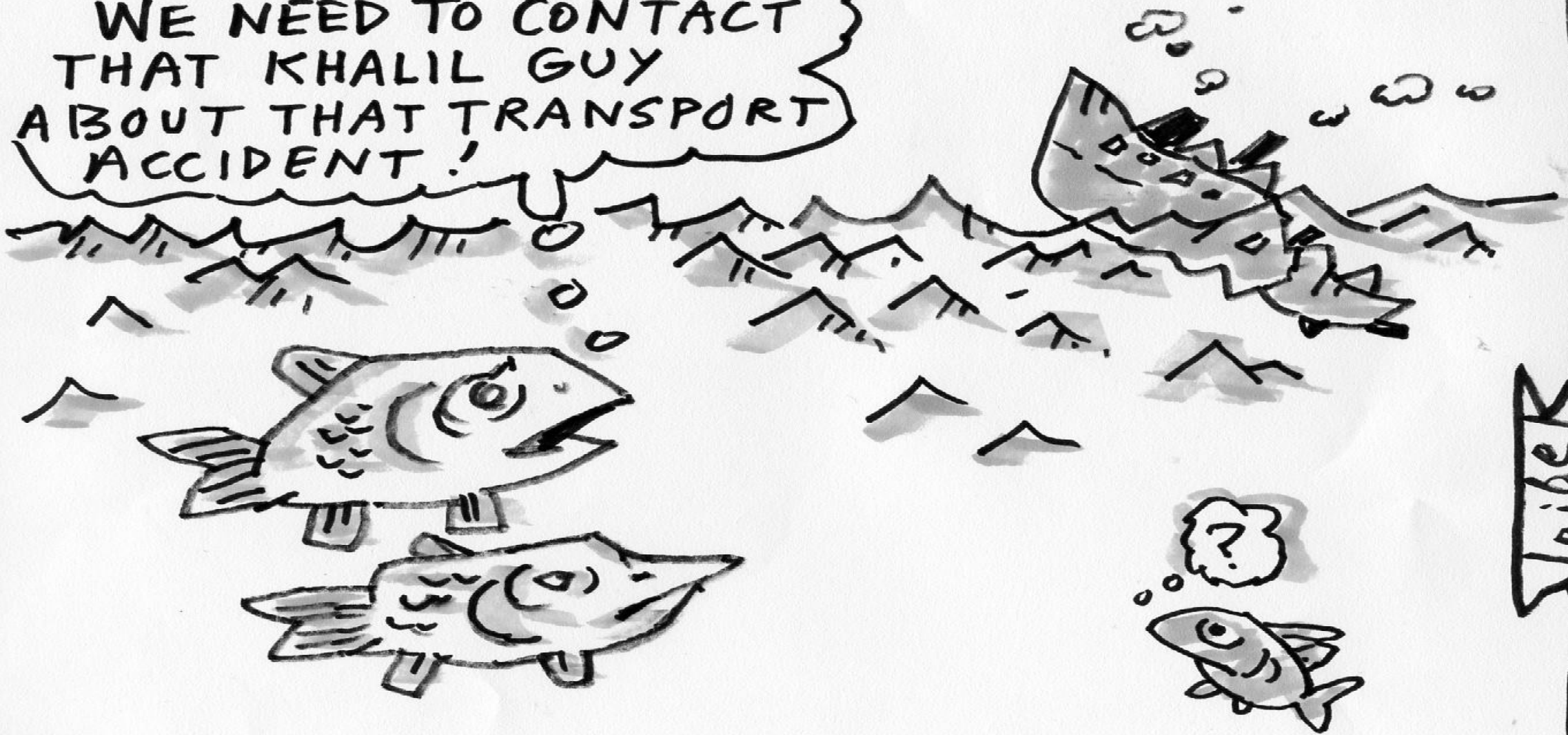


What To Do?

- Clarity
- Identify & address misunderstandings
- Identify the gaps
- Ensure alignment
- Take expert advice
- Clearly drafted contracts with built in protection
- Experienced Transporters
- Transport Guide
- Don't be an ostrich!



WE NEED TO CONTACT
THAT KHALIL GUY
ABOUT THAT TRANSPORT
ACCIDENT!



Stoiber

”If You Can’t
Explain It Simply,
You Don’t
Understand It Well
Enough.”

Albert Einstein

