

The International Oil Pollution Compensation Funds



2012 Edition





• The International Regime

The IOPC Funds are three intergovernmental organisations (the 1992 Fund, the Supplementary Fund and the 1971 Fund) established by States for the purpose of providing compensation for victims of oil pollution damage resulting from spills of persistent oil from tankers.

• The legal framework

The international regime of compensation for damage caused by oil pollution is currently based on two international conventions: the 1992 Civil Liability Convention (1992 CLC) and the 1992 Fund Convention. These Conventions were adopted under the auspices of the International Maritime Organization (IMO), a specialised agency of the United Nations.

The 1992 Civil Liability Convention provides a first tier of compensation which is paid by the owner of a ship which causes pollution damage.

Under the 1992 Civil Liability Convention, the shipowner has strict liability for any pollution damage caused by the oil, i.e. the owner is liable even if there was no fault on the part of the ship or its crew. However, the shipowner can normally limit his financial liability to an amount that is determined by the tonnage of the ship. This amount is guaranteed by the shipowner's liability insurer.

Normally, the Conventions only apply to tankers carrying persistent oil as cargo. However, under certain circumstances, the Conventions also apply to spills from unladen tankers.

The 1992 Fund Convention provides a second tier of compensation which is financed by receivers of oil in States Parties to the Convention after sea transport. The 1992 Fund was set up in 1996 when the 1992 Fund Convention entered into force.

A Protocol to the 1992 Fund Convention adopted in 2003, the Supplementary Fund Protocol, provides an extra layer of compensation via the Supplementary Fund, which was set up in March 2005. Membership of this Fund is open to any State that is a Member of the 1992 Fund.

States which ratify these legal instruments must implement them into their national law. National legislation should identify, *inter alia*, the government authority responsible for the submission of oil reports and include provisions for the identification of any person in that State who is liable to contribute. It may also cover sanctions for non-payment of contributions. States must also ensure that the national legislation is updated in line with the amendments to the limitation amounts made in 2003, and that it stipulates which national courts have jurisdiction to hear claims for compensation under the Conventions.

The role of the IOPC Funds

The 1992 Fund and, if applicable, the Supplementary Fund provide additional compensation when the amount payable by the shipowner and his insurer is insufficient to cover all the damage.

Amount of compensation available

The maximum amounts of compensation payable by the shipowner's insurer and the IOPC Funds were fixed by governments at the Diplomatic Conferences that adopted the relevant international treaties. As at 1 February 2012, the maximum amount payable for each incident was 203 million Special Drawing Rights (SDR) of the International Monetary Fund, equal to about US\$ 314 million, with up to 89.7 million SDR (US\$ 139 million) covered by the shipowner under the 1992 CLC, for incidents covered by the 1992 Fund and 750 million SDR (about US\$ 1 162 million) for incidents which are also covered by the Supplementary Fund.

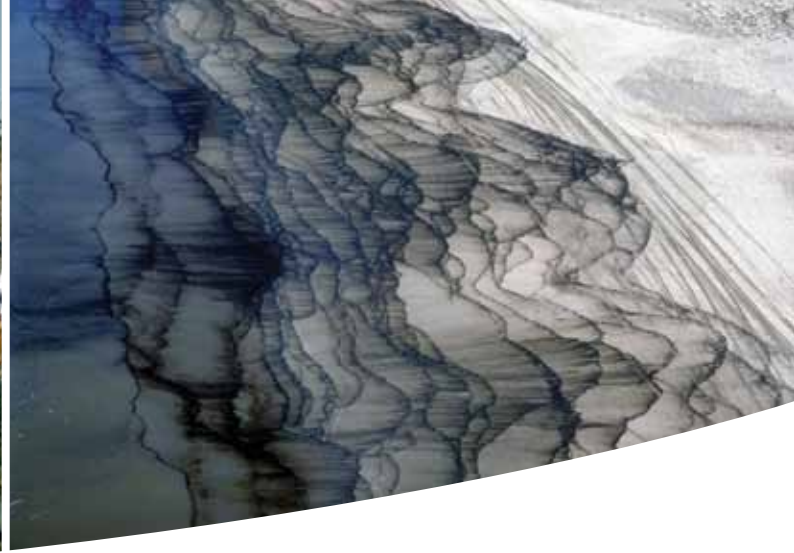
An earlier Fund, the 1971 Fund, still exists but is in the process of being wound up and does not cover incidents occurring after 24 May 2002.

Since their establishment, the 1992 Fund and the preceding 1971 Fund have been involved in 143 incidents of varying sizes all over the world. In the great majority of cases, all claims have been settled out of court. No incidents have occurred so far which have involved or are likely to involve the Supplementary Fund.

The great majority of maritime States are Members of the IOPC Funds

As at 1 February 2012, the 1992 Fund had 105 Member States, and four further States will become Members by November 2012. In addition, 27 of these States were Members of the Supplementary Fund and one further State, Montenegro, will become a Member of that Fund on 29 November 2012. All Member States are shown in the table on the back cover.





.....• Damage covered by the Conventions

Anyone in a Member State of the 1992 Fund who has suffered pollution damage caused by oil transported by a tanker can claim compensation from the shipowner/insurer, the 1992 Fund and, if applicable, the Supplementary Fund. This applies to individuals, businesses, local authorities and States.

To be entitled to compensation, the damage must result from oil pollution and have caused a quantifiable economic loss. The claimant must be able to show the amount of his loss or damage by producing accounting records or other appropriate evidence.

An oil pollution incident can generally give rise to claims for five types of damage:

- **property damage;**
- **costs of clean-up operations at sea and on shore;**
- **economic losses by fishermen or those engaged in mariculture;**
- **economic losses in the tourism sector; and**
- **costs for reinstatement of the environment.**

Claims against the 1992 Fund are assessed according to criteria established by governments of Member States. These criteria, which apply to all three Funds, are set out in the 1992 Fund's Claims Manual, which is a practical guide on how to present claims for compensation.

In a number of major incidents, the IOPC Funds and the shipowner's insurer have cooperated in establishing a local claims office in the country where the oil spill occurred. This has facilitated the handling of large numbers of claims.

Depending on the nature of the claims, the IOPC Funds use experts in different fields to assist in their assessment.

.....• Structure of the IOPC Funds

The 1992 Fund is governed by an Assembly composed of representatives of the governments of all its Member States. The Assembly holds a regular session once a year. It elects an Executive Committee made up of 15 Member States. The main function of the Executive Committee is to approve the settlement of claims for compensation.

The Supplementary Fund has its own Assembly which is composed of all States that are Members of that Fund whereas the 1971 Fund, which is in the process of being wound up, has an Administrative Council which is composed of all former Member States.

Photos by You Inspire Photography; IOPC Funds; and ITOFF

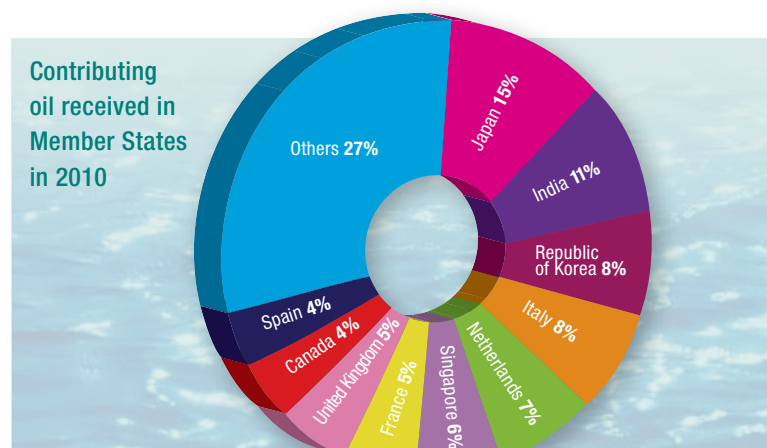
Organisations connected with the maritime transport of oil, such as those representing shipowners, marine insurers and the oil industry, as well as environmental organisations are represented as observers at the IOPC Funds' meetings. Decisions by the IOPC Funds' governing bodies are, however, taken solely by the governments of the Member States.

The 1992 Fund Assembly appoints the Director of the IOPC Funds, who is responsible for the operation of the three Funds and has extensive authority to take decisions regarding the settlement of claims. The Funds have their headquarters in London and are administered by a joint Secretariat.

.....• Financing of the IOPC Funds

The IOPC Funds are financed by contributions levied on any entity that has received in the relevant calendar year more than 150 000 tonnes of contributing oil (i.e crude and/or heavy fuel oil) in ports or terminal installations in a Member State, after carriage by sea.

The levy of contributions depends on reports of the amounts of oil received by individual contributors, which the governments of Member States are obliged to submit annually to the Secretariat. These amounts are used as the basis of the levy, calculated to provide sufficient monies to administer the Funds and to pay claims approved by the governing bodies.



.....• External Relations

In addition to cooperating closely with other intergovernmental and non-governmental organisations, the Director and staff of the IOPC Funds regularly participate in seminars, conferences and workshops around the world in order to disseminate information on the Funds' activities and to promote awareness of the international compensation regime.

109 Member States of the 1992 Fund in 2012

States which are also Members of the Supplementary Fund are marked in **bold**.

- Albania
- Algeria
- Angola
- Antigua and Barbuda
- Argentina
- **Australia**
- Bahamas
- Bahrain
- **Barbados**
- **Belgium**
- Belize
- Benin
- Brunei Darussalam
- Bulgaria
- Cambodia
- Cameroon
- **Canada**
- Cape Verde
- China^{<1>}
- Colombia
- Comoros
- Congo
- Cook Islands
- **Croatia**
- Cyprus
- **Denmark**
- Djibouti
- Dominica
- Dominican Republic
- Ecuador
- **Estonia**
- Fiji
- **Finland**
- **France**
- Gabon
- Georgia
- **Germany**
- Ghana
- **Greece**
- Grenada
- Guinea
- **Hungary**
- Iceland
- India
- **Ireland**
- Islamic Republic of Iran
- Israel
- **Italy**
- Jamaica
- **Japan**
- Kenya
- Kiribati
- **Latvia**
- Liberia
- **Lithuania**
- Luxembourg
- Madagascar
- Malaysia
- Maldives
- Malta
- Marshall Islands
- Mauritius
- Mexico
- Monaco
- **Montenegro**^{<2>}
- **Morocco**
- Mozambique
- Namibia
- **Netherlands**
- New Zealand
- Nigeria
- Oman
- Palau^{<3>}
- **Norway**
- Panama
- Papua New Guinea
- Philippines
- **Poland**
- **Portugal**
- Qatar
- **Republic of Korea**
- Russian Federation
- Saint Kitts and Nevis
- Saint Lucia
- Saint Vincent and the Grenadines
- Samoa
- Senegal^{<3>}
- Serbia^{<3>}
- Seychelles
- Sierra Leone
- Singapore
- **Slovenia**
- South Africa
- **Spain**
- Sri Lanka
- **Sweden**
- Switzerland
- Syrian Arab Republic
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Tuvalu
- United Arab Emirates
- **United Kingdom**
- United Republic of Tanzania
- Uruguay
- Vanuatu
- Venezuela (Bolivarian Republic of)

^{<1>} The 1992 Fund Convention applies to the Hong Kong Special Administrative Region only.

^{<2>} The 1992 Fund Convention and Supplementary Fund Protocol will enter into force for this State during 2012.

^{<3>} The 1992 Fund Convention will enter into force for this State during 2012.



For further information regarding the work of the IOPC Funds please visit www.iopcfund.org.

For all meeting documents, circulars and decisions taken by the governing bodies of the IOPC Funds since 1978 please visit www.iopcfund.org/document-services.

In addition to its work compensating victims of oil pollution, the 1992 Fund has been tasked to work together with IMO to facilitate the wider ratification of the 2010 Protocol to the International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (2010 HNS Protocol) and to carry out preparations for the setting up of the HNS Fund.

For further information please consult www.hnsconvention.org.

Publications which are available from the IOPC Funds:

- **Incidents Involving the IOPC Funds**
- **Annual Report**
- **Claims Manual**
- **Texts of the 1992 Civil Liability Convention, the 1992 Fund Convention and the Supplementary Fund Protocol**
- **Guidelines for Presenting Claims in the Fisheries, Mariculture and Fish Processing sector**
- **The HNS Convention Brochure**



INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS

T + 44 (0)20 7592 7100 info@iopcfund.org
 F + 44 (0)20 7592 7111 www.iopcfund.org

Portland House, Bressenden Place, London, SW1E 5PN, United Kingdom

