



# International Oil Pollution Compensation Funds

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# The International Oil Pollution Compensation Funds

The International Oil Pollution Compensation Funds (IOPC Funds) are three intergovernmental organisations established by States (the 1971 Fund, the 1992 Fund and the Supplementary Fund) that provide compensation for victims of oil pollution damage caused by spills of persistent oil from tankers.

## Member States of the 1992 Fund

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

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

## The International Regime

### 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 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.

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.

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.

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.

### The great majority of maritime States are members of the IOPC Funds

On 1 April 2009, the 1992 Fund had 102 Member States, and one further State will become a Member by the end of 2009. In addition, 23 of these States are Members of the Supplementary Fund.

### The shipowner has strict liability

Under the 1992 Civil Liability Convention, the shipowner has strict liability for any damage by pollution caused by the oil, ie 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.

\* Will become a Member of the 1992 Fund on 5 November 2009



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

## 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 of 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. At present, the maximum amount payable for each incident is 203 million Special Drawing Rights (SDR) of the International Monetary Fund, equal to about US\$313 million, for incidents covered by the 1992 Fund and 750 million SDR (about US\$1 155 million) for incidents which are also covered by the Supplementary Fund.

Since their establishment, the 1992 Fund and the preceding 1971 Fund have been involved in some 140 incidents of varying sizes all over the world. In the great majority of cases, all claims have been settled out of court. Compensation payments made to date total over £565 million (US\$813 million). No incidents have occurred so far which have involved or are likely to involve the Supplementary Fund.

## 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
- Costs for reinstatement of the environment

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

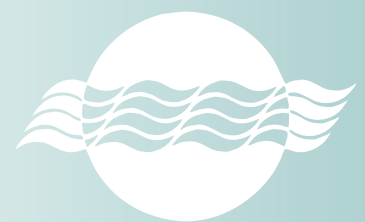
## Structure of the IOPC Funds

The 1992 Fund is governed by an Assembly composed of representatives of the Governments of all its Member States. The Assembly holds an ordinary 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.

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 representatives of the Governments of the Member States.

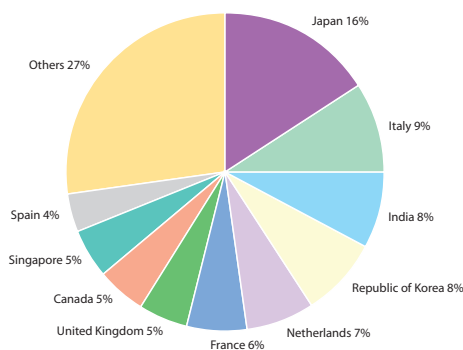
The 1992 Fund Assembly appoints the Director of the IOPC Funds, who is responsible for the operation of the three Funds and has extensive authority to take decisions regarding the settlement of claims. The Funds have their headquarters in London and are administered by a joint Secretariat.





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 the large number of claims.

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



Main oil industries contributing to the 1992 Fund

## Financing of the IOPC Funds

The IOPC Funds are financed by contributions paid by any person or organisation, whether privately or publicly owned, who has received during the preceding calendar year more than 150 000 tonnes of crude oil or heavy fuel-oil in a Member State after sea transport. The contributors are generally oil companies.

Contributions are only levied to cover the administrative expenses of the Funds and to enable the Funds to pay compensation for specific incidents. The amounts to be levied vary from year to year and are decided each year by the governing bodies. The amount to be paid by each contributor depends on the quantity of oil received.

The Japanese oil industry is by far the main contributor with around 16% of the total contributions. The oil industries of the following countries are also major contributors: Italy (9%), India (8%), Republic of Korea (8%), Netherlands (7%), France (6%), United Kingdom (5%), Canada (5%), Singapore (5%) and Spain (4%).

## 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.



INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS

PORTLAND HOUSE  
BRESSENDEN PLACE  
LONDON SW1E 5PN  
UNITED KINGDOM

Telephone: +44 (0)20 7592 7100

Telefax: +44 (0)20 7592 7111

E-mail: [info@iopcfund.org](mailto:info@iopcfund.org)

Website: [www.iopcfund.org](http://www.iopcfund.org)