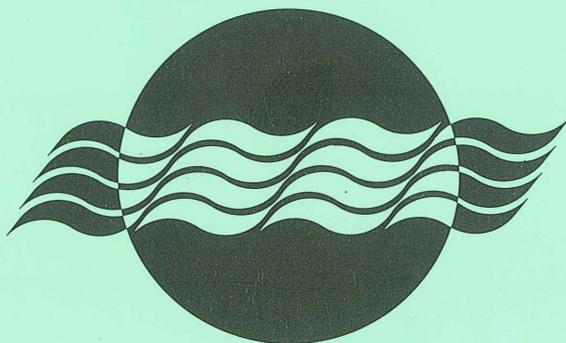


**INTERNATIONAL
OIL POLLUTION
COMPENSATION FUND**

**ANNUAL REPORT
1986**



Report on the Activities of the International Oil Pollution Compensation Fund in the Calendar Year 1986

1 INTRODUCTION

The International Oil Pollution Compensation Fund (IOPC Fund) was set up in October 1978, pursuant to the 1971 Fund Convention, for the purpose of providing compensation for oil pollution damage resulting from the spill of persistent oil from tankers. This Annual Report for the calendar year 1986 covers the activities of the IOPC Fund during its eighth year of operation.

Since its establishment, the membership of this inter-governmental organisation has increased from 14 to 35 States. A list of the present Member States, as well as details of the IOPC Fund's organs (the Assembly, the Executive Committee and the Fund Secretariat) are set out in Annexes I and II.

There have been four new incidents in 1986 involving the IOPC Fund. The IOPC Fund's Secretariat has made great efforts to settle claims arising out of incidents which occurred in previous years, and final settlements were reached during 1986 in several of these cases. The IOPC Fund was involved in complicated court proceedings in Italy in respect of the PATMOS incident, which occurred in the Straits of Messina in Italy in 1985 and which had resulted in large claims against the IOPC Fund.

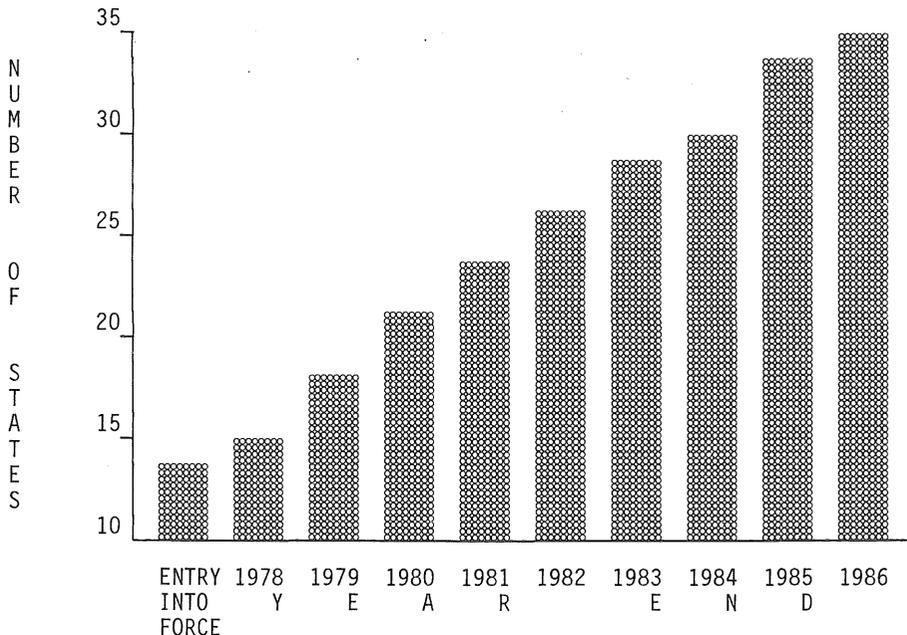
An important development took place during 1986 concerning the amount of compensation available under the Fund Convention. The IOPC Fund's Assembly decided unanimously at its 9th session in October 1986 to increase the maximum liability of the IOPC Fund from the present limit of 675 million (gold) francs (45 million Special Drawing Rights, SDR), in two stages, to 900 million (gold) francs (60 million SDR), the maximum provided for under the Fund Convention.

2 MEMBERSHIP

The People's Republic of Benin acceded to the Fund Convention on 1 November 1985, and the Convention entered into force in respect of Benin on 30 January 1986. In addition, Greece acceded to the Fund

Convention on 16 December 1986, and the Convention will enter into force in respect of Greece on 16 March 1987, bringing the number of Member States to 35. The development of the IOPC Fund's membership is illustrated in the following graph.

MEMBERSHIP OF THE IOPC FUND



It is expected that several States will join the IOPC Fund in the near future. The Director has been informed that Côte d'Ivoire will become Party to the Fund Convention very soon. Legislation implementing the Fund Convention is in an advanced stage in Belgium, Canada, Ireland and Morocco. Several other States, eg Cyprus, the German Democratic Republic, the Republic of Korea, the People's Republic of China, Senegal and the Seychelles, are also examining the question of ratification.

3 CONTACTS WITH GOVERNMENTS AND INTERESTED BODIES

As in previous years, the IOPC Fund Secretariat has made considerable efforts to increase the number of Member States. In view of the complexity of the compensation system under the Civil Liability Convention and the Fund Convention, the Secretariat has tried to

convey as much information as possible about the Conventions to governments and representatives of industry. For this purpose, the Director went to Argentina, Brazil, Chile, the People's Republic of China and Thailand for discussions on the Fund Convention with government officials in these States.

In addition, the Director visited three Member States - France, Italy and Sweden - for discussions with government officials on the Fund Convention and the operations of the IOPC Fund.

The Director and the Legal Officer also had discussions with government representatives in connection with meetings within the International Maritime Organization (IMO), in particular during the IMO Council in November 1986.

The Director took part in a Chinese National Workshop on Marine Pollution Prevention, Control and Response in Beijing (China). He gave lectures on the Civil Liability Convention and the Fund Convention at a regional seminar for Latin America in Santiago de Chile and at a seminar in Buenos Aires (Argentina). The Director also attended a meeting of an advisory group, convened by IMO, on Arrangements for Combating Major Incidents or Threats of Marine Pollution. In addition, he gave lectures on liability and compensation for oil pollution damage to the students of the World Maritime University in Malmö (Sweden), and to participants in a training course for personnel from developing countries on prevention, control and response to marine pollution incidents in Copenhagen (Denmark). The Legal Officer lectured on oil pollution liability at a training course (MEDIPOL 86) in Valetta (Malta) which was organised by the Regional Oil Combating Centre for the Mediterranean Sea (ROCC).

As in previous years, the IOPC Fund benefited from close relations with many international, inter-governmental and non-governmental organisations. The assistance and support given by IMO to the IOPC Fund was of special importance. The co-operation with the P & I Clubs greatly facilitated the operations of the IOPC Fund. The International Tanker Owners Pollution Federation Limited (ITOPF) was usually called upon by the IOPC Fund to provide technical expertise with regard to oil pollution incidents (except for those occurring in Japan), and ITOPF's assistance was vital, as the IOPC Fund does not have such expertise within its Secretariat. There was also close co-operation between the IOPC Fund, on the one hand, and oil industry interests represented by the Oil Companies International Marine Forum (OCIMF) and CRISTAL, on the other hand.

4 THE 1984 PROTOCOLS TO THE CIVIL LIABILITY CONVENTION AND THE FUND CONVENTION

As mentioned in the 1985 Annual Report, a Diplomatic Conference held in London in 1984, under the auspices of IMO, adopted two

Protocols to amend the Civil Liability Convention and the Fund Convention, respectively. Several States have begun preparing legislation enabling them to ratify the Protocols. So far, however, no State has become Party to the Protocol to the Fund Convention. The Protocol to the Civil Liability Convention has been ratified only by South Africa. In the United States of America, the Protocols and the necessary implementing legislation are being considered by Congress.

5 ASSEMBLY AND EXECUTIVE COMMITTEE

The Assembly held its 9th session from 22 to 24 October 1986. Mr J Bredholt (Denmark) was re-elected Chairman of the Assembly.

The Executive Committee held its 16th session from 20 to 22 October 1986 and its 17th session on 24 October 1986, both under the chairmanship of Professor H Tanikawa (Japan).

The major decisions taken at these sessions were as follows.

5.1 9th Session of the Assembly

- (a) The Assembly took note of the opinion given in the External Auditor's Report on the Financial Statements of the IOPC Fund and approved the accounts for the financial period 1 January to 31 December 1985.
- (b) The Comptroller and Auditor General of the United Kingdom was reappointed as the IOPC Fund's External Auditor for a further term of four years from 1987.
- (c) The following States were elected members of the Executive Committee to hold office until the end of the next regular session of the Assembly: Algeria, Bahamas, Finland, Federal Republic of Germany, Japan, Liberia, Netherlands, Oman, Poland, Spain, Sri Lanka and Sweden.
- (d) The Assembly adopted the budget appropriations for 1987 with an administrative expenditure totalling £337 450.
- (e) The Assembly decided to raise £1 800 000 for the 1986 annual contributions to the general fund to be paid by 1 February 1987. The Assembly also decided not to levy contributions to any major claims fund.
- (f) The Assembly unanimously decided, in accordance with Article 4.6 of the Fund Convention:
 - (i) to increase the aggregate amount of compensation payable by the IOPC Fund in respect of any one incident from 675 million poincaré francs (45 million SDR) to 787 500 000

poincaré francs (52.5 million SDR) for incidents which occur after 30 November 1986;

(ii) to increase this aggregate amount further to 900 million poincaré francs (60 million SDR) for incidents which occur after 30 November 1987.

(g) The Assembly decided, in accordance with Article 5.4 of the Fund Convention, to replace the instrument listed in Article 5.3(a)(ii) of the Convention and to amend the reference in this sub-paragraph as follows:

(ii) SOLAS 74 as modified by the 1978 Protocol and as amended in 1981 and 1983 with effect from 1 May 1987.

(h) Observer status was granted to Côte d'Ivoire, the German Democratic Republic, Greece and Venezuela.

5.2 16th Session of the Executive Committee

The Executive Committee was informed of the latest developments in the settlement of claims arising out of pollution incidents.

As regards the TARPENBEK incident which occurred off the United Kingdom in June 1979, the Director informed the Committee that he had finally succeeded in arriving at a settlement of all claims against the IOPC Fund arising out of this incident. The Committee was informed of the developments in the legal action taken by the IOPC Fund and the French Government in the TANIO case against the owner of the TANIO and other third parties. The Committee agreed that this action should be maintained. As for the PATMOS incident, the Committee was informed of the on-going court proceedings in Italy and of the settlements reached with a number of claimants. In addition, the Committee discussed whether and to what extent salvage operations fell within the definition of "preventive measures" in the Civil Liability Convention and the question of admissibility of claims for non-economic damage to the marine environment.

The Director informed the Committee of the agreement reached between the IOPC Fund and the Japan Ship Owners' Mutual Protection and Indemnity Association (JPIA) on the procedure to be followed in respect of incidents occurring in Japan. The procedure is governed by two documents of 25 November 1985, a "Memorandum of Understanding" signed by the IOPC Fund and JPIA and a "General Undertaking" issued by JPIA.

5.3 17th Session of the Executive Committee

At its 17th session, the Executive Committee re-elected Professor H Tanikawa (Japan) as its Chairman.

6 ACCOUNTS OF THE IOPC FUND

As already mentioned, the Assembly approved, at its 9th session in October 1986, the accounts of the IOPC Fund for the financial period 1 January to 31 December 1985.

The Income and Expenditure Accounts for the period 1 January - 31 December 1985 are shown in Annexes III - V to this Report.

Regarding the general fund (Annex III), the major part of the income in 1985 consisted of interest on the investment of the IOPC Fund's assets (£161 281 out of a total income of £163 452). No annual contributions were levied in 1984, and there were no initial contributions due in 1985. There was thus no income receivable in 1985 in respect of contributions to the general fund. The administrative expenditure was £275 180, about 6% less than the budgetary appropriations. Expenditure on minor claims was £483 332. The resulting excess of expenditure over income, amounting to £624 774, was met from the accumulated surplus from previous years.

There were no payments of compensation made in 1985 from the major claims funds (Annexes IV and V).

The balance sheet of the IOPC Fund as at 31 December 1985 is shown in Annex VI to this Report. The IOPC Fund's contingent liabilities as at that date with respect to pollution incidents were estimated at £32 461 957.

The accounts of the IOPC Fund for the financial period 1 January to 31 December 1986 will be submitted to the External Auditor for an audit opinion in June 1987 and presented to the Assembly for approval at its 10th session in October 1987. These accounts will then be reproduced in the Report on the Activities of the IOPC Fund in 1987.

7 CONTRIBUTIONS

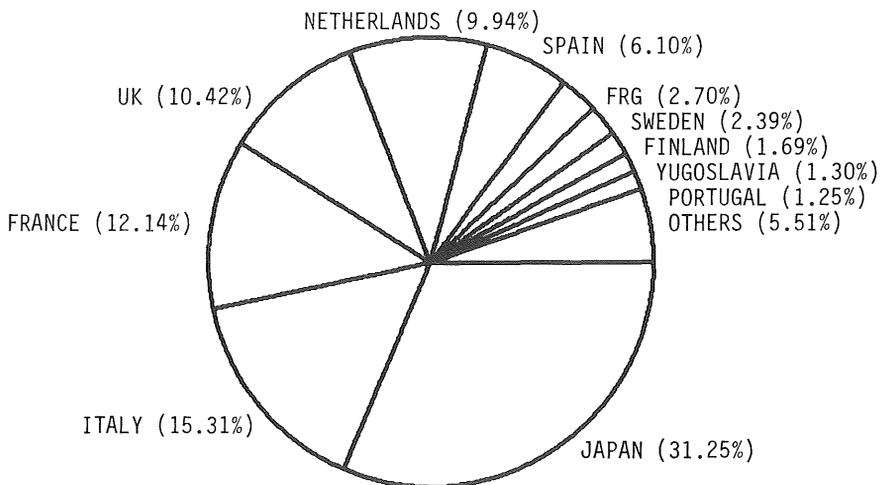
At its 8th session in October 1985, the Assembly had decided to levy 1985 annual contributions for the general fund in the amount of £1.5 million. No contributions were levied for any major claims fund. Payment was due by 15 January 1986. Only a small amount remains unpaid. The Assembly had also decided that a distribution should be made of an amount of £700 000 remaining on the ONDINA/ FUKUTOKU MARU N°8 Major Claims Fund levied in 1983. This resulted in very considerable reductions in the actual payments due from most contributors in respect of the 1985 assessment.

As already mentioned, the Assembly decided at its 9th session to levy 1986 annual contributions for the general fund in the amount of £1.8 million. No contributions were levied for any major claims fund.

The amount payable by each contributor per tonne of contributing oil received was £0.0023360, based on the quantities of oil received in 1985. No substantial part of these contributions had been received by 31 December 1986, since the payments were not due until 1 February 1987.

The share of the 1986 annual contributions to be paid by contributors in each Member State is illustrated in the following chart.

1986 GENERAL FUND CONTRIBUTIONS



The quantities of contributing oil received in 1985 in Member States are given in Annex VII to this report.

The situation as regards the payment of contributions for previous years must be considered very satisfactory, as only very small amounts are in arrears. On 31 December 1986, only £38 168 was outstanding, representing less than 0.1% of the contributions assessed for all previous years. At its 9th session, the Assembly again expressed its satisfaction with the positive response of contributors regarding the payment of contributions.

It should be noted that the level of contributions to the IOPC Fund varies from year to year. This is due to the fact that the

payments made by the IOPC Fund in respect of claims for compensation for oil pollution damage vary considerably from year to year. The variations during the period 1979 - 1986 are illustrated in the following table.

<u>Year</u>	<u>General Fund</u>	<u>Major Claims Funds</u>	<u>Total Levy</u>
	£	£	£
1979	750 000	0	750 000
1980	800 000	9 200 000	10 000 000
1981	500 000	0	500 000
1982	600 000	260 000	860 000
1983	1 000 000	23 106 000	24 106 000
1984	0	0	0
1985	1 500 000	0	1 500 000
1986	1 800 000	0	1 800 000

8 INVESTMENT OF FUNDS

In accordance with the IOPC Fund's investment policy as laid down in its Internal and Financial Regulations, the Director invests funds which are not required for the short-term operation of the IOPC Fund.

During 1986, investments were made with several leading London banks. Apart from investments placed overnight till the next business day, the investments were made at interest rates varying from 8 7/8% to 13 1/16%, with an average of 11%.

As at 31 December 1986, the IOPC Fund's portfolio of investments totalled £4 652 973, comprising the IOPC Fund's assets (including the major claims funds) of £4 577 348 and the Provident Fund's assets of £75 625.

Interest due in 1986 on the investments amounted to £685 908, of which £12 966 belonged to the Provident Fund.

9 SETTLEMENT OF CLAIMS

9.1 General Information

During 1986 four incidents occurred which gave rise or may give rise to claims for compensation and indemnification against the IOPC Fund, namely the BRADY MARIA, TAKE MARU N°6, OUED GUETERINI and THUNTANK 5 incidents. In addition, the IOPC Fund was informed in 1986 of another incident which had occurred in 1985, namely the ROSE GARDEN MARU incident.

The most important of these new incidents is the BRADY MARIA incident, which took place in January 1986 in the estuary of the River Elbe in the Federal Republic of Germany. This incident led to extensive clean-up operations, in spite of the fact that only a relatively small quantity of oil escaped. The negotiations on the claims arising out of this incident have reached a very advanced stage, and a major part of the claims has already been paid. The TAKE MARU N°6 incident in Japan led to only small claims against the IOPC Fund. The situation regarding the ROSE GARDEN MARU case is still not clear. The OUED GUETERINI and the THUNTANK 5 incidents occurred late in December 1986, and no claims have been submitted so far.

The Director finally succeeded in arriving at a settlement of all claims arising out of the TARPENBEK incident, which occurred in the United Kingdom in June 1979.

Regarding other incidents which occurred in previous years, all claims arising out of the EIKO MARU N°1, KOEI MARU N°3 and KOHO MARU N°3 incidents were finally settled. In addition to the five new incidents mentioned above, there are five incidents in respect of which final settlements have not yet been reached: the TANIO, JOSE MARTI, KOSHUN MARU N°1, PATMOS and JAN incidents.

As mentioned above, the IOPC Fund has become involved in complicated legal proceedings in Italy concerning the claims arising out of the PATMOS incident which occurred in March 1985 in the Straits of Messina in Italy.

The following details relate to incidents which the IOPC Fund dealt with in 1986. The conversion of foreign currencies into Pound Sterling is as at 31 December 1986, except for those claims in respect of which payment has already been made; in respect of the latter, the conversion is made at the rate of exchange on the date of payment. Annex VIII contains a summary of all incidents with which the IOPC Fund has been dealing over the years and in respect of which the IOPC Fund has paid compensation or indemnification or in respect of which it is possible that such payments will be made.

9.2 TARPENBEK

(United Kingdom, 21 June 1979)

The tanker TARPENBEK, registered in the Federal Republic of Germany and loaded with about 1 600 tonnes of lubricating oil, collided with the British Royal Fleet auxiliary ship SIR GERAINT off the English coast. As a result of the collision, the TARPENBEK capsized. The damaged tanker was towed to a sheltered bay where the cargo oil was pumped out of the capsized ship by the shipowner. The ship was later parbuckled and towed to the port of Rotterdam (the Netherlands). The United Kingdom Government and local Councils carried out various measures to prevent a possible spill of oil which could have caused damage to beaches or the marine environment.

The United Kingdom Government, the local authorities and the owner of the TARPENBEK instituted legal proceedings, seeking compensation from the IOPC Fund. The claims totalled £1 740 891. The limitation amount of the shipowner's liability under the Civil Liability Convention was £64 356.

The settlement of this case became complicated due to a dispute as to whether there was any spill of persistent oil as a result of the incident. There were also different opinions on the interpretation of the relevant United Kingdom legislation and the Civil Liability and Fund Conventions. The Director maintained that the IOPC Fund was liable to pay compensation only if there had been a spill of persistent oil as a result of the incident. Based on investigations by the IOPC Fund's surveyors, the Director was of the opinion that there was not sufficient evidence that any persistent oil had been spilled. Consequently, he rejected any liability on the part of the IOPC Fund.

The amount of compensation to be paid by the IOPC Fund, if any, depended largely on the apportionment of liability between the SIR GERAINT and the TARPENBEK as regards the cause of the collision. The investigation that was carried out showed that the SIR GERAINT was more to blame for the collision. A distribution of liability with 75% for the SIR GERAINT and 25% for the TARPENBEK was agreed between the hull insurers.

In accordance with instructions given by the Executive Committee, the Director initiated negotiations with the various claimants for the purpose of arriving at a total settlement out of court. In these negotiations, the Director took into account the uncertainty that existed both as to whether a spill of persistent oil actually occurred and as to the interpretation of the Conventions and the relevant United Kingdom legislation. Finally, all claims against the IOPC Fund arising out of the TARPENBEK incident were settled at the following amounts (inclusive of any interest and costs):

<u>Claimant</u>	<u>Original</u> <u>Claims</u>	<u>Settle-</u> <u>ment</u>
	£	£
United Kingdom Government	1 134 615	175 000
Shipowner	594 357	180 000
Isle of Wight County Council	8 984	7 000
South Wight Borough Council	1 196	150
Nature Conservancy Council	1 739	1 400
Total	<u>1 740 891</u>	<u>363 550</u>

The amounts agreed with the various claimants were paid by the IOPC Fund in September 1986.

It should be noted that claimants, under English law, are entitled to interest on their claims, which would have increased the aggregate amount of the claims to approximately £2.9 million.

Payments were also made to the United Kingdom Government by the owner's P & I Club and by CRISTAL as part of a total out-of-court settlement, and to the Nature Conservancy Council by CRISTAL.

9.3 TANIO

(France, 7 March 1980)

The Malagasy tanker TANIO (18 048 GRT), carrying 26 000 tonnes of fuel oil, broke amidship in heavy weather conditions off Brittany, France. About 13 500 tonnes of cargo oil spilled from the wreck. More than 200 kilometres of the Brittany coast were polluted by the spilt oil; the Channel Islands were also affected. The stern section, with about 7 500 tonnes of cargo aboard, remained afloat and was towed to the port of Le Havre. The bow section, with about 5 000 tonnes of cargo oil on board, sank to a depth of 90 metres. The oil contained in the sunken bow section had to be pumped out in order to prevent further pollution from the wreck.

Claims for compensation were submitted by the French Government, local authorities, private persons and the shipowner's insurer. The total claims amounted to approximately FFr527 million (£56 million). After long and difficult negotiations, the Director reached agreement on the quantum of each of the claims. The total accepted by the IOPC Fund amounted to approximately FFr348 million (£37 million). Since that amount exceeds the compensation available under the Civil Liability Convention and the Fund Convention (FFr244 746 000), each claimant will recover only about 70% of the agreed quantum. Part payments to claimants totalling FFr221 million were made by the IOPC Fund in 1983, 1984 and 1985; thus FFr208 million was paid to the French Government and FFr13 million to other claimants.

In September 1984, the liquidator of the owner's limitation fund distributed approximately FFr19 million of the limitation fund. An amount was reserved for the final distribution of the limitation fund, since not all claims had been settled by the time of the first payment. This reserve (including interest) amounted to FFr3 351 643 as at 31 December 1986. Further payments by the IOPC Fund will have to await the final distribution of the limitation fund.

The IOPC Fund has taken legal action in the Civil Court of Brest against the shipowner and other parties to recover the amounts paid in compensation. The French Government and other parties have also taken action against the same defendants with a view to getting compensation over and above the maximum amount payable by the IOPC

Fund. The IOPC Fund and the French Government have had an extensive examination carried out in order to establish more accurately how the crack which broke the ship developed.

After an examination of the reports submitted by the Expertise Judiciaire appointed by the Court, the Director and the representatives of the French Government came to the conclusion that these reports supported the grounds on which the legal action was based. The Director therefore took the position that the legal action should be maintained. At its 16th session in October 1986, the Executive Committee endorsed the Director's position in this regard.

Progress in the case over the years has been held up by a number of factors, in particular the need to reconvene the Expertise Judiciaire and to allow the parties to make submissions to it. When the Expertise Judiciaire finally submitted its second report in March 1986, the IOPC Fund and the French Government requested that the Court in Brest should set down a strict timetable for further submissions and for the exchange of documents. Under the timetable established by the Court, the final oral hearing should take place in October 1987.

9.4 JOSE MARTI

(Sweden, 7 January 1981)

The USSR tanker JOSE MARTI (27 706 GRT), carrying 40 000 tonnes of heavy fuel oil, grounded in a narrow channel near Dalarö, on the east coast of Sweden. About 1 000 tonnes of cargo oil were lost and polluted the Stockholm Archipelago. Clean-up operations were undertaken by the Swedish authorities, resulting in a claim by the Swedish Government amounting to SKr19.3 million (£1.9 million). In addition, two private persons claimed SKr850 000 (£85 000).

A court action was taken in the Stockholm City Court against the owner of the JOSE MARTI by the Swedish Government and the two private claimants. The shipowner constituted a limitation fund under the Civil Liability Convention, amounting to SKr23 844 593 (£2.4 million), with the Court. The IOPC Fund was notified of the action in accordance with Article 7.6 of the Fund Convention.

In the court action, the owner of the JOSE MARTI maintained that he had no liability for the pollution damage because the incident was wholly caused by the negligence of the Swedish Government in the maintenance of navigational aids (cf Article III.2(c) of the Civil Liability Convention). Secondly, the owner argued that, if the court were not to accept that the damage was wholly caused by such negligence, he should nevertheless be wholly exonerated from liability to the Swedish Government on the grounds of contributory negligence due to lack of maintenance of navigational aids, or that the compensation should be substantially reduced (cf Article III.3 of the Civil Liability Convention).

The Stockholm City Court rendered its judgement in May 1985. The Court held that the incident was caused by negligence attributable to the shipowner. It was recognised by the Court that there was a certain negligence on the part of the Swedish authorities in the maintenance of navigational aids and that this negligence had contributed to the incident. This negligence was, however, considered relatively minor. For this reason, the Court did not reduce the compensation to the Swedish Government on the grounds of contributory negligence, but awarded the Swedish Government full compensation for the pollution damage. The shipowner was awarded compensation from the Swedish Government for the damage caused to the JOSE MARTI, but since the negligence on the part of the shipowner was the major factor that contributed to the incident, the compensation was fixed at 25% of the total amount of damage sustained.

Appeals against this judgement were lodged by the shipowner and the Swedish Government. The Court of Appeal in Stockholm rendered its judgement in November 1986. It confirmed the position taken by the City Court that the incident was caused by negligence attributable to the shipowner, ie an error committed by the pilot of the vessel. The Court of Appeal rejected the argument advanced by the owner of the JOSE MARTI that he should be exonerated from liability because the pilot should be considered as being covered by the notion of "navigational aids". Contrary to the City Court, the Court of Appeal held that the shipowner had not proved any negligence on the part of the Swedish Government in the maintenance of navigational aids or any negligence by any public official. The Court thus upheld the judgement of the City Court, obliging the shipowner to pay full compensation to the Swedish Government for the pollution damage arising out of the incident. Reversing the judgement of the City Court, the Court of Appeal rejected the claim by the shipowner for compensation for the damage caused to the JOSE MARTI.

The owner of the JOSE MARTI has lodged an appeal to the Supreme Court against this judgement.

In the autumn of 1985, two further private persons lodged claims amounting to SKr215 000 (£21 000) against the limitation fund. In the Director's opinion, these claims are time-barred.

9.5 EIKO MARU N° 1

(Japan, 13 August 1983)

The Japanese tanker EIKO MARU N°1 (999 GRT), loaded with 2 459 tonnes of heavy fuel oil, collided with the Panamanian cargo ship CAVALRY (4 827 GRT) in dense fog off Karakuwazaki, Miyagi, Japan. About 357 tonnes of cargo oil spilled from the fractured starboard tank. Because of the stormy weather due to an approaching typhoon, the spilt oil moved towards the coast and polluted areas with extensive fishery activities.

In 1984 the IOPC Fund paid compensation amounting to ¥24 735 109 (£76 722), representing the amount of agreed claims minus the shipowner's liability under the Civil Liability Convention of ¥39 445 920. Indemnification of the owner of the EIKO MARU N°1, in the amount of ¥9 861 480 (£32 018), was paid in 1985.

The official investigation into the cause of the incident led to the conclusion that the incident was caused by improper navigation on the part of both vessels. The IOPC Fund has started negotiations with the owner of the CAVALRY with a view to recovering part of the amount paid by the IOPC Fund.

9.6 KOEI MARU N° 3

(Japan, 22 December 1983)

The Japanese tanker KOEI MARU N°3 (82 GRT), laden with 100 tonnes of heavy oil, collided with the car ferry ALBIREO (9 548 GRT) in the port of Nagoya, Japan. As a result of the collision, the tanker capsized and spilled about 49 tonnes of cargo oil into the sea. During the clean-up operations a considerable quantity of oil absorbents and dispersants was used, and some of these materials drifted out of the port into cultured seaweed farms.

The Director agreed to settle the claims for clean-up costs and fishery damage in the amount of ¥30 073 908 (£128 000). A total of ¥26 982 248 (£89 447), representing the aggregate amount of agreed claims minus the owner's liability under the Civil Liability Convention of ¥3 091 660, was paid by the IOPC Fund in 1984 and 1985.

The official investigation into the cause of the collision held that the KOEI MARU N°3 was mainly to blame for the incident. After the conclusion of this investigation, the limitation proceedings were recommenced and concluded in December 1985. Indemnification of the owner of the tanker, amounting to ¥772 915 (£2 674), was paid in January 1986.

The IOPC Fund and the Japan Ship Owners' Mutual Protection and Indemnity Association (JPIA) initiated negotiations with the owner of the ALBIREO for the purpose of recovering part of the amounts paid by them to claimants. The owner of the ALBIREO agreed to reimburse one-third of the total compensation for clean-up operations and fishery damage which had been paid by JPIA and the IOPC Fund. The amount recovered for pollution damage was ¥10 024 636, of which the IOPC Fund received ¥8 994 083 (£34 273) in April 1986.

9.7 KOHO MARU N° 3

(Japan, 5 November 1984)

The Japanese tanker KOHO MARU N°3 (199 GRT), laden with 500 tonnes of heavy oil, ran aground on the east coast of Hayamajima

Island, Inland Sea, Japan. About 20 tonnes of oil leaked into the sea from the fractured cargo tanks.

The area where the incident occurred is an archipelago in which intensive fishing activities, including aquaculture, are carried out. The oil spread swiftly over a wide area of water, and the coast of Hayamajima Island was heavily polluted. Extensive clean-up operations were carried out in the sea and on the island.

The Director agreed to settle the claims for clean-up costs and fishery damage in the total amount of ¥99 497 738 (£424 000). In 1985 the IOPC Fund paid compensation amounting to ¥94 111 818 (£294 827). This payment represented the total amount of agreed claims minus the shipowner's liability under the Civil Liability Convention of ¥5 385 920.

The official investigation into the cause of the incident concluded that the master was mainly to blame, as the incident, the grounding of the KOHO MARU N°3, was caused by his careless manoeuvring of the vessel. Although the master was the president of the company which owned the KOHO MARU N°3, his negligence was committed in his capacity as master. The Court accepted that the owner should be entitled to limit his liability. The same position was taken by the Executive Committee at its 14th session.

Following the conclusion of the official investigation, the limitation proceedings were resumed and concluded in March 1986. Indemnification of the shipowner, amounting to ¥1 346 480 (£5 139), was paid in April 1986.

9.8 KOSHUN MARU N° 1

(Japan, 5 March 1985)

The Japanese tanker KOSHUN MARU N°1 (68 GRT), carrying 100 tonnes of heavy oil, collided with the coal carrier RYOZAN MARU (2 569 GRT) off Haneda, Tokyo Bay, Japan. The KOSHUN MARU N°1 sank with the exception of her bow section. Approximately 80 tonnes of oil leaked from the sunken tanker and spread rapidly across the bay.

Claims for clean-up costs were agreed in the amount of ¥28 020 909 (£119 000). In September 1985, the IOPC Fund paid ¥26 124 589 (£81 512), representing the total agreed amount of the clean-up costs minus the owner's liability of ¥1 896 320. It is possible that a further claim will be submitted.

An official investigation into the cause of the incident is being carried out. Indemnification of the shipowner, amounting to ¥474 080 (£2 000), has not yet been paid, as the limitation proceedings have not been concluded.

9.9 PATMOS

(Italy, 21 March 1985)

The Incident

On 21 March 1985, the Greek tanker PATMOS (51 627 GRT), carrying 83 689 tonnes of crude oil, collided with the Spanish tanker CASTILLO DE MONTEARAGON (92 289 GRT), which was in ballast, off the coast of Calabria in the Straits of Messina, Italy. Fire broke out on the main deck of the PATMOS and spread to the accommodation and wheelhouse. Three crew members died, and the crew had to abandon ship. The ship was damaged in the hull. Due to strong winds and currents, the PATMOS drifted onto a beach by a village on the Sicilian coast. The ship was refloated and tugs were used to control it in the Straits of Messina. Tugs were also used to combat the fire, which was extinguished within two days of the collision. The PATMOS was then towed to the Port of Messina and moored at the SMEB shipyard, where the oil was discharged.

Approximately 700 tonnes of oil escaped from the PATMOS. Most of the spilt oil drifted on the surface of the sea and dispersed naturally. Only a few tonnes of oil came ashore on the Sicilian coast. The Italian authorities undertook extensive measures in order to contain the spilt oil and to prevent it from polluting the Sicilian and Calabrian coasts. Dispersants were used in large quantities.

The owner of the PATMOS and the owner's insurer, the United Kingdom Mutual Steamship Assurance Association (Bermuda) Ltd (UK Club), established a limitation fund with the Court of Messina. The Court fixed the limitation amount at LIt13 263 703 650 (£6.7 million). The IOPC Fund was notified of the limitation proceedings in accordance with Article 7.6 of the Fund Convention.

Claims and Negotiations with the Claimants

43 claims were lodged against the limitation fund totalling LIt76 112 040 216 (£38 million).

There were 30 claims that clearly related to costs of clean-up operations or to preventive measures as defined in the Civil Liability Convention, totalling approximately LIt14 000 million (£7 million). In many cases, the amounts claimed were unreasonable. In February 1986, all but two claims in this category had, after very difficult negotiations, been reduced by the plaintiffs to amounts which were considered by both the UK Club and the Director as reasonable.

In view of the high amounts involved, the Director did not have the authority to make binding settlements on behalf of the IOPC Fund without prior approval of the Executive Committee. He declared, however, that he considered as reasonable the reduced amounts of the claims and would, if necessary, submit the claims in these amounts to the Executive Committee with his recommendation that they be

approved. On the basis of the Director's declaration, the UK Club agreed, in February 1986, to settle the claims at the amounts as reduced. These claims as settled totalled about Lit3 800 million (£1.9 million).

Twelve claims totalling about Lit40 000 million (£20 million) related to costs of operations which, in the Director's view, would normally be considered as salvage operations and related measures. The question arose as to whether and to what extent the costs of such operations fell within the definition of "pollution damage" laid down in the Civil Liability Convention, ie whether these operations could be considered as preventive measures as defined in that Convention.

After very careful consideration of this issue, the Director took the position that operations could be considered as falling within the definition of "preventive measures" only if the primary purpose was to prevent pollution damage; if the operations primarily had another purpose, such as salvaging hull or cargo, the operations would not be covered by the definition. The Director came to the conclusion that these 12 claims did not relate to operations which had the prevention of pollution as their primary purpose. For this reason, he rejected these claims. As a result of the discussion with the claimants, two of the claims were withdrawn.

A claim of Lit20 000 million (£10 million), later reduced to Lit5 000 million (£2.5 million), was submitted by the Italian Government for damage to the marine environment. The claim document did not set out the kind of damage that had allegedly been caused, nor did it indicate the basis on which the amount claimed had been calculated.

In 1980 the IOPC Fund's Assembly took the position that claims for non-economic environmental damage should not be accepted, and unanimously adopted a Resolution (IOPC Fund Resolution N°3) stating that "the assessment of compensation to be paid by the IOPC Fund is not to be made on the basis of an abstract quantification of damage calculated in accordance with theoretical models".

In view of the position taken by the IOPC Fund's Assembly, the Director rejected the claim submitted by the Italian Government relating to damage to the environment. The Director's position was endorsed by the Executive Committee at its 16th session.

First Decision by the Court

By decision of 18 February 1986, the Court of Messina (composed of a single judge) included in the list of admissible claims ("stato passivo") the claims in respect of which agreement had been reached between the claimants and the UK Club, in the amounts thus agreed. With regard to the two claims relating to clean-up operations in respect of which no agreement had been reached on the quantum, the Court admitted them in amounts very much lower than those claimed. The total amount accepted by the Court was Lit4 267 312 659 (£2.1 million).

The Court rejected the claims which had been opposed by the IOPC Fund and the UK Club. The reasons for the rejection were mainly those advanced by the IOPC Fund and the UK Club, ie that they did not fall within the definition of "preventive measures", since the measures had not been taken for the purpose of preventing or minimising pollution damage. As for the claim by the Italian Government in respect of damage to the marine environment, the Court stated that no evidence had been given that ecological damage had been caused to the coast or that there was any damage to the marine fauna.

In April and May 1986, after the time limit for the lodging of oppositions to this decision had expired, the UK Club paid the claims which had been accepted by the Court.

Opposition Proceedings

In Italy, oppositions to the decision of a court on the admissibility of claims in limitation proceedings may be lodged with the same court.

Oppositions to the decision of the Court of Messina were lodged by seven of the ten claimants whose claims had been rejected on the grounds that the measures had not been taken for the purpose of preventing pollution. The Italian Government also lodged an opposition in respect of the claim concerning damage to the environment. The Court (composed of three judges) rendered its judgement in respect of the oppositions on 30 July 1986.

With regard to the claims relating to salvage operations, the Court made a general statement to the effect that salvage operations could not be considered as preventive measures, since the primary purpose of such operations was that of rescuing ship and cargo; this applied even if the operations had the further effect of preventing pollution. The Court also stated that, to the extent that operations were considered as preventive measures, only costs and losses could be compensated under the Civil Liability Convention. The Court held that on 22 March 1985, when a state of emergency was declared by the Harbour Master of Messina, there was a serious danger of explosion and consequent pollution since the structure of the PATMOS had been severely damaged. The Court noted that on 1 April 1985, the state of emergency was declared to have ceased. The Court then applied these findings to the claims in this category; four of them were rejected, one was accepted with a small reduction in amount, one was accepted in principle but with a considerable reduction of the amount claimed, and one submitted by the SMEB shipyard was accepted in respect of the operations carried out up to 1 April 1985 but was rejected in respect of the operations carried out after that date.

As regards the claim by the Italian Government relating to damage to the marine environment, the Italian Government had maintained that the damage was a violation of the right of sovereignty over the

territorial sea of the State of Italy. The Court stated that this right was not one of ownership and could not be violated by acts committed by private subjects. In addition, the Court declared that the State had not suffered any loss of profit nor incurred any costs as a result of the alleged damage to the territorial waters, or the fauna or flora. The State had therefore not suffered any economic loss. The Court also drew attention to the above-mentioned Resolution N°3 adopted by the IOPC Fund's Assembly. For these reasons the Court rejected this claim.

The aggregate amount of the claims as accepted by the Court is Lit5 797 263 479 (£2.9 million). This amount falls well below the limitation amount applicable to the owner of the PATMOS, viz Lit13 263 703 650 (£6.7 million).

Appeal Proceedings

Appeals against the judgement of 30 July 1986 were lodged with the Court of Appeal in Messina by all five claimants whose claims had been rejected in opposition, including the Italian Government. The SMEB shipyard, whose claim had been accepted in respect of part of the operations, also appealed. These claims total approximately Lit29 000 million (£14 million). The UK Club and the IOPC Fund lodged appeals against the judgement in respect of two claims - one by the SMEB shipyard and one which had been accepted with only a small reduction in amount.

The Court of Appeal will probably not render its judgement until early in 1988.

Recourse Action

Legal proceedings concerning liability and compensation for damage arising out of the collision between the PATMOS and the CASTILLO DE MONTEARAGON were initiated in the Court of Genoa. After a settlement had been reached between the two shipowners and related interests, the legal actions were withdrawn.

The question as to whether the IOPC Fund should institute recourse proceedings against the owner of the CASTILLO DE MONTEARAGON will have to be examined when it is established whether the IOPC Fund will be called upon to pay any compensation under the Fund Convention.

9.10 JAN

(Denmark, 2 August 1985)

The tanker JAN (1 400 GRT), registered in the Federal Republic of Germany and carrying 3 000 tonnes of heavy fuel oil, collided with a fixed navigational light at the entrance to the port of Aalborg on the

eastern coast of Jutland in Denmark. The collision caused a 20 metre gash through two forward tanks, and approximately 300 tonnes of oil escaped into the sea.

The spilt oil was carried in a north-westerly direction by strong winds. During the days that followed more than 100 tonnes of oil came ashore on the south coast of the island of Laesø, which is situated between Jutland and Sweden, and polluted approximately ten kilometres of the coast. The polluted area consists partly of sandy beaches, and partly of salt marshes of great importance to large populations of migrating birds. A small quantity of oil also polluted the coast of Jutland and the island of Hirsholmene.

Operations to clean up the polluted areas were carried out by the Danish National Agency of Environmental Protection, the National Civil Defence Force and local authorities of the island of Laesø. The major part of the clean-up operations was completed within a few weeks of the incident. However, the clean-up of the polluted marshland on the island of Laesø caused greater problems, because of the sensitive ecological conditions in the area, but these operations were concluded by late October 1985.

As a result of the clean-up operations, approximately 1 925m³ of oiled sand, grass, debris, etc were collected in depots on Laesø and on Jutland, and a major problem arose concerning the disposal of the collected material. The Danish authorities decided that debris containing less than 5% oil (968m³ of material) would be disposed of at local dumps on Laesø and on Jutland. The remaining quantity, which contained a higher percentage of oil, was transported to a municipal chemical waste disposal plant at Nyborg on the island of Fyn.

In December 1985 the Maritime and Commercial Court of Copenhagen established the limit of the owner's liability at 157 936 SDR (DKr11 576 170, corresponding to £140 000). Under Danish law, an extra amount should be added to cover interest and costs, and the Court fixed the limitation fund at DKr2 million (£180 000). The limitation fund was established by the shipowner's P & I insurer, the Skuld Club.

The Danish authorities have presented claims totalling DKr11 804 554 (£1.1 million). Four private persons have claimed DKr34 432 (£3 000).

The claims submitted by the four private persons have been accepted in full and were paid by the Skuld Club in April 1986.

The claims presented by the Danish Government, covering also the operations carried out by the local authorities of Laesø, were received by the IOPC Fund in July and August 1986. After having examined the claim documents, the Director requested supplementary

information with regard to a considerable number of items. Discussions are being held between the Director and the Danish authorities.

An official investigation into the cause of the incident was carried out in the Federal Republic of Germany. The investigation led to the conclusion that the collision was due to faulty navigation by the master and mate of the JAN.

9.11 SOTKA

(Sweden, 12 September 1985)

The Finnish tanker SOTKA (16 000 GRT) struck a concrete fairway marking beacon under construction in the Åland Sea (the Baltic) on the border between the Swedish and Finnish territorial waters, one nautical mile on the Swedish side. The ship was carrying 15 300 tonnes of heavy fuel oil. The incident caused a gash of 20 metres in the port side of the ship, and 300 tonnes of heavy fuel oil escaped into the sea.

Small quantities of oil reached the beaches of the Åland islands in Finland. The cleaning of the polluted beaches was completed in a few days. It was believed that approximately 250 tonnes had sunk below the sea surface, since the specific gravity of the oil was greater than that of sea water at ambient temperature. Fears were expressed that the sunken oil might move with the currents and resurface on the Swedish or Finnish coast, resulting in expensive clean-up operations. It appears, however, that there is no longer any risk of this happening.

The total claims for clean-up costs and fishery damage, as settled by the shipowner, amounted to FM950 003 and SKr300 000, respectively (totalling £164 000). The limit of the shipowner's liability is FM7 360 328 (£1 million).

In view of the information now available, the Director considers that the IOPC Fund will not be called upon to pay any compensation or indemnification in respect of this incident.

9.12 ROSE GARDEN MARU

(United Arab Emirates, 26 December 1985)

On 26 December 1985 a leak of oil from a sea valve of the Panamanian tanker ROSE GARDEN MARU (2 621 GRT) was observed by an official of the Umm Al Qaiwain Municipality, in the United Arab Emirates. At that moment, the tanker was carrying out an internal transfer of her cargo oil slop from one tank to another at the berth of the Umm Al Qaiwain port. The quantity of oil spilt has not been

established. It was stated that the spilt oil polluted the coast, lagoon and islands of the Emirates, and that it caused massive damage to trees, vegetation and fishing resources.

The Umm Al Qaiwain Municipality sued the operator of the ROSE GARDEN MARU at the Court of Umm Al Qaiwain for compensation for any damage already sustained, in the amount of 2 million Dirhams (£360 000), and for any damage which may arise in the future.

The limit of liability of the ROSE GARDEN MARU under the Civil Liability Convention is estimated at about Dh300 000 (£55 000); the exact limitation tonnage is not known. No limitation fund was established.

In its judgement, which was rendered on 14 January 1986, the Court, inter alia, ordered the operator to pay Dh2 million (£360 000) to the Umm Al Qaiwain Municipality for indemnification of current damage, to be increased if the damage were aggravated. The Court also ordered the operator to deposit Dh1 million (£180 000) at a designated bank in the name of the Umm Al Qaiwain Municipality as a precaution, to be paid to the Municipality, subject to consent by the Court. The judgement contained no reference to either the Civil Liability Convention or the question of limitation of liability. No indication was given of how the damages were calculated. The operator appealed against the judgement, but the right of appeal was denied.

The IOPC Fund was not informed of the incident until 18 February 1986.

The operator of the vessel entered into negotiations with the authorities of the Emirates. In March 1986, agreement was reached on a reduction of the amount of compensation from Dh3 million to Dh1.5 million (£270 000). These negotiations were carried out without the involvement of the IOPC Fund.

The shipowner's P & I insurer, the Skuld Club, presented a claim against the IOPC Fund totalling US \$135 249 (£91 000), representing the amount paid to victims, Dh1.5 million or US \$408 386, minus the owner's limitation amount estimated at US \$364 182, plus indemnification of the shipowner of US \$91 045.

After the Director had pointed out that the ROSE GARDEN MARU did not fulfil the condition for indemnification laid down in the Fund Convention, ie that the ship must be registered in or flying the flag of a State Party to that Convention, the Skuld Club accepted that no indemnification would be payable. The claim against the IOPC Fund was thus reduced to US \$44 204 (£30 000).

It should be noted that the judgement by the Court in the United Arab Emirates is not binding on the IOPC Fund, since the latter had

not been notified of the court proceedings in accordance with Article 7.6 of the Fund Convention.

As mentioned above, no limitation fund was set up in the proceedings in the Court of Umm Al Qaiwain. At its 16th session, the Executive Committee considered it premature to take any decision as to whether the IOPC Fund should in this case, exceptionally, waive the requirement in the Civil Liability Convention that the shipowner should establish a limitation fund, since there was a lack of information on many important points.

The Director is discussing the case with the Skuld Club.

9.13 FOLGOET

(France, 31 December 1985)

The French vessel FOLGOET (14 545 GRT) was loading heavy fuel oil at Donges in the mouth of the River Loire in France. During the loading, 300 tonnes of heavy fuel oil escaped from a cargo tank through a drain hole and caused light pollution to 60 kilometres of the coast. Damage was caused to fishing grounds for shell-fish and eels.

Shortly after the incident, the oil entered the heating system of a gas terminal. There was a risk that the terminal would be forced to close, which would have resulted in considerable costs for cleaning and consequential losses. However, the operations of the terminal were not affected, and the terminal only incurred costs for minor cleaning.

It is estimated that the total claims arising out of this incident (claims for clean-up operations and for losses incurred by fishermen) will not exceed FFr7 million (£740 000). The limit of the owner's liability is approximately FFr14.7 million (£1.5 million). The indemnification of the shipowner, if any, would not exceed about FFr3 675 000 (£390 000).

During the period immediately following the incident, it appeared that the IOPC Fund would have to make payments to victims and to the shipowner. However, in the light of the information now available, the Director considers that the IOPC Fund will not be called upon to pay any compensation or indemnification as a result of this incident.

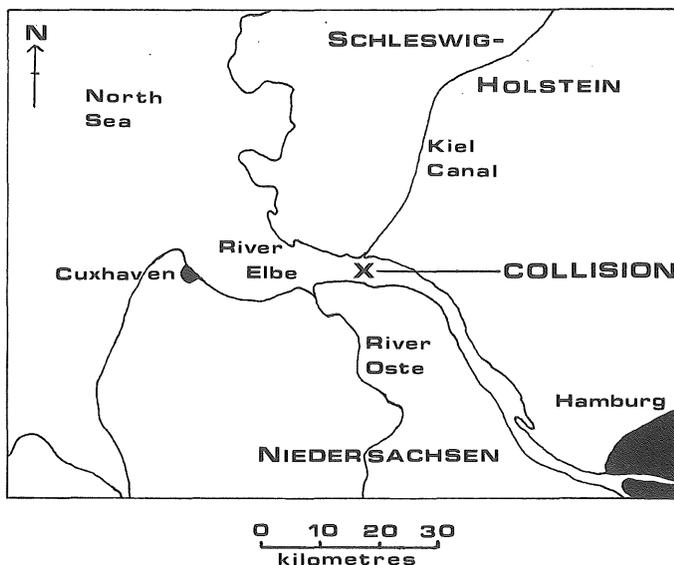
9.14 BRADY MARIA

(Federal Republic of Germany, 3 January 1986)

The Panamanian tanker BRADY MARIA (996 GRT) was proceeding up the River Elbe, south of the entrance to the Kiel Canal, with a cargo of 2 000 tonnes of heavy fuel oil destined for Hamburg. The dry cargo ship WAYLINK (3 453 GRT), registered in Gibraltar, which was proceeding down the river, suddenly turned across the river and

hit the port forward bow of the BRADY MARIA, causing holes in two of the BRADY MARIA's cargo tanks. Approximately 200 tonnes of cargo oil escaped into the river.

The official investigation into the cause of the incident showed that the pilot of the WAYLINK was mainly to blame for the incident. The pilot gave a wrong order to the helmsman of the WAYLINK, causing the vessel to cross the course of the BRADY MARIA.

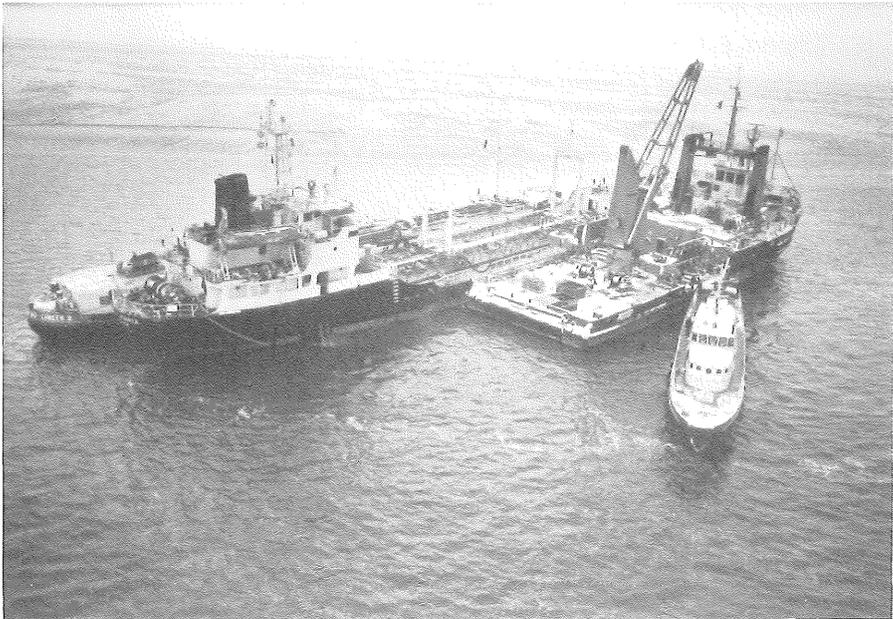


The northern bank of the River Elbe is situated in Schleswig-Holstein, whereas the southern bank lies in Niedersachsen, as shown in the map reproduced above. Pollution was caused on both banks of the river. Initially, the spilt oil caused only local pollution on the muddy beaches of the southern bank of the Elbe. Because of the very low temperature, the spilt oil weathered very quickly. It mixed with icy patches and was blown onto a five kilometre stretch of sandy beach east of the River Oste (a tributary of the Elbe) in Niedersachsen. While immediate clean-up operations were hampered by thick fog, the wind changed and blew the oil and the icy patches towards the northern bank of the Elbe, polluting the Schleswig-Holstein coast. Much of the oil was covered by ice and was virtually impossible to recover. The day after the incident, the changing wind sent part of the oil back towards the southern bank of the Elbe, contaminating the shore west of the River Oste down to Cuxhaven. Some oil also drifted up the River Oste. When the temperature rose above freezing point, oil was released from the ice and settled on stone embankments and mud flats. By mid January, the contaminated area stretched along approximately 150 kilometres on both banks of the Elbe and on near-by islands.

The clean-up operations met with particular difficulties in respect of certain sensitive areas, eg a nature and bird reserve and some parts of the stone embankments along the coast. Generally, agreement was reached between the IOPC Fund and the German authorities as to the extent of these operations and the methods to be used. Most of the clean-up work was completed by the end of February 1986, but in some sensitive areas the operations lasted until June.

The limitation amount of the BRADY MARIA under the Civil Liability Convention is DM324 629 (£110 000). The limitation fund for the BRADY MARIA was established at the Hamburg District Court (Amtsgericht) in May 1986.

Claims for clean-up costs totalling DM3 609 142 (£1 270 000) have been submitted by the Federal Waterway and Shipping Administration on behalf of the Federal Government, the Länder of Schleswig-Holstein and Niedersachsen and some local authorities. Two claims, totalling DM1 419 (£500), have been submitted by private claimants for cleaning of vessels polluted by oil.



The BRADY MARIA being salvaged

As for the claims presented by the German authorities, the Director accepted items totalling DM2 767 874. The Director agreed, at the request of the German authorities, to make payments in respect of the items on which agreement had been reached. In October 1986 an amount of DM2 443 244 (£846 438) was paid, representing the total of the accepted items minus the owner's liability under the Civil Liability Convention. Negotiations concerning the outstanding items will take place in the beginning of 1987.

A limitation fund for the WAYLINK amounting to DM440 185 (£150 000) was established at the District Court of Hamburg. Claims totalling DM6.9 million (£2.4 million) were filed against this limitation fund. The IOPC Fund submitted a claim in subrogation for an estimated amount of DM5 million (£1.7 million). The P & I insurer of the BRADY MARIA, the British Marine Mutual Insurance Association, has instituted recourse proceedings in Gibraltar against the owner of the WAYLINK, for the purpose of breaking the owner's limitation. Limitation proceedings in respect of the WAYLINK are thus going on both in Hamburg and in Gibraltar.

9.15 TAKE MARU N° 6

(Japan, 9 January 1986)

While loading cargo oil at a refinery in Sakai-Senboku Port, Japan, the Japanese tanker TAKE MARU N°6 (83 GRT) spilled some of her cargo. The oil escaped from a manhole in a port-side tank, because its valve had not been tightly closed.

It is estimated that 0.1 tonnes of cargo oil escaped on to the deck, and some of the oil spilled into the sea because of the heavy rolling of the vessel. Due to the strong wind, the spilt oil began spreading over nearby waters, polluting tetrapods in front of the wharf. Oil fences were quickly deployed to prevent the oil from spreading widely. The clean-up operations were carried out over several days.

Claims were lodged for clean-up costs and costs of replacing severely damaged booms. The claims totalled ¥3 088 770 (£13 000). The Director agreed in July 1986 to settle these claims at ¥3 012 479 (£12 800). There were no fishery claims.

The limit of the shipowner's liability under the Civil Liability Convention is approximately ¥2 million (£8 500). However, an exact calculation of the limitation amount cannot be made due to the lack of some data in the tonnage certificate. The measurement of the tonnage will be made when the vessel is dry-docked in April 1987.

In order to avoid delay in the payment to claimants, the Director agreed with JPIA that the latter should pay the accepted amount of the claims; this amount was paid in July 1986. The IOPC Fund will

reimburse its share of this amount to JPIA when the figure for the owner's liability under the Civil Liability Convention has been established.

Indemnification of the shipowner, estimated at a ¥500 000 (£2 000), will be paid when the owner's limitation amount is established.

9.16 OUED GUETERINI

(Algeria, 18 December 1986)

The Algerian tanker OUED GUETERINI (1 576 GRT) was unloading bitumen in the port of Algiers when part of the cargo was spilt onto the deck of the vessel. From there, some bitumen escaped into the water in the port area.

There was no pollution damage in the port itself. However, a considerable quantity of bitumen (approximately 15 tonnes) entered the sea-water intake of a power station, necessitating a shut-down of the station for a short period of time. Some equipment at the power station was polluted and had to be cleaned.

No claims have so far been submitted. It is expected that claims will relate to damage to equipment in the power station, costs of cleaning some equipment, and loss of profit as a result of the closure of the station. The limitation amount of the shipowner's liability is approximately £140 000. It is possible that the IOPC Fund will be called upon to pay compensation and indemnification as a result of this incident.

9.17 THUNTANK 5

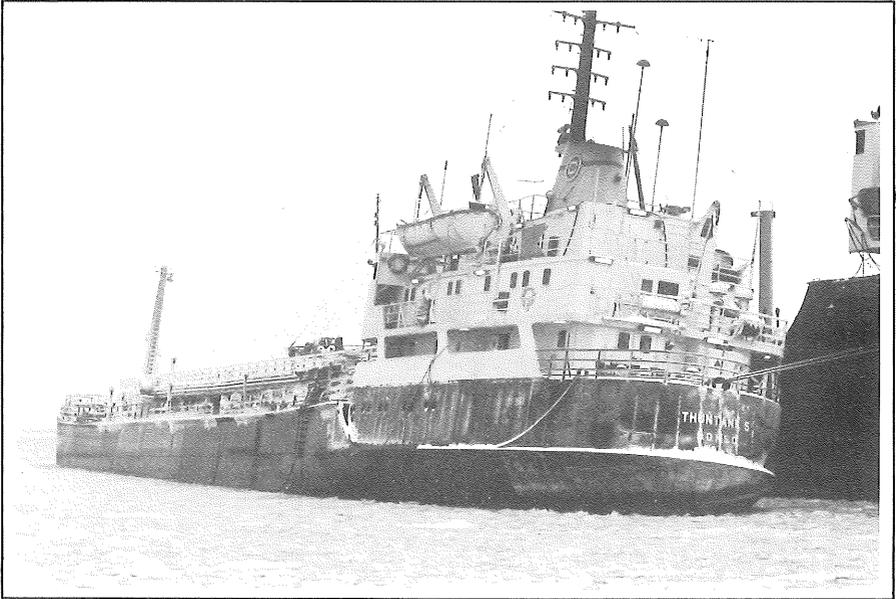
(Sweden, 21 December 1986)

The Swedish vessel THUNTANK 5 (2 866 GRT), carrying 5 024 tonnes of heavy fuel oil, ran aground in very bad weather outside Gävle, on the east coast of Sweden, 200 kilometres north of Stockholm. The tanker was severely damaged, and there was a considerable risk that the ship would break up. However, after about half the cargo had been transferred to another vessel, the THUNTANK 5 was refloated. Most of the remaining cargo was then transferred to the other vessel and the THUNTANK 5 was towed to a safe port. It is estimated that 300-600 tonnes of oil escaped as a result of the incident.

Due to the difficult weather conditions, with very strong winds, snow and icy water, it was impossible to carry out any major operations to collect the oil in the days following the incident. Some oil reached the coast where it mixed with snow and ice. It is estimated that 8-10 kilometres of the coast were polluted immediately

after the incident. A small quantity of oil was also found on the sea bed close to where the vessel had grounded. No major clean-up work can be carried out until the spring of 1987.

The extent of the pollution damage cannot be established until the ice and snow have melted. However, it is possible that the aggregate amount of the damage will exceed the limitation amount of the shipowner's liability, approximately SKr3 million (£300 000). The IOPC Fund may, therefore, be called upon to pay compensation and indemnification as a result of this incident.



The grounded THUNTANK 5

Annex I

IOPC Fund Member States

as at 31 December 1986

Algeria
Bahamas
Benin
Cameroon
Denmark
Fiji
Finland
France
Gabon
Germany, Federal Republic of
Ghana
Greece (from 16.3.87)
Iceland
Indonesia
Italy
Japan
Kuwait
Liberia
Maldives
Monaco
Netherlands
Norway
Oman
Papua New Guinea
Poland
Portugal
Spain
Sri Lanka
Sweden
Syrian Arab Republic
Tunisia
Tuvalu
United Arab Emirates
United Kingdom
Yugoslavia

Annex II

Structure of the IOPC Fund

ASSEMBLY

Composed of all Member States

Chairman: Mr J Bredholt (Denmark)
Vice-Chairmen: Professor H Tanikawa (Japan)
Mr C Douay (France)

EXECUTIVE COMMITTEE

16th Session

Algeria
Bahamas
France
Indonesia
Japan
Kuwait
Liberia
Oman
Spain
Sweden
United Kingdom

17th Session

Algeria
Bahamas
Finland
Germany, Federal
Japan
Liberia
Netherlands
Oman
Poland
Spain
Sri Lanka
Sweden

Chairman: Professor H Tanikawa (Japan)
Vice-Chairman: Mr G Arku (Liberia)

IOPC FUND SECRETARIAT

Officers

Mr M Jacobsson Director
Mr K Wada Legal Officer
Mr S O Nte Finance/Personnel Officer

AUDITORS

Comptroller and Auditor General
United Kingdom

Annex III General Fund

INCOME AND EXPENDITURE ACCOUNT FOR THE
FINANCIAL PERIOD 1 JANUARY - 31 DECEMBER 1985

INCOME	£	£
Miscellaneous Income	12	
Interest on Overdue Contributions	2 159	
Interest on Investments	161 281	163 452
	<hr/>	
EXPENDITURE		
<u>Secretariat Expenses</u>		
Unliquidated obligations	46 935	
Liquidated obligations	228 245	
	<hr/>	
	275 180	
<u>Claims</u>		
General Claims	483 332	758 512
		<hr/>
		595 060
Exchange Adjustment		29 714
		<hr/>
Excess of Expenditure over Income		624 774
		<hr/>

Annex IV

Major Claims Fund - Ondina/Fukutoku Maru No 8

INCOME AND EXPENDITURE ACCOUNT
FOR THE PERIOD ENDED 31 DECEMBER 1985

	£	£
INCOME		
Interest on Overdue Contributions	5 465	
Interest on Investments	58 351	63 816
	<hr/>	
EXPENDITURE		<hr/>
		-
Excess of Income over Expenditure		63 816
Balance brought forward from 1984		640 945
		<hr/>
Balance as at 31 December 1985		704 761
		<hr/>

Annex V

Major Claims Fund - Tanio

INCOME AND EXPENDITURE ACCOUNT
FOR THE PERIOD ENDED 31 DECEMBER 1985

	£	£
INCOME		
Interest on Overdue Contributions	41 432	
Interest on Investments	221 763	263 195
	<hr/>	<hr/>
EXPENDITURE		
<u>Claims</u>		60 740
Excess of Income over Expenditure		202 455
Balance brought forward from 1984		2 528 181
Balance as at 31 December 1985		<hr/> 2 730 636

Annex VI

Balance Sheet of the IOPC Fund as at 31 December 1985

<u>Liabilities</u>	£	£	<u>Assets</u>	£	£
Accumulated Surplus:			Cash at Banks and in Hand		4 955 791
1978/1984	1 917 975		Contributions Outstanding:		
Less Deficit 1985	624 774	1 293 201	General Fund 1981	628	
Due to Staff Provident Fund		89 360	General Fund 1982	1 740	
Accounts Payable		8 855	General Fund 1983	3 967	
Unliquidated Obligations:			Ondina/Fukutoku Maru	11 922	
1984	8 598		Tanio	43 286	61 543
1985	46 935	55 533	VAT Recoverable		4 032
Prepaid Contributions		166 894	Miscellaneous Receivable		3 961
Due to Major Claims Funds:			Interest on Overdue Contributions:		
Ondina/Fukutoku Maru		704 761	General Fund	663	
Tanio		2 730 636	Ondina/Fukutoku Maru	883	
			Tanio	22 367	23 913
		5 049 240			5 049 240

Note 1 There are contingent liabilities in respect of incidents which are estimated to amount to £32 461 957.

Note 2 In addition to the assets shown in this statement, investment in equipment, furniture, office machines, supplies and library books as at 31 December 1985 amounted at cost price to £31 834 net of VAT.

Annex VII

Contributing Oil Received in the Territories of Contracting States in the Calendar Year 1985

As reported at 31 December 1986

<u>Contracting State</u>	<u>Contributing Oil (tonnes)</u>	<u>% of Total</u>
Japan	240 696 980	31.26
Italy	117 880 619	15.31
France	93 500 062	12.14
United Kingdom	80 240 444	10.42
Netherlands	76 570 495	9.94
Spain	46 947 438	6.10
Germany, Federal Republic of	20 764 120	2.70
Sweden	18 371 498	2.38
Finland	13 023 751	1.69
Yugoslavia	9 982 302	1.30
Portugal	9 640 778	1.25
Indonesia	8 373 868	1.09
Norway	8 252 359	1.07
Bahamas	7 444 275	0.97
Denmark	7 055 212	0.92
Syrian Arab Republic	4 820 840	0.62
Tunisia	2 144 908	0.28
Sri Lanka	1 657 469	0.21
Poland	1 049 938	0.14
Ghana	899 212	0.12
Gabon	577 739	0.07
Papua New Guinea	168 660	0.02
Algeria	-	-
Fiji	-	-
Kuwait	-	-
Iceland	-	-
Liberia	-	-
Maldives	-	-
Monaco	-	-
Tuvalu	-	-
Benin <1>	-	-
Cameroon <1>	-	-
Oman <1>	-	-
United Arab Emirates <1>	-	-
	<hr/> 770 062 967 <hr/>	<hr/> 100.00 <hr/>

<1> No report

ANNEX VIII

SUMMARY OF INCIDENTS

(31 December 1986)

Vessel (Flag State)	Gross Tonnage (CLC Liability)	Date & Place of Incident	Cause of Incident & Quantity of Oil Spilled (tonnes)	Claims Compensation & Indemnification			Remarks
Antonio Gramsci (USSR)	27 694 GRT Rbls 2 431 584	27.2.1979 off Ventspils, USSR	Grounding (5 500)	Clean-up costs Interest Total	SKr89 057 717 6 649 440 SKr95 707 157	paid paid paid	
Miya Maru No 8 (Japan)	997 GRT ¥37 710 340	22.3.1979 Bisan Seto, Japan	Collision (540)	Clean-up costs Fishery damage Indemnification Total	¥108 589 104 31 521 478 9 427 585 ¥149 538 167	paid paid paid paid	¥5 438 909 recovered by way of recourse
Tarpenbek (FRG)	999 GRT £64 356	21.6.1979 off Selsey Bill, UK	Collision (not known)	UK Government Nature Conservancy Council Local Authorities Owner's clean-up costs Total	£175 000 1 400 7 150 180 000 £363 550	paid paid paid paid paid	
Mebaruzaki Maru No 5 (Japan)	19 GRT ¥845 480	8.12.1979 Mebaru Port, Japan	Sinking (10)	Clean-up costs Fishery damage Indemnification Total	¥7 477 481 2 710 854 211 370 ¥10 399 705	paid paid paid paid	
Showa Maru (Japan)	199 GRT ¥8 123 140	9.1.1980 Naruto Strait, Japan	Collision (100)	Clean-up costs Fishery damage Indemnification Total	¥10 408 369 92 696 505 2 030 785 ¥105 135 659	paid paid paid paid	¥9 893 196 recovered by way of recourse
Unsei Maru (Japan)	99 GRT ¥3 143 180	9.1.1980 off Akune Port, Japan	Collision (no information but less than 140 tonnes)	Owner's clean-up costs	¥6 903 461	estimated	Because of recourse against same insurer no compensation was paid by IOPC Fund
Tanio (Madagascar)	18 048 GRT FFr11 833 718 plus interest	7.3.1980 off Brittany, France	Breaking (13 500)	French Government French Local Authorities Private claimants Port Autonome du Havre UK P&I Club Total	FFr326 921 937 8 910 153 4 637 997 116 594 7 624 417 FFr348 211 098	agreed agreed agreed agreed agreed agreed	Part payment made of FFr221 201 452; recourse action being taken against shipowner and third parties
				Private claimant	FFr500 000	not pursued	

Furenäs (Sweden)	999 GRT SKr612 443	3.6.1980 Öresund, Sweden	Collision (200)	Clean-up costs: - Swedish Authorities SKr2 911 637 paid - Swedish private claimants 276 050 paid Sub-total SKr3 187 687 Clean up costs: - Danish Authorities DKr408 633 paid - Danish private claimants 9 956 paid Sub-total DKr418 589 Indemnification SKr153 111 paid		SKr449 961 recovered by way of recourse
Hosei Maru (Japan)	983 GRT ¥35 765 920	21.8.1980 off Miyagi, Japan	Collision (270)	Clean-up costs ¥163 051 598 paid Fishery damage 50 271 267 paid Indemnification 8 941 480 paid Total ¥222 264 345		¥18 221 905 recovered by way of recourse
Jose Marti (USSR)	27 706 GRT SKr23 844 593	7.1.1981 off Dalarö, Sweden	Grounding (1 000)	Clean-up costs by Swedish Authorities SKr19 296 000 claimed Private claimants 1 065 000 claimed Total SKr20 361 000		Liability of IOPC Fund dependent on outcome of Swedish court proceedings
Suma Maru Nº 11 (Japan)	199 GRT ¥7 396 340	21.11.1981 off Karatsu, Japan	Grounding (10)	Owner's clean-up costs ¥6 426 857 paid Indemnification 1 849 085 paid Total ¥8 275 942		No third party claims made
Globe Asimi (Gibraltar)	12 404 GRT Rbls1 350 324	22.11.1981 Klaipeda, USSR	Grounding (esti- mated at more than 16 000 tonnes)	Indemnification US\$467 953 paid		No damage in Member State
Ondina (Netherlands)	31 030 GRT DM10 080 383 (including interest)	3.3.1982 Hamburg, FRG	Discharge of cargo oil (estimated 200-300 tonnes)	Clean-up costs: Owner DM11 303 011 paid Authorities 42 163 paid Total DM11 345 174		
Shiota Maru Nº 2 (Japan)	161 GRT ¥6 304 300	31.3.1982 Takashima Island, Japan	Grounding (20)	Clean-up costs ¥46 524 524 paid Fishery damage 24 571 190 paid Indemnification 1 576 075 paid Total ¥72 671 789		
Fukutoku Maru Nº 8 (Japan)	499 GRT ¥20 844 440	3.4.1982 Tachibana Bay, Japan	Collision (85)	Clean-up costs ¥200 476 274 paid Fishery damage 163 255 481 paid Indemnification 5 211 110 paid Total ¥368 942 865		
Kifuku Maru Nº 35 (Japan)	107 GRT ¥4 271 560	1.12.1982 Ishinomaki, Japan	Sinking (33)	Indemnification ¥598 181 paid		Total damage less than owner's liability

Vessel (Flag State)	Gross Tonnage (CLC Liability)	Date & Place of Incident	Cause of Incident & Quantity of Oil Spilled (tonnes)	Claims Compensation & Indemnification	Remarks	
Shinkai Maru No 3 (Japan)	48 GRT ¥1 880 940	21.6.1983 Ichikawa, Japan	Discharge of cargo oil (3.5)	Clean-up costs Indemnification Total ¥1 005 160 470 235 ¥1 475 395	paid paid	
Eiko Maru No 1 (Japan)	999 GRT ¥39 445 920	13.8.1983 Karakuwazaki, Japan	Collision (357)	Clean-up costs Fishery damage Indemnification Total ¥23 193 525 1 541 584 9 861 480 ¥34 596 589	paid paid paid	Possibility of recourse being examined
Koei Maru No 3 (Japan)	82 GRT ¥3 091 660	22.12.1983 Nagoya, Japan	Collision (49)	Clean-up costs Fishery damage Indemnification Total ¥18 010 269 8 971 979 772 915 ¥27 755 163	paid paid paid	¥8 994 083 recovered by way of recourse
Tsunehisa Maru No 8 (Japan)	38 GRT ¥964 800	26.8.1984 Osaka, Japan	Sinking (30)	Clean-up costs Indemnification Total ¥16 610 200 241 200 ¥16 851 400	paid paid	
Koho Maru No 3 (Japan)	199 GRT ¥5 385 920	5.11.1984 Hiroshima, Japan	Grounding (20)	Clean-up costs Fishery damage Indemnification Total ¥68 609 674 25 502 144 1 346 480 ¥95 458 298	paid paid paid	
Koshun Maru No 1 (Japan)	68 GRT ¥1 896 320	5.3.1985 Tokyo Bay, Japan	Collision (80)	Clean-up costs Indemnification ¥26 124 589 ¥474 080	paid not yet paid	Further claims may be submitted
Patmos (Greece)	51 627 GRT L13 263 703 650	21.3.1985 Straits of Messina, Italy	Collision (700)	Preventive measures and clean-up costs (including salvage) Damage to marine environment Total Lit56 112 040 216 Lit20 000 000 000 Lit76 112 040 216	claimed claimed	Certain claims settled; Lit4 321 576 479 paid by P & I insurer; court proceedings in progress
Jan (FRG)	1 400 GRT DKr1 576 170	2.8.1985 Aalborg, Denmark	Grounding (300)	Clean-up costs Private claimants Total DKr11 804 554 34 432 DKr11 838 986	claimed paid	
Rose Garden Maru (Panama)	2 621 GRT US \$364 182 (estimate)	26.12.1985 Umm Al Qaiwain, United Arab Emirates	Discharge of oil (not known)	Damage of unspecified kind DKr394 043	not yet paid claimed	

Brady Maria (Panama)	996 GRT DM324 629	3.1.1986 Cuxhaven, FRG	Collision (200)	Preventive measures & clean-up costs	DM3 609 162	claimed	Part payment of DM2 443 244 made in October 1986
				Private claimants	1 419	claimed	
				Total	DM3 610 501		
Take Maru No 6 (Japan)	83 GRT ¥2 000 000 (estimate)	9.1.1986 Sakai-Senboku, Japan	Discharge of oil (0.1)	Clean-up costs	¥3 012 479	agreed	
				Indemnification	¥500 000	estimate	
Oued Gueterini (Algeria)	1 576 GRT £150 000 (estimate)	18.12.1986 Algiers, Algeria	Discharge of oil (estimated 15)	Clean-up costs and consequential damage			Claims not yet submitted
Thuntank 5 (Sweden)	2 866 GRT SKr3 000 000 (estimate)	21.12.1986 Gävle, Sweden	Grounding (300-600)	Clean-up costs and preventive measures			Claims not yet submitted

Notes: 1 Amounts are given in national currencies; the relevant conversion rates as at 31 December 1986 are as follows:

	DKr	10.90		¥	234.50
	FM	7.0645		SKr	10.0150
£1 =	FFr	9.4500		US \$	1.4825
	DM	2.8525		Dh	5.4405
	Lit	1 985.0		Rbls	0.9747

- 2 Claims: Except where claims are indicated as "paid", the amounts shown are as claimed against the IOPC Fund. The inclusion of an amount for a claim is not to be understood as indicating that either the claim or the amount is accepted by the IOPC Fund. Where claims are indicated as "paid", the figure given shows the actual amount paid by the IOPC Fund (ie excluding the shipowner's liability).

