International Oil Pollution Compensation Funds

Annual Report 2017

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2017

Front and inside cover: *Agia Zoni II, Greece*

Foreword

I am delighted to introduce the Annual Report of the International Oil Pollution Compensation Funds for 2017. As well as providing an overview of the role of the two organisations and legal framework behind them, this comprehensive publication also gives details of the work undertaken by the Funds during 2017, of recent developments in oil spill incidents, of their financial statements, membership details, and the key decisions taken by the governing bodies during the year.

After the relocation of the Funds' offices in 2016 and the various changes that came with that move, we continued to see the benefits of sharing premises with the International Maritime Organization (IMO) in 2017. The April sessions of the Funds' governing bodies took place during the same week as the 104th session of the IMO Legal Committee, which benefitted those delegations attending both meetings and enabled the host organisations to trial new timetables and hold a very enjoyable joint reception.

Both the April and October sessions saw many fruitful discussions covering complex issues. These included debates over the Funds' policy on the admissibility of claims of employees made redundant or facing a reduction in work and wages, issues concerning the implementation of the 1992 Conventions into national law and further comments on the draft text of guidelines for presenting claims for environmental damage. I am pleased to report that the latter discussion resulted in the approval of the Guidelines and I look forward to seeing these published in early 2018.

> IN 2017, ONE OF THE BIGGEST PIECES OF NEWS FROM THE SECRETARIAT WAS THE CONFIRMATION THAT INDIA HAD BECOME THE LARGEST CONTRIBUTOR TO THE 1992 FUND, RECEIVING MORE THAN 210 MILLION TONNES OF OIL IN 2016 AND ACCOUNTING FOR OVER 14% OF THE TONNAGE REPORTED IN 2017.

As always, my time chairing during the meetings was made much easier by the support of my fellow Chairmen, Mr Sung-Bum Kim for the Supplementary Fund Assembly and Ms Stacey Fraser for the 1992 Fund Executive Committee, who completed her two-year term in October. I was pleased to see Ambassador Antonio Bandini (Italy) appointed as the new Chairman of the Committee and look forward to working with him in 2018.

Further invaluable support and guidance is provided to the Secretariat and organisations in general by the Audit Body and particular thanks is given to the outgoing members who finished their term of office in October, when a new team was elected.

In 2017, one of the biggest pieces of news from the Secretariat was the confirmation that India had become the largest contributor to the 1992 Fund, receiving more than 210 million tonnes of oil in 2016 and accounting for over 14% of the tonnage reported in 2017.

No longer a new tool, but one that is growing in popularity and use is the online reporting system (ORS) which greatly facilitates the submission and processing of reports of oil receipts by States. While the percentage of the total oil received in Member States submitted via the ORS (i.e. >90%) remains high, the number of State users remains relatively small and represents only 45% of the 1992 Fund's membership. New methods for submission were therefore approved by the governing bodies in October to make the process more flexible for States and to avoid duplication of online and paper reports.

It is with great pleasure that I was able to report both as Chairman and representative of the State, that Norway became the first State to ratify the 2010 HNS Protocol in April 2017. The 1992 Fund has continued to offer support to States considering ratification and to carry out preparations for the entry into force of

the Convention and it is hoped that, with the encouragement of Norway and the support of IMO and the 1992 Fund, more States will indeed follow in 2018.

Looking ahead to 2018, I am certainly looking forward to continuing to work with the Secretariat, with the Member States and to working closer with the new Audit Body and my fellow Chairmen. 2018 will mark 40 years of the IOPC Funds and I am confident that the organisations will continue to demonstrate their usefulness and develop in the years ahead.

Gaute Sivertsen
Chairman of the 1992 Fund Assembly

Director's Review

Looking back on 2017, as Director, I am once again very happy to note the number and variety of activities and events in which the IOPC Funds participated, the many achievements of the organisations throughout the year and the challenges and issues it faced and dealt with during that time.

Most notably, the 1992 Fund became involved with a new incident in 2017, the *Agia Zoni II*, which occurred off the coast of Greece in September, resulting in a significant oil spill which affected Salamina Island and the coastline south of Athens. Clean-up operations were effective and thankfully the pollution damage was contained. However, claims for compensation are expected and the Fund has responded swiftly, establishing a claim submission office in Piraeus to help with the management of this incident and obtaining the approval of the 1992 Fund Assembly in October to establish a Major Claims Fund and to levy contributions.

In other incidents, the agreement on interim payments between the International Group of P&I Associations and the IOPC Funds was applied for the first time to the *Trident Star* (Malaysia, 2016), and then also to the *Double Joy*, another newly reported incident which occurred in 2014, also in Malaysia. Reaching this agreement with the International Group in 2016 was a very positive step and it is pleasing to now see it being applied in practice.

> THE EXCELLENT COOPERATION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KOREA, THE SHIPOWNER'S INSURER, SKULD CLUB, AND THE IOPC FUNDS IN THE MANAGEMENT OF THE *HEBEI SPIRIT* INCIDENT, HAS PROVEN INVALUABLE AND THE CASE IS BEGINNING TO DRAW TO A CLOSE WITH OVER 99% OF CLAIMS HAVING BEEN RESOLVED.

Fifteen years after the *Prestige* incident, 2017 saw a judgment on the quantification of the losses which confirmed the limit of liability of the 1992 Fund, but quantified the claims for compensation far in excess of the amounts assessed by the Fund. The Fund has appealed the judgment alongside the shipowner's insurer. This very difficult case is far from resolved and will continue to provide the IOPC Funds with challenges in 2018.

2017 also saw the 10th anniversary of the *Hebei Spirit* incident. Despite being our largest case in terms of number of claims submitted, the excellent cooperation between the Government of the Republic of Korea, the shipowner's insurer, Skuld Club, and the IOPC Funds in the management of this incident, has proven invaluable and the case is beginning to draw to a close with over 99% of claims having been resolved.

A welcome opportunity to reflect on how such oil spills have changed came in January, when I had the honour of joining the Secretary-General of IMO, Mr Kitack Lim, and the Managing Director of ITOPF, Dr Karen Purnell, to officially open an exhibition to mark 50 years of government and industry working together to address the risk of oil pollution from ships. The exhibition which was a collaboration of a number of industry organisations ran for six months at IMO and remains available in part online.

The Secretariat has continued in its endeavours to raise awareness and understanding of the international liability and compensation regime, running or participating in workshops and seminars in 20 States during the year. It also ran the annual week long short course for Member States and successfully trialled a half-day induction course for representatives to the Funds' meetings. The Secretariat also worked hard to further improve its engagement with the maritime community in general through participation at international oil spill conferences and exhibitions and through the use of Twitter.

Looking ahead to 2018, I hope that the IOPC Funds will be able to do even more to reinforce the importance of the compensation regime and the consistent application of the Conventions among Member States. I look forward to welcoming Thailand as it joins the 1992 Fund in July this year. At the same time, I hope to see further States following in the footsteps of Norway to ratify the 2010 HNS Protocol. The 1992 Fund will provide every assistance to help States bring about the entry into force of the Convention, including the joint delivery of a HNS workshop with IMO in April 2018.

As we enter the year which marks the 40th anniversary of the establishment of the first IOPC Fund, and reflecting on 2017, above all, it is clear that this unique organisation still has a vital role to play. Of course I hope that there are no spills, but as the work carried out last year has shown, the IOPC Funds remain ready to respond when an incident does occur.

José Maura
Director

Funds' overview

The International Oil Pollution Compensation Funds (IOPC Funds) provide financial compensation for oil pollution damage that occurs in its Member States, resulting from spills of persistent oil from tankers.

This report focuses on the work of the IOPC Funds during 2017. For further general information about the organisations and their history, please visit: www.iopcfunds.org.

An international regime of compensation for tanker spills was established by IMO through the adoption of the 1969 Civil Liability Convention and 1971 Fund Convention. The latter Convention established the first IOPC Fund.

Financed by contributions paid by entities within Member States that receive persistent oil after sea transport, the IOPC Funds have been compensating victims of oil pollution damage since 1978.

Following a number of large incidents during the 1980s, it became clear that the amount available under the original Conventions was insufficient and IMO developed two Protocols which increased the limits and widened the scope of the original Conventions, creating the 1992 Civil Liability Convention and the 1992 Fund Convention.

In 2003 a third instrument, the Supplementary Fund Protocol, was adopted, providing 1992 Fund Member States with additional compensation above that available under the 1992 Fund Convention should they opt to also become Parties to that Protocol.

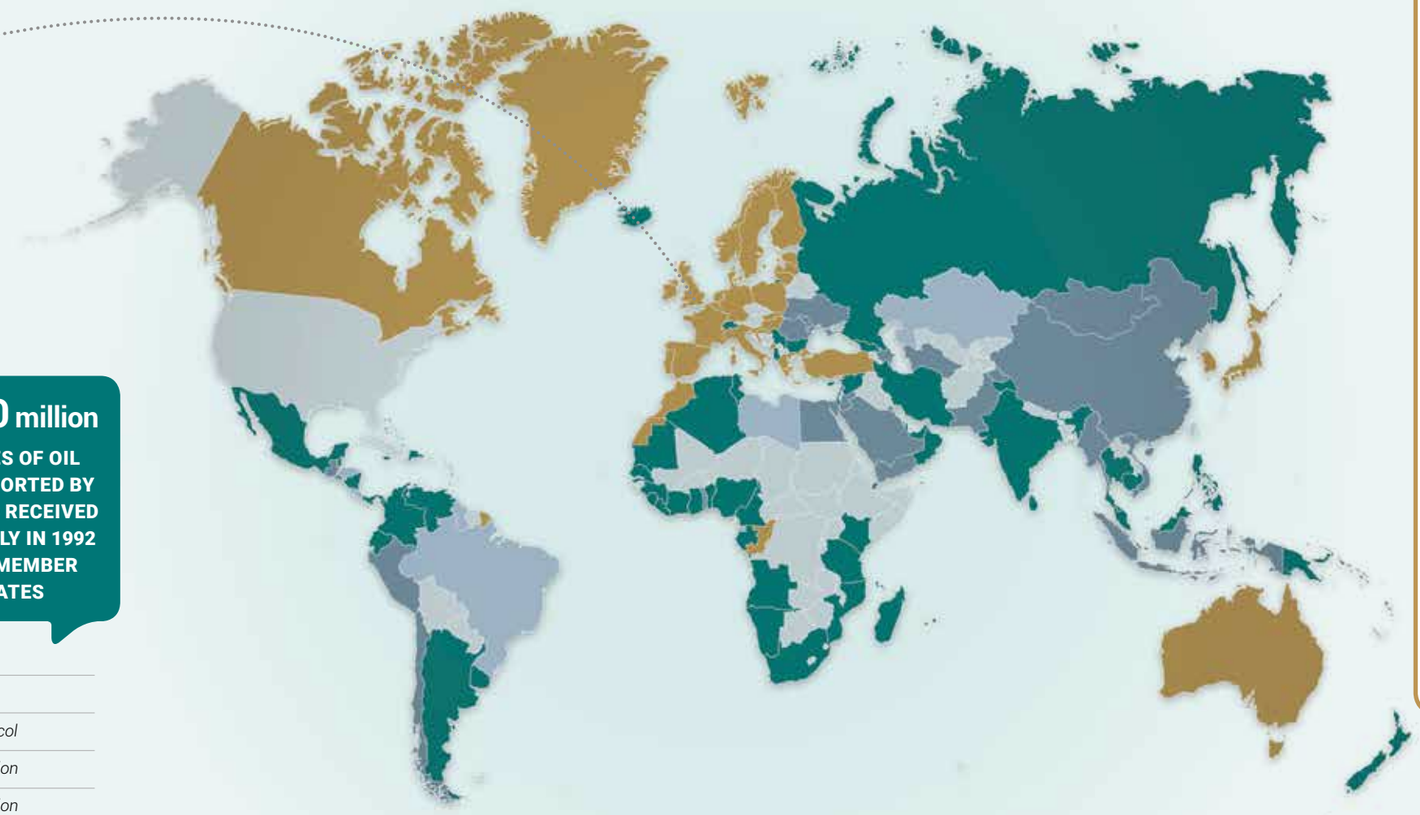
The IOPC Funds comprises two organisations, the 1992 Fund and Supplementary Fund. It has a Secretariat based in London, United Kingdom.

150

Since their establishment, the 1992 Fund and the preceding 1971 Fund have been involved in 150 incidents of varying sizes all over the world and have paid some £674 million in compensation.
No incidents have occurred so far which have involved or are likely to involve the Supplementary Fund.

Based in London, the IOPC Funds share its premises with the International Maritime Organization (IMO). As a specialised agency of the United Nations, IMO is the global regulatory body for the shipping industry.

1 500 million
TONNES OF OIL TRANSPORTED BY SEA AND RECEIVED ANNUALLY IN 1992 FUND MEMBER STATES



States Parties to the 1992 Fund Convention
States Parties to the Supplementary Fund Protocol
States Parties to the 1992 Civil Liability Convention
States Parties to the 1969 Civil Liability Convention

31 MEMBER STATES OF THE SUPPLEMENTARY FUND

Australia
Barbados
Belgium
Canada
Congo
Croatia
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Ireland
Italy
Japan
Latvia
Lithuania
Montenegro
Morocco
Netherlands
Norway
Poland
Portugal
Republic of Korea
Slovakia
Slovenia
Spain
Sweden
Turkey
United Kingdom

115 MEMBER STATES OF THE 1992 FUND

Albania
Algeria
Angola
Antigua and Barbuda
Argentina
Australia
Bahamas
Bahrain
Barbados
Belgium
Belize
Benin
Brunei Darussalam
Bulgaria
Cabo Verde
Cambodia
Cameroon
Canada
China*
Colombia
Comoros
Congo
Cook Islands
Côte d'Ivoire
Croatia
Cyprus
Denmark
Djibouti
Dominica
Dominican Republic
Ecuador
Estonia
Fiji
Finland
France
Gabon
Georgia
Germany
Ghana
Greece
Grenada
Guinea
Hungary
Iceland
India
Iran (Islamic Republic of)
Ireland
Israel
Italy
Jamaica
Japan
Kenya
Kiribati
Latvia
Liberia
Lithuania
Luxembourg
Madagascar
Malaysia
Maldives
Malta
Marshall Islands
Mauritania
Mauritius
Mexico
Monaco
Montenegro
Morocco
Mozambique
Namibia
Netherlands
New Zealand
Nicaragua
Nigeria
Niue
Norway
Oman
Palau
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
Serbia
Seychelles
Sierra Leone
Singapore
Slovakia
Slovenia
South Africa
Spain
Sri Lanka
Sweden
Switzerland
Syrian Arab Republic
Thailand (from 07/07/18)
Tonga
Trinidad and Tobago
Tunisia
Turkey
Tuvalu
United Arab Emirates
United Kingdom
United Republic of Tanzania
Uruguay
Vanuatu
Venezuela (Bolivarian Republic of)

*The 1992 Fund Convention applies to the Hong Kong Special Administrative Region only.

Legal Framework

The international liability and compensation regime is currently based on:

- **the International Convention on Civil Liability for Oil Pollution Damage, 1992 (1992 Civil Liability Convention or 1992 CLC);**
- **the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (1992 Fund Convention); and**
- **the Protocol of 2003 to the 1992 Fund Convention (Supplementary Fund Protocol).**

These three instruments all apply to pollution damage caused by spills of persistent oil from tankers in the territory (including the territorial sea) and the exclusive economic zone (EEZ) or equivalent area of a State Party to the respective treaty instrument.

The 1992 Civil Liability Convention

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

Under the 1992 CLC, the shipowner has strict liability for pollution damage caused by the oil, i.e. the owner is normally liable even if there was no fault on the part of the ship or its crew. However, the shipowner can normally limit its liability to an amount that is determined by the tonnage of the ship.

For ships carrying more than 2 000 tonnes of oil as cargo in bulk, the shipowner is obliged to maintain insurance to cover its liability under the 1992 CLC, and claimants have a right of direct action against the insurer. Any claims for pollution damage under the 1992 CLC can be made only against the registered owner of the ship concerned.

There are some exceptions under the 1992 CLC, for example the shipowner is exempt from liability if it proves that the damage resulted from an act of war or a natural phenomenon, that it was wholly caused as a result of a third party acting with intent to cause damage or through the failure of navigational aids due to negligence of any responsible government/ authority.

The 1992 Fund Convention

The International Oil Pollution Compensation Fund, 1992 (1992 Fund) was set up under the 1992 Fund Convention and is financed by the oil industry and managed by governments.

The 1992 Fund provides a second tier of compensation when the amount available under the 1992 CLC is insufficient (i.e. the damage exceeds the limit of the shipowner's liability) and also when the shipowner is exempt from liability or is financially incapable of meeting its obligations under the 1992 CLC.

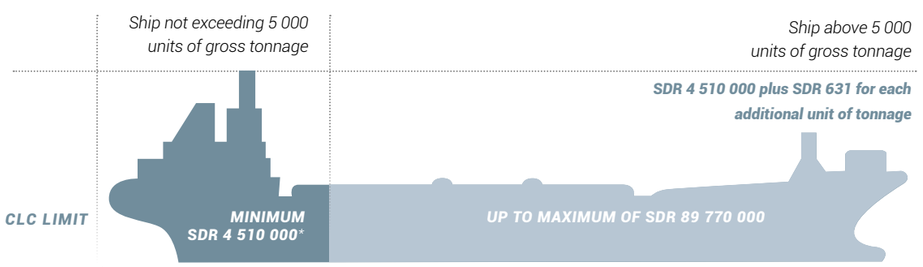
Contributions are levied on any person who has received after sea transport in one calendar year more than 150 000 tonnes of crude oil and/or heavy fuel oil (contributing oil) in a Member State of the 1992 Fund.

The maximum compensation payable by the 1992 Fund is SDR 203 million, irrespective of the size of the spill. This maximum amount includes the sums actually paid by the shipowner under the 1992 CLC.

The Supplementary Fund Protocol

The International Oil Pollution Compensation Supplementary Fund, 2003 (Supplementary Fund) was established through the entry into force of the Supplementary Fund Protocol in 2005. The Supplementary Fund provides additional compensation beyond the amount available under the 1992 Fund Convention in States which are also Parties to the Protocol. The total amount available for compensation for each incident is SDR 750 million, including the amounts payable under the 1992 Conventions.

Annual contributions to the Supplementary Fund are made on the same principle as contributions to the 1992 Fund. However, the Supplementary Fund differs from the 1992 Fund in that, for the purpose of paying contributions, at least one million tonnes of contributing oil are deemed to have been received each year in each Member State.

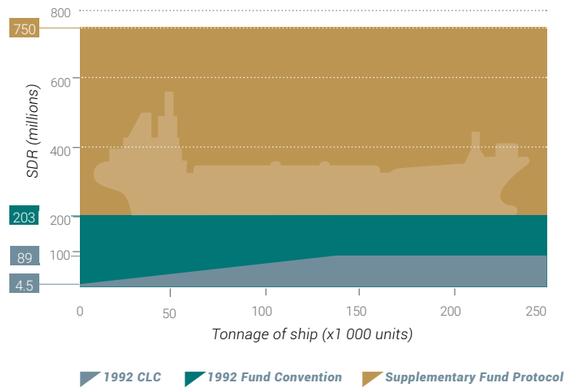


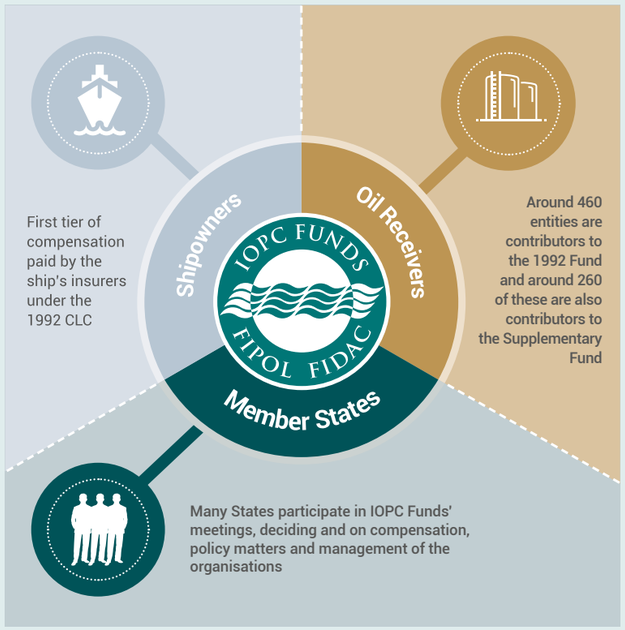
*The unit of account in the Conventions is the Special Drawing Right (SDR) as defined by the International Monetary Fund.

1969 Civil Liability Convention

The original international regime was based on the 1969 Civil Liability Convention (1969 CLC) and the 1971 Fund Convention. While the 1971 Fund Convention ceased to be in force in 2002, the 1969 CLC remains active but it offers lower limits of compensation than the 1992 CLC. It is recommended that any State still Party to the Convention, should increase its protection by acceding to the 1992 CLC and denounce the 1969 CLC as soon as possible.

MAXIMUM LIMITS OF COMPENSATION





STOPIA and TOPIA

The Small Tanker Oil Pollution Indemnification Agreement (STOPIA) and the Tanker Oil Pollution Indemnification Agreement (TOPIA) are two voluntary agreements which were set up in 2006 by the shipowners and the P&I Clubs which are members of the International Group, to indemnify, up to certain amounts, the 1992 Fund and Supplementary Fund, respectively, for compensation paid. The 1992 Fund and Supplementary Fund are not parties to these agreements, which nevertheless confer legally enforceable rights on the Funds to indemnification from the shipowner in States for which the 1992 Fund Convention or Supplementary Fund Protocol is in force. These agreements were reviewed and slightly amended in 2016 and came into force in 2017.

STOPIA is an agreement between owners of small tankers (i.e. 29 548 GT or less) and their insurers, under which owners of small tankers will indemnify the 1992 Fund for compensation paid in excess of the 1992 CLC limit up to a maximum of SDR 20 million. It applies to all small tankers entered in a P&I Club that is a member of the International Group, and reinsured through the pooling arrangements of the Group. The first incident in respect of which indemnification was paid to the 1992 Fund under STOPIA was the *Solar 1* spill that occurred in the Philippines in 2006. STOPIA is also applicable to the *Double Joy* and *Trident Star* incidents (Malaysia 2014 and 2016 respectively) meaning the 1992 Fund could be reimbursed up to SDR 20 million, should it be called upon to pay compensation in those cases.

TOPIA applies to all tankers entered in P&I Clubs that are members of the International Group and reinsured through the pooling arrangements of the Group. Under TOPIA, the Supplementary Fund is indemnified for 50% of any amounts paid in compensation in respect of incidents involving tankers entered in the agreement. Since there have been no incidents involving the Supplementary Fund, TOPIA has not been applied.

THE FULL TEXTS OF THE 1992 CONVENTIONS AND THE SUPPLEMENTARY FUND PROTOCOL MAY BE OBTAINED FROM THE PUBLICATIONS PAGE OF THE FUNDS' WEBSITE: WWW.IOPCFUNDS.ORG.

Operational Review

In this section

In this section, the organisational structure of the IOPC Funds is explained and the operations and activities of the IOPC Funds, in terms of claims management, general administration and outreach during 2017, are described.

A full list of the 27 staff members of the Funds' Secretariat is provided on pages 10 –11. An overview of the claims handling process as well as a summary of the incidents currently being dealt with by the 1992 Fund is also provided (pages 12–19).

It is the contributions levied by the 1992 and Supplementary Funds which finance the compensation payments and general administration of the organisation. A summary of the total quantities of contributing oil received by Member States is reported under this section, together with an outline of how the annual levies are calculated (pages 20–25). Key information regarding the running costs of the Secretariat is provided and details of the joint Audit Body and the joint Investment Advisory Body and their role in the management of the IOPC Funds are also given (pages 26–27).

The activities undertaken by the IOPC Funds during 2017 to increase awareness of the Funds' role in the international liability and compensation regime are set out under External Relations (pages 28–31). This section also includes details of other outreach methods used by the Secretariat and the online tools and resources it provides.

Finally, information is provided on the IOPC Funds' commitment to facilitating the early entry into force of the 2010 HNS Convention and the work carried out by the Secretariat in that regard during 2017 (pages 32-33).

Secretariat

The 1992 Fund and the Supplementary Fund share a joint Secretariat, consisting of 27 staff members as at 31 December 2017. The Director is the chief administrative officer and is responsible for the overall management of the Funds, including maintaining a sound system of internal control that supports the achievement of the Funds' policies, aims and objectives and safeguards its assets. The system of internal control is based on procedures designed to ensure conformity with the Funds' Financial Regulations, Internal Regulations and decisions of the respective governing bodies.

The Director is assisted by a Management Team, comprising the Deputy Director/Head of the Finance and Administration Department, the Head of the External Relations and Conference Department, the Head of the Claims Department, and the Legal Counsel. In the event that the Director was unable to assume his functions, the members of the Management Team, in the order set out above, would take on the responsibilities of the Director.

In addition to the permanent staff of the Secretariat, the Funds use external consultants to provide advice on legal and technical matters, as well as on other matters relating to the management of the Funds, where necessary. Also, in connection with a number of major incidents, the Funds and the shipowner's third-party liability insurer have jointly established local claims offices to provide more efficient handling of claims and to assist claimants.

The Secretariat is based within the same building as the International Maritime Organization (IMO) in London, United Kingdom. The relationship between the Host State and the IOPC Funds is governed by a Headquarters Agreement between the United Kingdom Government and the IOPC Funds. The Agreement sets out the privileges and immunities of the IOPC Funds, of delegates to meetings and of staff members.

IOPC FUNDS' SECRETARIAT AS OF FEBRUARY 2018

DIRECTOR'S OFFICE

José Maura
Director

Kensuke Kobayashi
Legal Counsel

María Basílico
Executive Assistant

CLAIMS DEPARTMENT

Liliana Monsalve
Head of Department

Chiara Della Mea
Claims Manager

Mark Homan
Claims Manager

Ana Cuesta
Claims Administrator

Chrystelle Collier
Claims Administrator

Q. DO YOU OFFER INTERNSHIPS?

A. No, unfortunately we do not. However, we do run an annual week-long self-funded short course covering the work of the IOPC Funds and the international liability and compensation regime in general. Participants must be nominated by 1992 Fund Member States and the course is open to a maximum of 10–12 participants.

FINANCE & ADMINISTRATION DEPARTMENT

Ranjit Pillai
Deputy Director/ Head of Department

Robert Owen
IT Manager

Julia Shaw
Human Resources Manager

Claire Montgomery
Finance Manager

Modesto Zotti
Office Manager

Stuart Colman
IT Officer

Elisabeth Galobardes
Finance Assistant

Kathy McBride
Finance Assistant

Marina Singh
Finance Assistant

Paul Davis
IT/Administrative Assistant

Sarah Hayton
Oil Reporting Administrator

EXTERNAL RELATIONS & CONFERENCE DEPARTMENT

Thomas Liebert
Head of Department

Victoria Turner
Information Officer

Thomas Moran
External Relations & Conference Coordinator

Natalia Ormrod
Translation Coordinator

María Alonso Romero
Associate Editor (Spanish)

Sylvie Legidos
Associate Editor (French)

Johana Lanzeray
Associate Editor (French)

Julia Sükan del Río
External Relations & Conference Assistant

Q. HOW CAN I APPLY FOR A POST WITH THE SECRETARIAT?

A. All vacancy notices are published on the website under the vacancies page of the Secretariat section and are usually announced on the home page. Full details of the requirements for a post and how to apply are provided there.

Compensation and Claims Management

The principal role of the IOPC Funds is to pay compensation to those who have suffered oil pollution damage in a Member State who cannot obtain full compensation for the pollution damage from the shipowner under the 1992 Civil Liability Convention (1992 CLC).

Who can claim?

Claimants may be individuals, partnerships, companies, private organisations or public bodies, including States or local authorities.

What type of claims are admissible?

To be entitled to compensation, the pollution damage must result in an actual and quantifiable economic loss. The claimants must be able to show the amount of their 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 pollution damage:

How are claims assessed?

Claims are assessed according to criteria established by 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.

The Funds, normally in cooperation with the shipowner's insurer, usually appoint experts to monitor clean-up operations, to investigate the technical merits of claims and to make independent assessments of the losses.

How are claims settled?

In most cases, claims are settled out of court. The Director has the authority to settle claims and pay compensation up to predetermined levels. However, for incidents involving larger claims or where a specific claim gives rise to a question of principle which has not previously been decided by the governing bodies, the Director needs approval from the relevant governing body of the Fund in question. The Director is further permitted, in certain circumstances, and within certain limits, to make provisional payment of compensation before a claim is settled if this is necessary to mitigate undue financial hardship to victims of pollution incidents.

Under the 1992 Fund Convention, the 1992 Fund is obliged to ensure that all claimants are given equal treatment so if the total amount of the established claims exceeds the total amount of compensation available under the Civil Liability and Fund Conventions, each claimant will receive the same proportion of the loss. When there is a risk that this situation will arise, the 1992 Fund may have to restrict compensation payments to a percentage of the established losses to ensure that all claimants are given equal treatment. The level of payments may increase at a later stage if the uncertainty about the total amount of the established losses is reduced. One important effect of the establishment of the Supplementary Fund is that, in practically all cases, it should be possible from the outset to pay compensation for pollution damage in Supplementary Fund Member States at 100% of the amount of damage agreed between the Fund and the claimant.

How can claims be submitted?

Claims should be presented clearly and with sufficient information and supporting documentation to enable the amount of the damage to be assessed. Each item of a claim must be substantiated by an invoice or other relevant supporting documentation, such as work sheets, explanatory notes, accounts and photographs. It is the responsibility of claimants to submit sufficient evidence to support their claims. It is important that the documentation is complete and accurate.

To give an indication of the type of information which would be required to substantiate a claim, an example Claim Form has been published for information and training purposes only, which includes specific sections for the typical sectors which experience losses as a result of a major incident. In the event of an incident, the process for claim submission will be explained and specific customised claim forms and facilities will normally be made available to claimants via the IOPC Funds' website (www.iopcfunds.org). An online claims submission system is expected to be available in 2018.

In most incidents, claims should be sent to the offices of the shipowner's insurer or to the IOPC Funds directly. Occasionally, when an incident gives rise to a large number of claims, the 1992 Fund and the P&I Club jointly set up a local claims office so that claims may be processed more easily. In such cases, claimants should submit their claims to that local claims office. The address to which claims for a specific incident should be sent would be given in the local press and also provided on the IOPC Funds' website.

If claimants suffer damage in a State that is Party to the Supplementary Fund Protocol, their claims will automatically be considered for compensation from the Supplementary Fund, if the amount available from the shipowner/insurer and the 1992 Fund is insufficient to pay full compensation for proven losses.

All claims are referred to the 1992 Fund and the shipowner's insurer for decisions on whether or not they qualify for compensation, and, if so, the amounts of compensation due to the claimants. Neither designated local correspondents nor local claims offices have the authority to make these decisions.

When should claims be submitted?

Claimants ultimately lose their right to compensation under the 1992 Fund Convention unless they bring court action against the 1992 Fund within three years of the date on which the damage occurred, or make formal notification to the 1992 Fund of a court action against the shipowner or their insurer within the three-year period. The same time limit applies in respect of claims against the shipowner or their insurer under the 1992 CLC. Although damage may occur some time after an incident takes place, in both cases court action must in any event be brought within six years of the date of the incident.

Incidents involving the 1992 Fund

Since their establishment in October 1978, the IOPC Funds have been involved in over 150 incidents. Details of all incidents, and in many cases a full case study, including latest developments, can be found under the Incidents section of the IOPC Funds' website at www.iopcfunds.org. A summary of key developments in a number of cases during 2017 and the position taken by the governing bodies in respect of claims is set out below.

NEW INCIDENTS

Agia Zoni II
(Greece, September 2017)

The *Agia Zoni II*, a 45-year-old product tanker, sank while at anchor on 10 September 2017 near the island of Salamina, in the northern part of the designated Piraeus anchorage area of Greece. She was carrying 2 730 tonnes of oil of which approximately 700 metres³ were released. The cause of the incident is still unknown. The oil spill impacted upon the coast of Salamina island and also stranded upon the mainland surrounding Piraeus and Athens, a heavily populated area. The *Agia Zoni II* was insured by Lodestar, which is a fixed premium insurer, up to €5 million although the 1992 CLC limit is €5.4 million. A claims submission office was established in Piraeus, Greece to assist claimants with the submission of their claims and at its October 2017 session the 1992 Fund Executive Committee authorised the Director to make payments of compensation in respect of claims arising from the incident.

Double Joy
(Malaysia, August 2014)

In July 2017, the Secretariat was informed of an incident involving the tanker *Double Joy*, which had occurred in August 2014 in Malaysia. Initially, the shipowner and its insurer thought that the pollution damage arising from the incident would remain well below the 1992 CLC limit. However, one shipping company has recently notified the insurer of its intention to submit a claim for a substantial amount, which brings the potential pollution damage arising from this incident over the 1992 CLC limit, and therefore, the 1992 Fund may be required to pay compensation, although STOPIA 2006 is applicable and the amount claimed is unlikely to exceed the STOPIA limit. This claimant has brought a court action against the shipowner, its insurer and the 1992 Fund, in order to protect its compensation rights. The 1992 Fund Executive Committee authorised the Director to sign an agreement on interim payments with the Shipowners' Club in respect of the incident, to be applied retrospectively to the amounts paid by the Club and agreed by the 1992 Fund before the signature of the agreement. The Agreement was signed on 9 November 2017.

ONGOING INCIDENTS

Trident Star
(Malaysia, August 2016)

Claims for compensation paid in respect of this incident are likely to fall within the SDR 20 million limit under STOPIA 2006, which applies to the *Trident Star*. The 1992 Fund is unlikely to have to pay compensation. However, it is the first incident in which the interim payments Agreement between the IOPC Funds and the P&I Clubs could apply, and in April 2017, the Executive Committee authorised the Director to sign such an agreement with the Shipowners' Club, to be applied retrospectively to the amounts agreed by the 1992 Fund and paid by the Club before the signature of the Agreement. The Agreement was signed in September 2017. In October 2017, it was reported that five claims had been received for a total of US$12.6 million and that 21 actions had been filed in the limitation proceedings at the High Court of Malaya in Kuala Lumpur. The 1992 Fund has intervened in the limitation proceedings, in order to protect its rights in the event it is called upon to pay compensation.

Nesa R3
(Sultanate of Oman, June 2013)

Since all the attempts made by the Omani authorities to obtain a financial commitment by the shipowner have been unsuccessful, there are strong indications that the shipowner will not meet its obligations under the 1992 CLC to pay compensation to persons suffering pollution damage arising out of this incident. As a consequence, it is anticipated that the 1992 Fund will in any case be liable to pay compensation for this incident in accordance with Article 4.1 (b) of the 1992 Fund Convention and therefore, the 1992 Fund has paid 23 claims for a total of OMR 1 797 972 as at 31 December 2017 out of 31 claims submitted. In February 2016, the 1992 Fund joined the legal action commenced by the Omani Government against the shipowner and its insurer in the Court of Muscat and in 2017 an expert issued a report recognising the validity of the claims by the Omani Government and the 1992 Fund.

Alfa I
(Greece, March 2012)

In 2016, the 1992 Fund made payment of €12 million in full and final settlement of the main clean-up contractor's claim against the shipowner, insurer and the 1992 Fund with the aim of recovering the CLC limit (SDR 4.51 million), from the insurer. In December 2016, the 1992 Fund was informed by the insurer's lawyers that the insurer would likely be put into voluntary liquidation as it could not comply with Greek insurance solvency regulations. The 1992 Fund filed applications for prenotated mortgages* against the unencumbered buildings owned by the insurer, at six different Greek land registries, in support of the Fund's claim for the return of the 1992 CLC limit, based on its subrogated rights under the 1992 CLC. However, only one of the land registries accepted the 1992 Fund's original application and granted the registration of prenotated mortgages on two properties owned by the insurer. Following applications made by the 1992 Fund against the decisions of the other Land Registries, the Piraeus Court of First Instance denied the 1992 Fund the grant of prenotated mortgages over those properties. The 1992 Fund has appealed the decision to the Athens Court of Appeal.

The remaining two claims are from another clean up contractor and the Greek State, amounting to some €349 000 and €222 000 respectively.

*A prenotated mortgage is a right *in rem*. Upon a final and un-appealable judgment being issued, the prenotated mortgage may be rendered into a full mortgage, retroactively as of the date of registration of the prenotated mortgage. Therefore, if the prenotated mortgages are registered, the 1992 Fund's claim for compensation will rank ahead of other unsecured claims.

Prestige (Spain, November 2002)

Following the 2016 judgment of the Supreme Court in respect of the *Prestige* incident, the case was sent to the Civil Court in La Coruña (Audiencia Provincial) for the quantification of the losses. The Court ordered the parties to specify the nature and amount of their claims. The 1992 Fund, with the help of its experts, examined the information the claimants had submitted and replied to the claimants' submissions. The master, the shipowner and the London P&I Club also submitted replies to the quantifications presented by the claimants.

The judgment was delivered in November 2017. It confirmed that the 1992 Fund was liable for damages resulting from the spill in accordance with the 1992 Fund Convention, but quantified the claims for compensation far in excess of the amounts assessed by the Fund, recognising both moral and environmental damages and awarding over €1.6 billion in compensation. This amount includes €1.57 billion payable to the Spanish Government, €61 million to the French Government as well as various amounts to individual claimants. The 1992 Fund will appeal the judgment to the Supreme Court.

The previous 2016 judgment had established that the shipowner's insurer, the London P&I Club, was liable for the damages to the environment as a result of the incident and could not limit its liability for the damages caused as a result of the spill under the 1992 CLC. Instead the judgment asserted that the London P&I Club had civil liability up to the limit of its insurance policy of US$1 000 million. The London P&I Club will also appeal the 2017 judgment.

Volgoneft 139
(Russian Federation, November 2007)

According to a June 2012 court ruling, the 1992 Fund paid all private claimants in full and made provisional payments to the three government claimants, with pro-rated deductions to cover the 'insurance gap'. In a judgment delivered in November 2014, the Arbitration Court of Saint Petersburg and Leningrad Region decided that the 'insurance gap' should be allocated between all the claimants on an equal basis. According to this judgment, the 1992 Fund had overpaid the four private claimants some RUB 8.7 million. In 2016, the Court issued enforcement certificates to the 1992 Fund for it to recover from the private claimants the overpaid amounts. Two claimants, the charterer of the *Volgoneft 139* and a salvage company, returned the amounts overpaid in 2017. Another claimant, a tourist operator, agreed to return the money overpaid in instalments. Since the chances of recovering the amount owed by the Kerch Port Authority were slim, and taking into account the substantial legal costs incurred, the Director decided to discontinue the recovery process in relation to the Kerch Port Authority. The 1992 Fund has now paid the amounts awarded by the November 2014 judgment to the three government claimants that remained to be paid.

INCIDENTS CLOSED DURING 2017

Shoko Maru (Japan, May 2014)

Since all claims submitted as a result of the incident were settled by the shipowner/insurer, well within the limitation applicable to the *Shoko Maru* under the 1992 CLC, it became clear that the 1992 Fund would not be liable to pay compensation in relation to this spill and the case was therefore closed in October 2017.

MT Pavit (India, July 2011)

Following discussions at meetings in India in March 2017 with a Director of the West of England Club, the Head of the Claims Department of the IOPC Funds, the claimant in this case and the Indian authorities, a compromise settlement was agreed with the contractor which was below the 1992 CLC limit. The legal proceedings were subsequently withdrawn and the incident was closed in October 2017.

JS Amazing (Nigeria, June 2009)

In early 2017, the 1992 Fund received confirmation that the last action relating to this incident in court had been discontinued by the claimants. Given that all civil claims had been resolved and there was no liability for the 1992 Fund, this case was closed in October 2017.

List of open 1992 Fund incidents and their status as at 31 December 2017

SHIP	PLACE OF INCIDENT	YEAR
Prestige	Spain	2002
Solar 1	Philippines	2006
Volgoneft 139	Russian Federation	2007
Hebei Spirit	Republic of Korea	2007
Redfferm	Nigeria	2009
Haekup Pacific	Republic of Korea	2010
Alfa I	Greece	2012
Nesa R3	Oman	2013
Double Joy	Malaysia	2014
Trident Star	Malaysia	2016
Agia Zoni II	Greece	2017

£674 million

paid by the IOPC Funds in compensation since 1978 (£331 million of which was in respect of the 1971 Fund)

Incidents involving the Supplementary Fund

As at 31 December 2017, there have been no incidents involving, or likely to involve the Supplementary Fund.

The *Hebei Spirit*: 10 years after the incident

7 December 2017 marked the 10th anniversary of the Hebei Spirit incident which occurred off the west coast of the Republic of Korea, spilling some 10 900 tonnes of crude oil into the sea and heavily polluting the Taean peninsula and nearby islands. This incident has become the largest spill in the history of the IOPC Funds in terms of claims for compensation, with over 127 000 claims submitted.

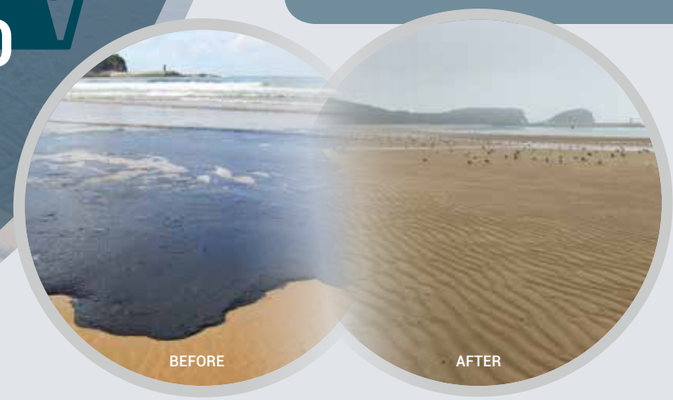
As a result of the excellent cooperation between the Government of the Republic of Korea, the Skuld Club and the IOPC Funds, after 10 years, 99.9% of the claims have been settled, and the remaining claims are expected to be finalised in the near future.

10 900 tonnes OF OIL SPILLED

345 km OF COASTLINE POLLUTED

> 127 000 CLAIMS SUBMITTED

KRW 322 billion AVAILABLE FOR COMPENSATION



The Korean courts, following the 1992 Fund's admissibility criteria, have achieved resolution of most claims in a relatively short period of time given the magnitude of the incident.

The total amount available for compensation under the 1992 Fund Convention for this incident is KRW 321.6 billion and as at 31 December 2017, the Skuld Club had paid up to the 1992 CLC limit (KRW 186.8 billion), and the 1992 Fund had paid some KRW 129 billion.

In December 2017, the Korea Coast Guard organised a symposium to discuss lessons learned from the incident, in particular in terms of preparedness and response to oil spills and other types of pollution.

Developments in 2017

Due to significant fluctuations in the exchange rate over time, the payments made by the Skuld Club is likely to exceed the 1992 CLC limit. In order to bring the exchange rate more in line with the rate which will be applicable when the limit under the 1992 CLC is converted into Korean won, at its April 2017 session, the 1992 Fund Executive Committee authorised the Director to make an advance balancing payment of KRW 22 billion to the Skuld Club, which was made in May 2017.

Under the 2008 Special Law for the support of the affected inhabitants and the restoration of the marine environment after the *Hebei Spirit* incident, the Government of the Republic of Korea undertook to pay compensation to all claimants in excess of the Skuld Club's and the 1992 Fund's limits. The Republic of Korea has been paying all claimants the full established amount of their claims, subrogating those claims against the 1992 Fund. In practical terms, the Republic of Korea is the only claimant receiving compensation on a pro-rated basis and the 1992 Fund has been making compensation payments to the Republic of Korea at a level of payments of 60%, with KRW 129 billion paid.

At its October 2017 session, the 1992 Fund Executive Committee decided to maintain the level of payments at 60% of the amount of the established losses and, in view of the limited number of outstanding claims, authorised the Director to make an advance payment of KRW 40 billion to the Republic of Korea, which would speed up the payment process, thereby allowing the Republic of Korea to allocate the available funds to claimants quicker than at present.

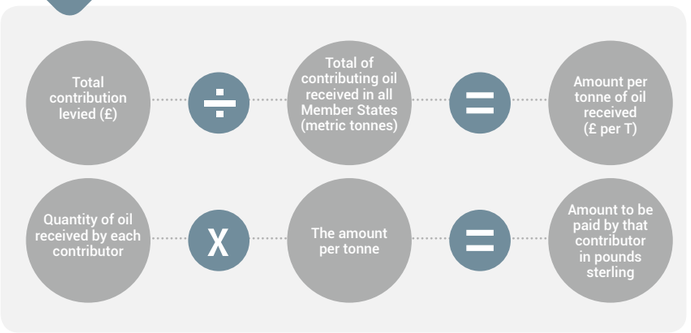
Oil Reporting and Contributions

The IOPC Funds are financed by contributions levied on entities that receive more than 150 000 tonnes of contributing oil per calendar year in ports or terminal installations in a Member State, after carriage by sea. Contributions are paid by those entities (known as 'contributors') directly to the Funds (see Financial Review).

Governments of Member States are obliged to report annually to the Secretariat the quantities of oil received by the contributors in their State. These quantities are used as the basis of the levy per tonne of oil received, calculated to provide monies to administer the Funds and to pay claims approved by the governing bodies. A system of deferred invoicing exists whereby the total amount to be levied in contributions for a given calendar year is fixed, but only a specific lower total amount is invoiced for payment by 1 March. The remaining amount or a part thereof is only invoiced later in the year if necessary.

Contributions to the General Funds are calculated on the basis of the quantities of contributing oil received in the preceding calendar year by each contributor. Contributions to Major Claims Funds and Claims Funds are calculated on the basis of the quantities of contributing oil received in the year preceding that in which the incident occurred, if the State was a Member of the relevant IOPC Fund at the time of the incident.

CALCULATION OF CONTRIBUTIONS



Q. DO OIL EXPORTERS PAY CONTRIBUTIONS?

A. No. In order to create a system which would not be too complicated to operate, it was decided to count oil quantities for contribution purposes only when they were received at a port after sea transport.

Q. DOES A COMPANY THAT RECEIVES OIL TEMPORARILY IN A STORAGE FACILITY FOR OTHERS HAVE TO PAY?

A. Yes. It is the first physical receiver of the oil in a Member State who is liable to pay contributions, provided that the oil has previously been transported by sea. It does not matter whether the oil is received on behalf of another company.

Q. IF NOBODY IN A MEMBER STATE RECEIVES OIL, WHAT HAPPENS?

A. If there are no entities in a State that receive more than 150 000 tonnes of contributing oil in a year, the State must still inform the Fund by submitting a nil report. The State will have financial protection for any tanker spills but would not have to make any contributions.

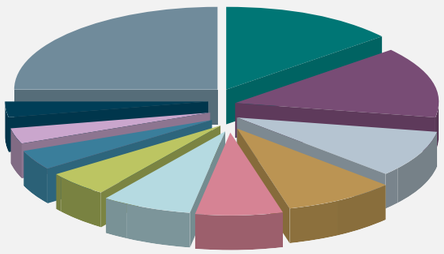
1992 Fund

At the October 2017 sessions of the governing bodies, the 1992 Fund Assembly decided to levy 2017 contributions to the General Fund of £1.5 million, based on oil received in the calendar year 2016 and payable by 1 March 2018. For the purpose of calculating the levy per tonne, the total quantity of oil received consists of the amount reported as well as the amount estimated to have been received by contributors whose reports are pending at the time of invoicing. In 2016, the total quantity of oil both reported and estimated at the time of the levy was 1 541 015 583 tonnes and contributions of £0.0009734 per tonne were levied. The 10 largest contributing Member States to the 1992 Fund are shown in the pie chart below.

The 1992 Fund Assembly also decided to establish a Major Claims Fund for the *Agia Zoni II* incident and to levy 2017 contributions of £51 million to the fund, with £26 million payable by 1 March 2018 and £25 million to be deferred. Contributions to the *Agia Zoni II* Major Claims Fund are based on oil received in 2016 (1 541 015 583 tonnes) and the contributions payable by 1 March 2018 were levied at £0.0168720 per tonne. The Director will inform contributors and Member States by June 2018 whether the deferred levy is required.

The 1992 Fund Assembly decided not to levy 2017 contributions to the *Prestige*, *Volgoneft 139*, *Hebei Spirit* and *Alfa I* Major Claims Funds.

CONTRIBUTING OIL RECEIVED BY 1992 FUND MEMBER STATE IN 2016 (AS REPORTED BY 31 DECEMBER 2017)



Contributing oil received in the calendar year 2016 in the territories of States which were Members of the 1992 Fund on 31 December 2017

Member State	Contributing oil reported in 2016, as at 31 December 2017 (tonnes)	% of Total
India	212 786 573	14.01%
Japan	205 906 105	13.56%
Republic of Korea	134 160 040	8.83%
The Netherlands (Kingdom of the Netherlands)*	121 317 141	7.99%
Italy	110 493 179	7.27%
Singapore	109 097 538	7.18%
Spain	72 084 160	4.75%
France	62 022 216	4.08%
United Kingdom	51 878 812	3.42%
Canada	39 251 732	2.58%
Malaysia	30 225 587	1.99%
Greece	28 864 659	1.90%
Turkey	28 415 356	1.87%
Sweden	23 178 981	1.53%
Germany	22 359 835	1.47%
Australia	19 069 963	1.26%
South Africa	18 822 437	1.24%
Portugal	15 854 208	1.04%
Curaçao (Kingdom of the Netherlands)*	15 336 643	1.01%
Israel	15 021 657	0.99%
Bahamas	14 020 856	0.92%
Argentina	13 866 742	0.91%
Iran (Islamic Republic of)	13 613 243	0.90%
Philippines	12 137 803	0.80%
Finland	11 773 821	0.78%
Panama	9 605 632	0.63%
Lithuania	9 315 746	0.61%
Norway	8 453 261	0.56%
Croatia	7 351 293	0.48%
Denmark	7 313 245	0.48%
Poland	7 119 400	0.47%
Bulgaria	6 768 857	0.45%
China**	6 585 666	0.43%
New Zealand	5 782 983	0.38%
Trinidad and Tobago	5 122 422	0.34%
Mexico	3 627 615	0.24%
Belgium	3 611 894	0.24%
Malta	3 420 796	0.23%
Ireland	3 129 013	0.21%
Colombia	3 119 815	0.21%
Angola	2 707 402	0.18%
Aruba (Kingdom of the Netherlands)*	2 233 355	0.15%
Estonia	2 212 090	0.15%
Ecuador	2 060 658	0.14%
Jamaica	2 048 425	0.13%
Uruguay	1 989 847	0.13%
Cameroon	1 899 213	0.13%
Sri Lanka	1 858 427	0.12%
Senegal	1 602 153	0.11%
Ghana	1 503 388	0.10%
Tunisia	1 311 599	0.09%
Papua New Guinea	1 232 518	0.08%
Cyprus	880 743	0.06%
Nicaragua	870 624	0.06%
Nigeria	815 888	0.05%
Mauritius	585 516	0.04%
Algeria	502 075	0.03%
Tanzania	257 230	0.02%
Barbados	212 856	0.01%
Djibouti	167 042	0.01%
Total	**1 518 837 974**	**100%**

No contributing oil was received during 2016 in the following Member States:

Antigua and Barbuda, Bahrain, Belize, Brunei Darussalam, Cabo Verde, Cambodia, Comoros, Cook Islands, Dominica, Fiji, Gabon, Georgia, Grenada, Guinea, Hungary, Iceland, Kenya, Kiribati, Latvia, Liberia, Luxembourg, Madagascar, Maldives, Marshall Islands, Monaco, Montenegro, Mozambique, Namibia, Niue, Oman, Palau, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, Serbia, Seychelles, Sierra Leone, Slovakia, Slovenia, Switzerland, Tonga, Tuvalu, United Arab Emirates, Vanuatu.

As at 31 December 2017, oil reports for the calendar year 2016 had not been received from the following Member States:

Albania, Benin, Congo, Côte d'Ivoire, Dominican Republic, Mauritania, Morocco, Saint Lucia, Sint Maarten (Kingdom of the Netherlands)*, Syrian Arab Republic, Venezuela (Bolivarian Republic of).

* *The Netherlands, Aruba, Curaçao and Sint Maarten are autonomous partners within the Kingdom of the Netherlands, a status which obliges them to submit reports of contributing oil to the 1992 Fund directly. The Supplementary Fund has not been extended to Aruba, Curaçao or Sint Maarten.*

** *The 1992 Fund Convention applies to the Hong Kong Special Administrative Region only.*

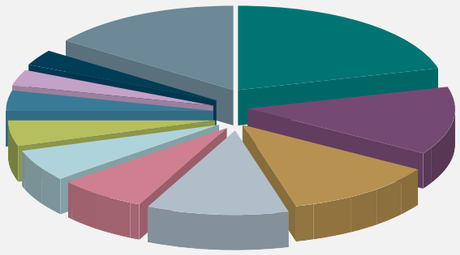
Supplementary Fund

At the April 2017 sessions of the governing bodies, the Supplementary Fund Assembly decided to reimburse £830 000 to contributors in 19 Member States who paid 2006 contributions to the General Fund. The Supplementary Fund Assembly also decided to levy 2017 contributions to the General Fund of £1.5 million payable by contributors in the 31 current Member States and based on oil received in 2016.

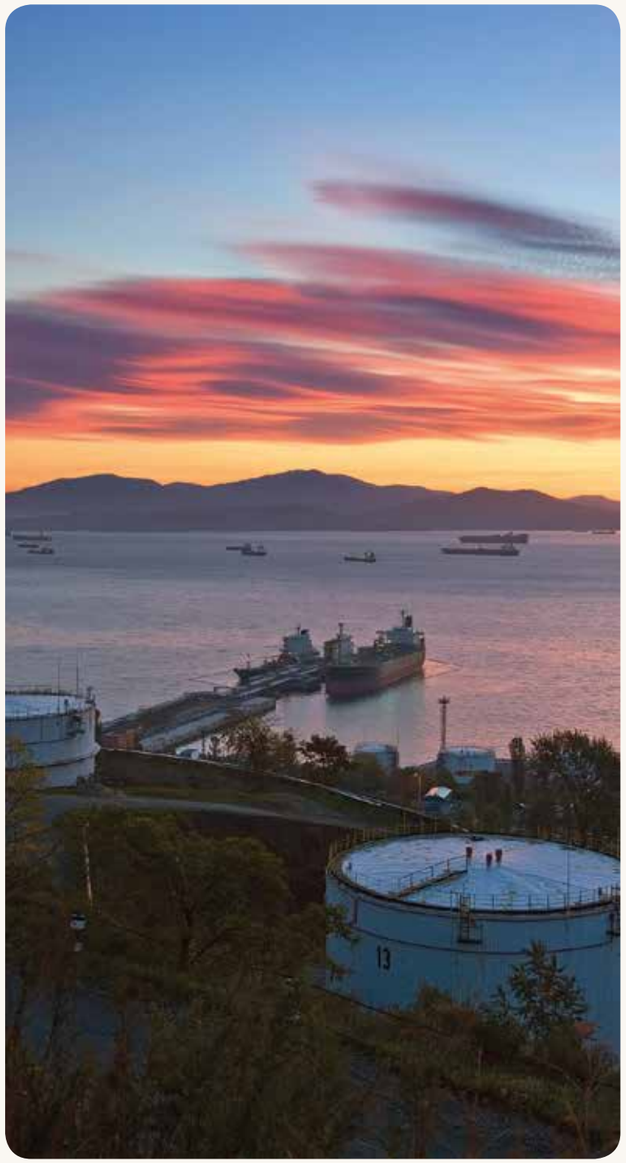
The levy per tonne for the Supplementary Fund is calculated in the same way as for the 1992 Fund; the total quantity of oil received consists of the amount reported as well as the amount estimated to have been received by contributors whose reports are pending at the time of invoicing. In 2016, the total quantity of oil both reported and estimated at the time of the levy was 1 007 336 150 tonnes and contributions of £0.0014891 per tonne were levied. The reimbursement and levy were both payable by 1 March 2018.

Under Article 18 of the Supplementary Fund Protocol, total annual contributions in a Member State could not exceed 20% of total contributions for that calendar year. When contributions were levied to the General Fund in 2006, Japan reported 31.64% of the total contributing oil. A capping levy was applied to reduce Japan's total contributions to 20% of the total and the difference was redistributed amongst contributors in other Member States. Capping was also applied to the reimbursement of the 2006 contributions to ensure that the reimbursement to contributors was in the same proportion to the contributions they paid. As Article 18 ceased to have effect from 2010, capping is no longer applied to Supplementary Fund contributions.

CONTRIBUTING OIL RECEIVED BY SUPPLEMENTARY FUND MEMBER STATE IN 2016 (AS REPORTED BY 31 DECEMBER 2017)



- Japan 21%
- Republic of Korea 13%
- Netherlands 12%
- Italy 11%
- Spain 7%
- France 6%
- United Kingdom 5%
- Canada 4%
- Greece 3%
- Turkey 3%
- Others 15%



Contributing oil received in the calendar year 2016 in the territories of States which were Members of the Supplementary Fund on 31 December 2017

Member State	Contributing oil reported in 2016, as at 31 December 2017 (tonnes)	% of Total
Japan	205 906 105	20.57%
Republic of Korea	134 160 040	13.40%
The Netherlands (Kingdom of the Netherlands)	121 317 141	12.12%
Italy	110 493 179	11.04%
Spain	72 084 160	7.20%
France	62 022 216	6.20%
United Kingdom	51 878 812	5.18%
Canada	39 251 732	3.92%
Greece	28 864 659	2.88%
Turkey	28 415 356	2.84%
Sweden	23 178 981	2.32%
Germany	22 359 835	2.23%
Australia	19 069 963	1.90%
Portugal	15 854 208	1.58%
Finland	11 773 821	1.18%
Lithuania	9 315 746	0.93%
Norway	8 453 261	0.84%
Croatia	7 351 293	0.73%
Denmark	7 313 245	0.73%
Poland	7 119 400	0.71%
Belgium	3 611 894	0.36%
Ireland	3 129 013	0.31%
Estonia	2 212 090	0.22%
Barbados	1 000 000	0.10%
Hungary*	1 000 000	0.10%
Latvia*	1 000 000	0.10%
Montenegro*	1 000 000	0.10%
Slovakia*	1 000 000	0.10%
Slovenia*	1 000 000	0.10%
Total	**1 001 136 150**	**100%**

Q. HOW MUCH DOES IT COST TO BE A MEMBER OF THE 1992 FUND OR THE SUPPLEMENTARY FUND?

A. The level of contributions varies each year, depending on the amounts of compensation which the 1992 Fund or the Supplementary Fund has to pay. That depends on the incidents which occur and the amounts to be paid in compensation for each of them and the amount of claims-related expenditure required. There are no fixed premiums to pay and the annual administrative budget of the Secretariat is relatively small (see page 26). The price per tonne of contributing oil is dependent on the amount required and the total amount of oil receipts received for the relevant calendar year.

As at 31 December 2017, oil reports for the calendar year 2016 had not been received from Congo or Morocco.

** Deemed to have received 1 000 000 tonnes for the purposes of contributions to the Supplementary Fund.*

Administration

External Auditor

BDO International (BDO) was appointed in October 2015 as IOPC Funds' External Auditor after a tender process to audit the Financial Statements of the 1992 Fund and the Supplementary Fund for a period of four years, i.e. the financial years 2016–2019 inclusive. The transition from the former External Auditor, the National Audit Office (NAO) of the United Kingdom to BDO was smooth and efficient and BDO reported to the governing bodies for the first time in October 2017 on the audit of the 2016 Financial Statements of the 1992 Fund and Supplementary Fund (see Financial Review section, pages 40–48).

Risk Management

The Secretariat has a full risk management system in place, which is regularly reviewed and updated. In consultation with the Audit Body and the External Auditor the risks are categorised either as operational risks or institutional issues. Operational risks have five further subcategories, namely: finance/contributions, governance/management, compensation, safety/security and communication/publications (including the website). These identified risks, institutional issues and any corresponding mitigation measures which are put in place are continuously monitored to ensure a robust risk management system is maintained.

Financial administration

The General Funds cover the administrative expenses of the respective Funds, including the costs of running the joint Secretariat and, in respect of the 1992 Fund, for compensation payments and claims-related expenditure up to a maximum amount defined by the pound sterling equivalent of SDR 4 million per incident. Separate Major Claims Funds are established for incidents for which the total amounts payable exceed those amounts. A Claims Fund is established for any incident for which the Supplementary Fund has to pay compensation. Since there have been no incidents involving the Supplementary Fund, no Claims Funds have been established.

Joint Secretariat expenses

The joint administrative expenses (excluding the External Auditor's fees which are paid directly by each of the Funds) for the Secretariat, administered by the 1992 Fund, are set out below.

Commentary on the joint Secretariat expenditure is provided in Annex I of the 1992 Fund's Financial Statements for the financial periods 2016 and 2015, which are available on the 'About us' page on the Funds' website: www.iopcfunds.org.

Joint Secretariat expenditure	2017 unaudited £	2016 audited £	2015 audited £
Expenditure	4 200 000	3 985 620	3 931 936
Budget	4 396 520	4 407 360	4 306 640
Expenditure as % of budget	96%	90%	91%
External Auditor's fees			
1992 Fund	43 200	50 000	47 500
Supplementary Fund	3 200	3 500	3 500
Management fees received by 1992 Fund from Supplementary Fund	34 000	34 000	33 000

Financial information

Financial Statements prepared under the International Public Sector Accounting Standards (IPSAS) provide a comprehensive view of the financial position and the financial performance of the organisation at the entity level. The Funds' activities have been classified into segments on the basis of the General Funds and Major Claims Funds and disclosure about each stream of activity is provided in the notes to the Financial Statements.

1992 Fund

Financial information for 2016 (audited)

Contributions of some £4.4 million were levied in 2015 for payment in 2016 in relation to the General Fund. Interest on investments amounted to some £1.1 million. Claims and claims-related expenditure during the period was some £24.7 million. The payments related mainly to the *Hebei Spirit* and *Alfa I* incidents.

Financial information for 2017 (unaudited)

Contributions of some £9.7 million and £6.4 million were levied in 2016 for payment in 2017 in relation to the General Fund and *Alfa I* Major Claims Fund respectively. Interest on investments amounted to some £800 000. Claims and claims-related expenditure during the period was some £2.8 million. The payments related mainly to the *Prestige*, *Hebei Spirit* and *Agia Zoni II* incidents.

Supplementary Fund

Financial information for 2016 (audited)

No contributions were levied for payment in 2016. Interest on investments amounted to some £5 700. Total obligations incurred by the Supplementary Fund amounted to £37 500 of which £34 000 was in respect of the management fee payable to the 1992 Fund.

Financial information for 2017 (unaudited)

No contributions were levied for payment in 2017. Interest on investments amounted to some £4 600. Total obligations incurred by the Supplementary Fund amounted to £37 200 of which £34 000 was in respect of the management fee payable to the 1992 Fund.

Audit Body

The joint Audit Body, established by the IOPC Funds' governing bodies, normally meets three times a year to review the adequacy and effectiveness of the organisations. The Audit Body looks at the key issues of management and financial systems, financial reporting, internal controls, operational procedures and risk management, and it reviews the organisations' Financial Statements. It also considers all relevant reports by the External Auditor. The Audit Body reports to the governing bodies at their regular October session.

The current members of the joint Audit Body, elected in October 2017: (Left to right) Mr Makato Harunari (Japan), Mr José Luis Herrera Vaca (Mexico), Mrs Birgit Sølling Olsen (Denmark), Mr Jerry Rysanek (Canada)(Chairman), Mr Eugène Ngango Ebandjo (Cameroon), Mr Vatsalya Saxena (India) and Mr Michael Knight (External expert).

Investment Advisory Body

The joint Investment Advisory Body (IAB), established by the IOPC Funds' governing bodies, advises the Director on procedures for investment and cash management controls. The IAB also reviews the IOPC Funds' investments and foreign exchange requirements, to ensure that reasonable investment returns are achieved without compromising the safety of the IOPC Funds' assets. The IAB normally meets four times a year with the Secretariat. It also meets with the Audit Body and External Auditor to share information, and reports to the governing bodies at their regular October session.

The three current members of the joint Investment Advisory Body, reappointed in October 2017, are (left to right): Mr Alan Moore, Mr Simon Whitney-Long, Mr Brian Turner. In April 2018, the Director will be proposing a new candidate to replace Mr Whitney-Long who has decided not to continue his role for a further full three-year term.

External Relations

The Secretariat of the IOPC Funds undertakes a range of activities aimed at strengthening the IOPC Funds' relationships with Member States and other international, intergovernmental or non-governmental organisations.

From time to time, the Secretariat organises or participates in events such as national and regional workshops or gives presentations to enhance understanding of the international liability and compensation regime, to assist with implementation of the Conventions at national level and to assist potential claimants. Meetings between the Secretariat and government authorities within Member States are often highly beneficial to both parties. Such visits normally result in the resolution of longstanding issues such as the payment of outstanding contributions and submission of oil reports.

The main activities in 2017 are outlined below and shown on the following map, together with other key outreach activities delivered since 2013.

1 **Location:** *California, United States*

Name of Event:
IOSC 2017

Participation in the International Oil Spill Conference which provides a forum for the international community to highlight best practices for prevention, preparedness, response and restoration. The Secretariat also held an exhibition stand at the event shared with IMO.

2 **Location:** *Washington DC, United States*

Name of Event:
Visit to the National Pollution Funds Center (NPFC)

Visit to the NPFC in which discussions were held to find ways the two organisations could share experience and knowledge in the future.

3 **Location:** *Costa Rica, El Salvador, Honduras*

Name of Event:
Series of one-day workshops

Participation in and presentations delivered in a series of one-day workshops in Costa Rica, El Salvador and Honduras at the request of the Central American Commission for Maritime Transport (COCATRAM), to provide an overview of the international liability and compensation regime as well as promote accession to the 1992 Civil Liability and Fund Conventions.

4 **Location:** *Buenos Aires, Argentina*

Name of Event:
Regional seminar

Participation in and presentations delivered at a regional seminar on environmental protection and the international liability and compensation regime for maritime authorities in Argentina, Chile, Paraguay, Peru and Uruguay.

5 **Location:** *Norway*

Name of Event:
Skagerrak Chemical Oilspill Pollution Exercise (SCOPE) 2017

Presentation delivered during SCOPE : a five-day event organised by the Norwegian Coastal Administration and co-funded by the European Union, in which one of the largest spill response exercises ever carried out in European waters took place.

6 **Location:** *London, United Kingdom*

Name of Event:
50 years working together exhibition

In collaboration with nine co-sponsoring organisations, produced an exhibition to mark 50 years of government and industry working together to address the risk of oil pollution from ships. The exhibition highlighted the achievements of the international community which have resulted in the dramatic and sustained reduction in major oil spills from ships.

7 **Location:** *Alexandria, Egypt*

Name of Event:
Regional workshop

Participation in and presentations delivered at a regional interactive workshop on the international liability and compensation regime, organised by IMO and hosted by the Arab Academy for Science, Technology and Maritime Transport.

8 **Location:** *Goa, India*

Name of Event:
National workshop

Participation in this two-day national workshop on the international liability and compensation regime organised by the Directorate General of Shipping, for government authorities and stakeholders to raise awareness of the regime.

9 **Location:** *Beijing, China*

Name of Event:
Antarctic Treaty Consultative Meeting (ATCM); Visit to the Maritime Safety Administration (MSA) and the Chinese Ship-source Oil Pollution (CSOP) Compensation Settlement Centre

Participation in the 40th ATCM, in which the Funds' expertise in the field of compensation for pollution damage was presented. While in Beijing, the Secretariat also took the opportunity to meet with the MSA and the CSOP Compensation Settlement Centre.

10 **Location:** *Busan, Republic of Korea*

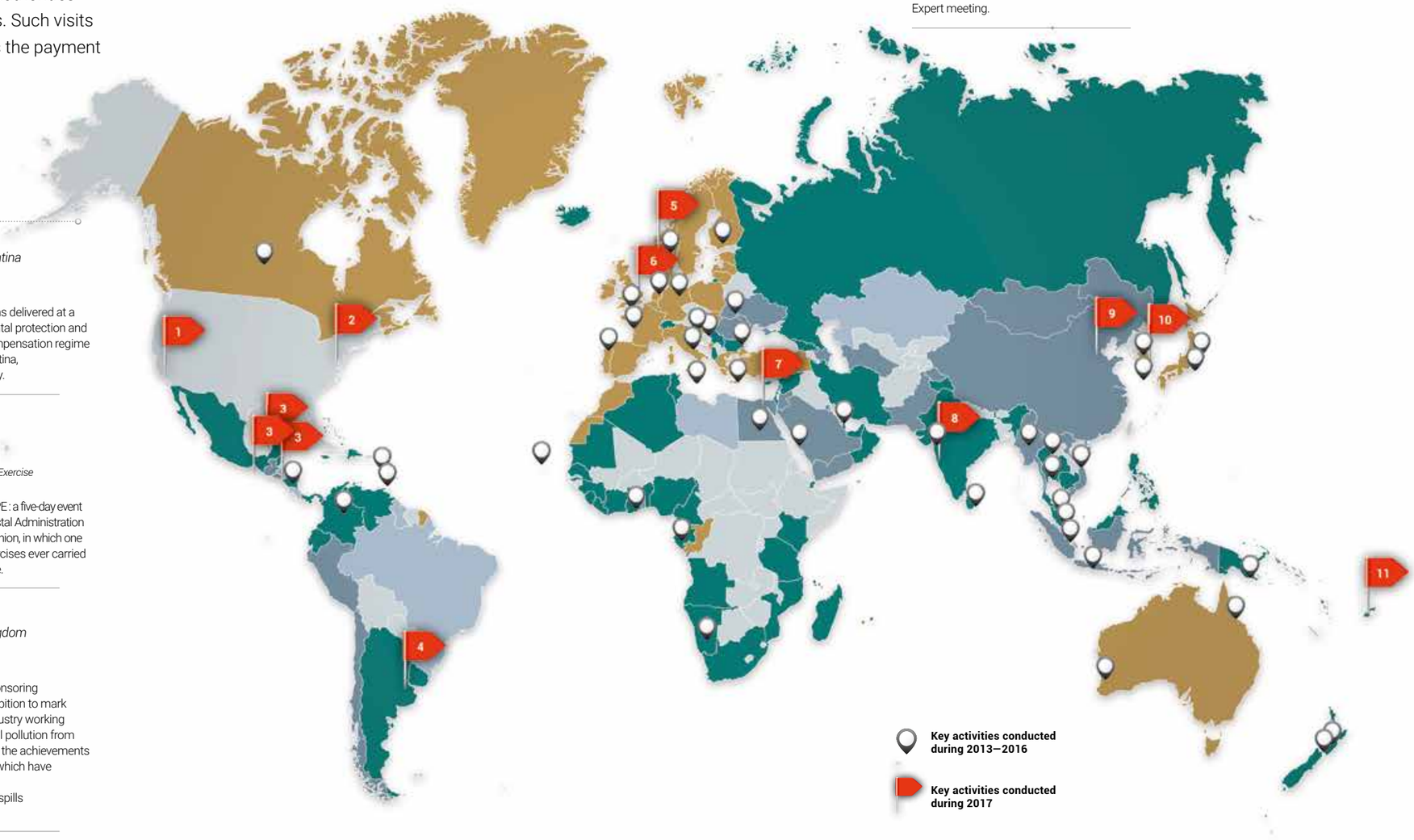
Name of Event:
2017 International Maritime Disaster Response Conference

Participation in and presentation delivered at this conference to commemorate the 10th anniversary of the *Hebei Spirit* oil spill incident, organised by the Korea Coast Guard in conjunction with the NOWPAP MERRAC Expert meeting.

11 **Location:** *Suva, Fiji*

Name of Event:
Regional workshop

Participation in a four-day interactive regional workshop on IMO civil liability conventions, hosted by the Secretariat of the Pacific Community and organised and funded by IMO's Integrated Technical Cooperation Programme (ITCP).



In-house visits

In addition to these activities, delegations from a variety of organisations and universities visit the Funds' offices when in London. In 2017, visitors included students from the International Maritime Law Institute (IMLI) in Malta, the universities of Deusto in Spain, Ghent in Belgium, and the International Tribunal for the Law of the Sea (ITLOS) Nippon Fellows participating in the dispute settlement training programme. During these visits, the Secretariat usually delivers presentations and holds question and answer sessions on the international liability and compensation regime.

Regional lunch meetings

The Secretariat organised an informal lunch meeting at the IOPC Funds' offices for London-based representatives of Member and non-Member States from the Asia-Pacific region. The meeting provided an opportunity for the Secretariat to improve contacts with Asia-Pacific States and to deal with queries relating to membership, oil reporting and contributions.

IOPC Funds' Short Course

The seventh annual IOPC Funds' Short Course took place in June 2017 with representatives from nine Member States participating. The programme covered all aspects of the work of the IOPC Funds and the international liability and compensation regime in general and included practical exercises which allowed participants to study a theoretical incident and the subsequent claims submission process. Participants also had the opportunity to visit the IMO headquarters, the offices of the Britannia P&I Club, as well as the International Group of P&I Associations, and had a guided tour of Lloyd's of London. The course is currently supported by IMO, the International Group, ITOPF, INTERTANKO and ICS. Each year the course is open to self-funded participants from 1992 Fund Member States, nominated directly by their government.

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Q. CAN THE IOPC FUNDS SECRETARIAT PROVIDE ASSISTANCE TO STATES PREPARING IMPLEMENTING LEGISLATION?

A. The Secretariat does not have a technical assistance programme to provide support to Member and non-Member States, but it has the capability to provide advice on legal matters related to the implementation of the 1992 CLC, 1992 Fund Convention and Supplementary Fund Protocol. Government authorities are encouraged to contact the Secretariat for any question of that nature.

Induction Course

Following the success of the annual Short Course a number of Member States requested a more concise course specifically aimed at providing delegates to IOPC Funds' meetings with an inside perspective into the functioning of the IOPC Funds and a better understanding of what exactly happens in the event of an oil spill. The Secretariat held its first half-day Induction Course for 1992 Fund Member States in October 2017. It included a full morning's presentation session followed by a networking luncheon for all participants. The course received positive feedback from participants and, subject to demand, the Director intends to offer the course to meeting delegates annually.

Website

The IOPC Funds' website is the hub for all information pertaining to the organisations and is available in English, French and Spanish. It is divided into five main sections covering the work and structure of the organisations, compensation and claims management, incidents, the latest news and upcoming events as well as a section containing the publications produced by the Funds, which includes an online archive of all Annual Reports issued since 1978. Additionally, the website incorporates various interactive features, such as a map of incidents involving the IOPC Funds, with case studies and information relating to incidents dating back to the establishment of the 1971 Fund and a map displaying the membership of the IOPC Funds, with country profiles for individual States.

In addition, the website provides access to other IOPC Funds' services and websites, including Document Services, the online reporting system (ORS) and the HNS Convention website. As part of the Secretariat's efforts to improve communication and increase awareness of the work of the organisations, a link to the social media platform Twitter was introduced to the website in July 2017 and the Funds has been posting information as well as following other organisations, individuals and companies since the account was established under the name @IOPCFunds.

Publications

In addition to the Annual Report 2016, during 2017 the Secretariat also printed the sixth edition of the 1992 Fund Claims Manual, which had been published online in November 2016. In October 2017, the governing bodies approved Guidelines for presenting claims for environmental damage which will be published and included in the Claims Information Pack in early 2018. All publications, including the Texts of Conventions, the Claims Manual and other documents containing guidance for claimants and Member States are available to download from the IOPC Funds' website.

Relations with non-Member States

The 1992 Fund Assembly has granted observer status to a number of States that have never been Party to the 1992 Fund Convention. States which are invited to send observers to meetings of the Assembly of the 1992 Fund automatically also have observer status with the Supplementary Fund.

Observer States of the 1992 Fund and Supplementary Fund

- *Bolivia (Plurinational State of)*
- *Brazil*
- *Chile*
- *Democratic People's Republic of Korea*
- *Egypt*
- *Gambia*
- *Guatemala*
- *Guyana*
- *Honduras*
- *Indonesia*
- *Kuwait*
- *Lebanon*
- *Pakistan*
- *Peru*
- *Saudi Arabia*
- *Thailand*
- *Ukraine*
- *United States*

Relations with International Organisations

A number of interested intergovernmental and non-governmental organisations also have observer status with the IOPC Funds, enabling them to participate in discussions at meetings of the governing bodies.

Intergovernmental organisations granted observer status

- *Baltic Marine Environment Protection Commission (Helsinki Commission)*
- *Central Commission for the Navigation of the Rhine (CCNR)*
- *European Commission*
- *International Institute for the Unification of Private Law (UNIDROIT)*
- *International Maritime Organization (IMO)*
- *Maritime Organisation of West and Central Africa (MOWCA)*
- *Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC)*
- *United Nations (UN)*
- *United Nations Environment Programme (UNEP)*

Non-governmental organisations granted observer status

- *BIMCO*
- *Comité Maritime International (CMI)*
- *Conference of Peripheral Maritime Regions (CPMR)*
- *European Chemical Industry Council (CEFIC)*
- *Iberoamerican Maritime Law Institute (IIDM)*
- *International Association of Classification Societies Ltd (IACS)*
- *International Chamber of Shipping (ICS)*
- *International Group of P&I Associations*
- *International Salvage Union (ISU)*
- *International Spill Control Organization (ISCO)*
- *International Tanker Owners Pollution Federation Limited (ITOPF)*
- *International Union of Marine Insurance (IUMI)*
- *INTERTANKO*
- *Oil Companies International Marine Forum (OCIMF)*
- *Sea Alarm Foundation (Sea Alarm)*
- *World Liquefied Petroleum Gas Association (WLPGA)*

The 2010 HNS Convention

The International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 2010 (2010 HNS Convention) is largely modelled on the 1992 Civil Liability and Fund Conventions. Originally adopted in 1996 and amended in 2010, the Convention aims to ensure adequate, prompt and effective compensation for personal injury, damage to property, costs of clean up and reinstatement measures and economic losses resulting from the maritime transport of hazardous and noxious substances (HNS).

The 1992 Fund Secretariat was assigned to carry out the administrative tasks necessary to set up the HNS Fund on the occasion of the international conference, held in April 2010, which adopted a Protocol to the HNS Convention (2010 HNS Protocol). The 1992 Fund Secretariat has since continued to prepare for the entry into force of the Convention on the basis that all expenses incurred in that regard will be repaid, with interest, to the 1992 Fund by the HNS Fund once the Convention enters into force.

Work undertaken by the 1992 Fund in 2017

The Secretariat maintains the website www.hnsconvention.org, which provides easy access to a number of tools and resources for the use of those States considering, or in the process of, ratifying the Convention. This website, which is available in English, French and Spanish, includes all the official texts related to that Convention as well as the IMO-approved HNS contributing cargo reporting guidelines with its model reporting forms and the web-based database, the HNS Finder, which provides a complete list of HNS covered by the Convention. The HNS Finder includes a search function which enables users to look up substances and determine whether a substance is contributing cargo that must be reported, and whether it qualifies for compensation under the Convention.

In the early part of 2017 the Secretariat provided support to IMO, together with ITOPF, to develop and finalise a presentation about HNS incidents. The presentation is intended to complement the HNS brochure ('The HNS Convention: Why it is needed') and serves as useful supporting material to be used by State administrations and other stakeholders in meetings, conferences or seminars, by explaining in simple terms and via clear examples why it is so important to have this compensation regime in place.

The Secretariat participated in various workshops on the liability and compensation regime for oil spills in 2017 (see pages 28–29) which enabled the Secretariat to also deliver presentations on the importance of introducing a similar system for HNS.

2010 HNS Convention – the facts

Hazardous and noxious substances covered by the HNS Convention are defined by references to various IMO Conventions and Codes. These include: oils; other liquid substances defined as noxious or dangerous; liquefied gases; liquid substances with a flashpoint not exceeding 60°C; dangerous, hazardous and harmful materials and substances carried in packaged form or in containers; and solid bulk materials defined as possessing chemical hazards.

The 2010 HNS Convention offers a two-tier system in one single treaty, in which the shipowner is strictly liable to pay the first tier of compensation, while a Fund (the HNS Fund) generated from levies on cargo receivers in all Member States provides the second tier of compensation.

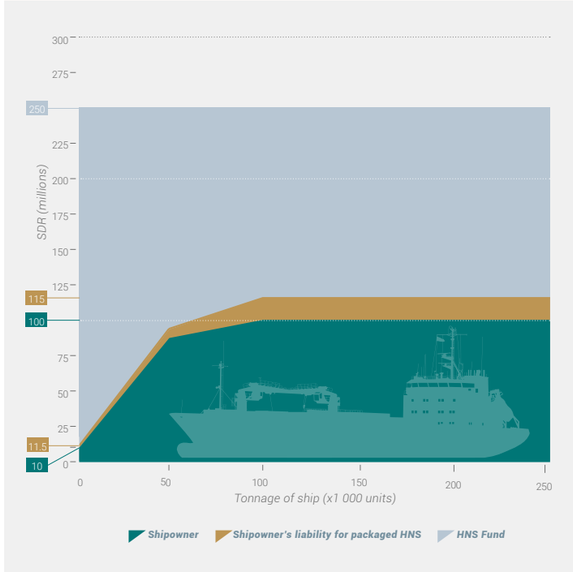
The shipowner's liability varies for bulk HNS and packaged HNS. For bulk HNS it ranges from SDR 10 million for ships up to 2 000 GT to a maximum of SDR 100 million for ships of 100 000 GT and above. For damage caused by packaged HNS it ranges from SDR 11.5 million to a maximum of SDR 115 million*. It is compulsory for all ships to have insurance to cover their liability and claimants have a right of direct action against the insurer.

The HNS Fund will provide the second tier of compensation up to a total of SDR 250 million, including the amount payable by the shipowner under the first tier, irrespective of ship size, and will comprise a general account covering bulk solids and other HNS as well as three separate accounts for oil, LPG and LNG. Each separate account will meet claims attributable to the respective cargo and will be funded by the receivers of those cargoes in Member States, which means that there will be no cross-subsidisation between accounts.

The 2010 HNS Convention is open for accession and will enter into force 18 months after the date on which it is ratified or acceded to by at least 12 States. This must include four States that have no less than two million units of shipping gross tonnage each. The 12 States must also have received in the immediately preceding calendar year a total of at least 40 million tonnes of cargo, which would contribute to the general account.

** Ships below 200 GT can be excluded from the Convention by the State Party under certain conditions.*

MAXIMUM LIMITS OF COMPENSATION



CONTRIBUTIONS BY INDIVIDUAL RECEIVERS WILL BE BASED ON THE THRESHOLDS SHOWN IN THE TABLE BELOW

	Establishment of account	Contributions to account/sector per receiver
General account	40 million tonnes**	
• Bulk solids		> 20 000 tonnes
• Other HNS		
Oil account	350 million tonnes	
• Persistent oil		> 150 000 tonnes
• Non-persistent oil		> 20 000 tonnes
LPG account	15 million tonnes	> 20 000 tonnes
LNG account	20 million tonnes	No minimum quantity

*** Condition for entry into force*

Q. HOW WILL THE HNS FUND RUN ONCE ESTABLISHED?

A. The first Assembly of the HNS Fund will have to decide, among others things, about the location of the HNS Fund's headquarters. However, the IMO Legal Committee and the Assembly of the 1992 Fund have expressed the view that it should be hosted within the IOPC Funds given the similarity of mandate and the economies of scale to be made from the existing capability to run compensation funds.

Progress made towards entry into force

Norway became the first State to ratify the 2010 HNS Protocol on 21 April 2017 when an instrument of ratification of the 2010 HNS Protocol and a report on HNS contributing cargo was deposited with the IMO Secretary-General.

Eight States (Canada, Denmark, France, Germany, Greece, the Netherlands, Norway and Turkey) signed the 2010 HNS Protocol, subject to ratification, however, Norway is the only State to have ratified the Protocol as at 31 December 2017.

Further encouragement came in April 2017, when the Council of the European Union adopted two decisions authorising Member States of the European Union to ratify or accede to, as appropriate, the Protocol of 2010 to the HNS Convention.

A two-day HNS workshop is being organised jointly by IMO and the IOPC Funds in London in April 2018. The main objective of the workshop is to focus on practical issues raised by States implementing the 2010 HNS Convention. These issues are mainly linked to the system of reporting HNS contributing cargo that needs to be in place prior to a State being able to ratify or accede to the Convention.

Governing Bodies

In this section

In this section, information is provided on the structure, composition and main functions of the governing bodies of the IOPC Funds (pages 36–37).

The governing bodies agree upon dates for their future sessions at each October meeting. Normally, two meetings are planned, one during the second and the other during the last quarter of the year, with the possibility of holding further meetings should the need arise. Details are provided on the key discussions and decisions taken at the 2017 sessions of the governing bodies, which took place in April and October (pages 38–39).

The April 2017 meetings included sessions of the 1992 Fund Administrative Council, acting on behalf of the Assembly, the Supplementary Fund Assembly and of the 1992 Fund Executive Committee.

The October meetings saw sessions of the 1992 Fund Assembly, and further sessions of the Supplementary Fund Assembly and the 1992 Fund Executive Committee.

Complete Records of Decisions for all meetings may be accessed via the Document Services section of the IOPC Funds' website (www.iopcfunds.org).

Structure of the Governing Bodies

Q. HOW DO I REGISTER TO ATTEND THE MEETINGS?

A. Representatives of Member States or States and Organisations with observer status must register in advance of the meetings via the online registration system under the Document Services section of the website. Representatives of other States and Organisations or members of the public are welcome to observe the meetings and must inform the Secretariat in advance by email to conference@iopcfunds.org.

115 Members of the 1992 Fund Assembly

1992 FUND ASSEMBLY (Administrative Council if no quorum)

Composition:
All 1992 Fund Member States

Chairman:
Gaute Sivertsen (Norway)

First Vice-Chairman:
Tomotaka Fujita (Japan)

Second Vice-Chairman:
Samuel Roger Minkeng (Cameroon)

Frequency of meetings:
- Normally twice per year. One regular session, every October.
- Additional extraordinary session in April/May.

Role:
Supreme organ of Fund, deciding on budget, contributions, appointment of Director, External Auditor, adoption of internal and financial regulations, policy, etc.

NB: No State may serve on the Executive Committee for more than two consecutive terms.

15 Members of the 1992 Fund Executive Committee

1992 FUND EXECUTIVE COMMITTEE

Composition:
15 elected Member States, 7 from among the 11 largest oil receiving States and 8 from the other Member States, taking into account an equitable geographical distribution.

Chairman:
Antonio Bandini (Italy)

Vice-Chairman:
K.P. Jayakumar (India)

Frequency of meetings:
Normally twice per year.

Role:
Subsidiary body, established by Assembly to take policy decisions on the admissibility of claims.

NB: No State may serve on the Executive Committee for more than two consecutive terms.

31 Members of the Supplementary Fund Assembly

SUPPLEMENTARY FUND ASSEMBLY

Composition:
All Supplementary Fund Member States

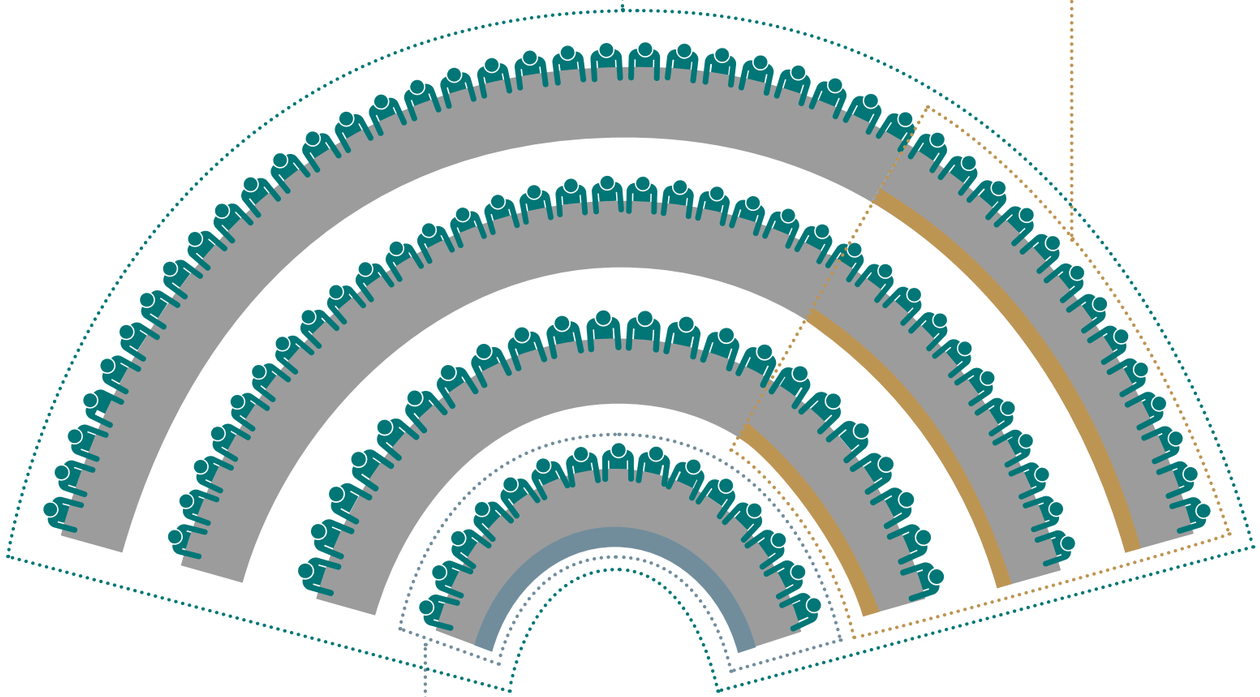
Chairman:
Sung-Bum Kim (Republic of Korea)

First Vice-Chairman:
Andrew Angel (United Kingdom)

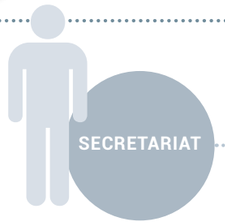
Second Vice-Chairman:
Emre Dinçer (Turkey)

Frequency of meetings:
- Often twice per year. One regular session, every October.
- Additional extraordinary session in April/May, if required.

Role:
Supreme organ of Fund, deciding on budget, contributions, adoption of internal and financial regulations, policy, etc.



Working Groups
Working Groups are set up from time to time to consider specific areas of interest to the 1992 Fund. Details of the Working Groups established over the years and the issues they focused on are provided on the website.



Sessions of the governing bodies in 2017

IOPC Funds' meetings took place over three days during the week of 24 April 2017. On a trial basis, the International Maritime Organization (IMO) Legal Committee also ran its three-day meeting that week and the two organisations took the opportunity to host a joint reception for delegations attending the sessions. The IOPC Funds' also held meetings from 30 October to 2 November 2017. All meetings took place at the IMO headquarters in London and included the following sessions.

- 1992 FUND ADMINISTRATIVE COUNCIL (16TH SESSION) (ACTING ON BEHALF OF THE ASSEMBLY) AND 1992 FUND ASSEMBLY (22ND SESSION)
- SUPPLEMENTARY FUND ASSEMBLY (5TH EXTRAORDINARY SESSION AND 14TH SESSION)
- 1992 FUND EXECUTIVE COMMITTEE (68TH AND 69TH SESSIONS)

ALL DOCUMENTS INCLUDING FULL RECORDS OF DECISIONS FOR THE 2017 SESSIONS OF THE GOVERNING BODIES ARE AVAILABLE UNDER THE DOCUMENT SERVICES SECTION OF THE FUNDS' WEBSITE (WWW.IOPCFUNDS.ORG). A SUMMARY OF THE MAIN ISSUES DISCUSSED AND DECISIONS TAKEN IS SET OUT BELOW.

GAUTE SIVERTSEN
(NORWAY)
CHAIRMAN SINCE OCTOBER 2011

The 1992 Fund Assembly and 1992 Fund Administrative Council

At its April 2017 session, the 1992 Fund Administrative Council noted developments in respect of a number of items, including the signing of the agreement on Standard Terms relating to Interim Payments (2016) between the International Group of P&I Associations (International Group) and the IOPC Funds; the ongoing development of an online Claims Submission System (CSS); and details of an agreement reached between the IOPC Funds, the European Maritime Safety Agency (EMSA) and the International Group concerning the rates for usage of EMSA Pollution Response Assets.

Documents were presented relating to the functioning of the Audit Body and, having reviewed the information, the Administrative Council decided to maintain the current composition of the Audit Body at seven members, the honorarium for the Audit Body members and the 'external expert' as well as the recruitment process of Audit Body members. It also agreed to reduce the working capital of the 1992 Fund from £22 million to £15 million over the budget years 2018 to 2020, approved an amendment to 1992 Fund Financial Regulation 10.4(a), required as a result of the Director's intention to hold currencies other than pound sterling, and also authorised the Director to increase the maximum additional voluntary staff contribution level to the Staff Provident Fund from 5% to 23.7% of the staff members' pensionable remuneration.

At its October 2017 session, the 1992 Fund Assembly discussed various policy issues. In particular, it decided to amend the current policy regarding the admissibility of claims for compensation made by employees who have suffered a reduction in wages, been placed on part-time work or made redundant as a consequence of an incident, and instructed the Director to submit a document providing refined assessment criteria at the next session of the governing bodies. It also approved a revised text of the draft Guidelines for presenting claims for environmental damage for publication and inclusion in the Claims Information Pack and held a lengthy debate on issues of implementation and application of the 1992 Conventions by Member States and the importance of efforts to promote the Supplementary Fund Protocol.

The 1992 Fund Assembly was informed of and gave feedback on a number of activities and projects undertaken by the Secretariat, including a draft strategic plan which had been developed as a management tool for the Secretariat, setting out what it needed to do in the next five years. It also noted the ongoing work of the Secretariat to promote the entry into force of the 2010 HNS Convention and the progress of States towards ratification of the 2010 HNS Protocol.

The Assembly also heard during its session from the non-intergovernmental organisations of BIMCO, who announced newly agreed Spill Response Contracts, and the Iberoamerican Maritime Law Institute (IIDM) and the Sea Alarm Foundation who had both successfully applied for observer status with the IOPC Funds.

A number of key decisions relating to the administration of the organisation were also taken. Most significantly, having received the final report of the fifth Audit Body and thanked the outgoing members for all their hard work, the Assembly elected members to the Audit Body for its next three year-term. The 1992 Fund Assembly approved the financial statements for 2016 and adopted an administrative budget for the 1992 Fund of £4 536 433 for 2018. All decisions relating to the levying and reimbursement of contributions are set out on pages 26–27.

STACEY FRASER
(NEW ZEALAND)
CHAIRMAN FROM OCTOBER 2015 TO OCTOBER 2017

1992 Fund Executive Committee

The Executive Committee was informed of all key developments during the course of the year in respect of the 14 incidents involving the 1992 Fund during 2017 and was notified of two new incidents (*Double Joy*, August 2014, Malaysia and *Agia Zoni II*, September 2017, Greece). The Committee authorised the Director to sign an agreement on interim payments with the Shipowners' Club in respect of the *Double Joy* and to make payments of compensation in respect of claims arising from the *Agia Zoni II* incident. Detailed presentations were given on a number of ongoing incidents and discussions took place on key points. In particular it was reported that since it had now been confirmed that no liability would arise for the Fund in respect of either the *MT Pavit* or the *Shoko Maru* incidents, both cases were closed. Additionally, since the one remaining claim in the *JS Amazing* case had been discontinued, that case was also closed. In respect of the *Hebei Spirit* incident (Republic of Korea, 2007), the 1992 Fund Executive Committee decided to maintain the level of payments at 60% of the amount of the established losses and authorised the Director to make an advance balancing payment of KRW 22 billion to the Skuld Club and an advance payment of KRW 40 billion to the Republic of Korea. It also authorised the Director to sign an agreement on interim payments with the Shipowners' Club in respect of the *Trident Star* incident. Further details regarding incident developments during 2017 are set out in pages 14–19.

ANTONIO BANDINI
(ITALY)
CHAIRMAN SINCE OCTOBER 2017

CURRENT 1992 FUND EXECUTIVE COMMITTEE MEMBERS (FROM OCTOBER 2017 UNTIL OCTOBER 2018)

CANADA	MALTA
COLOMBIA	NETHERLANDS
DENMARK	PHILIPPINES
INDIA	REPUBLIC OF KOREA
IRAN (ISLAMIC REPUBLIC OF)	SPAIN
ITALY	SRI LANKA
KENYA	TRINIDAD AND TOBAGO
MALAYSIA	

1992 FUND EXECUTIVE COMMITTEE MEMBERS (FROM OCTOBER 2016 UNTIL OCTOBER 2017)

COLOMBIA	NETHERLANDS
DENMARK	NEW ZEALAND
FRANCE	PHILIPPINES
IRAN (ISLAMIC REPUBLIC OF)	REPUBLIC OF KOREA
JAPAN	SINGAPORE
KENYA	UNITED KINGDOM
MALAYSIA	TRINIDAD AND TOBAGO
MALTA	

SUNG-BUM KIM
(REPUBLIC OF KOREA)
CHAIRMAN SINCE OCTOBER 2011

Supplementary Fund Assembly

The Supplementary Fund Assembly participated in the debates and endorsed or took note of decisions taken by the 1992 Fund Administrative Council and the 1992 Fund Assembly in respect of a number of items also relevant to the Supplementary Fund; in particular, the decision to amend the current policy for the admissibility of claims for compensation made by employees who have suffered a reduction in wages and the approval of the draft Guidelines for claims for environmental damage. It approved the financial statements of the Supplementary Fund for 2016 and adopted an administrative budget for 2018 of £47 200. In relation to contributions, the Assembly decided in April 2017 to maintain the working capital of the General Fund at £1 million; reimburse £830 000 from the General Fund on 1 March 2018 to those contributors in the 19 Member States who contributed to the 2006 levy to the Supplementary Fund; and levy contributions of £1.5 million, payable by contributors in the current Member States by 1 March 2018. A flat management fee of £34 000 payable to the 1992 Fund for the financial year 2018 was also agreed upon by the Assembly in October 2017.

Financial Review

In this section

In this section, extracts from the audited 2016 Financial Statements of the 1992 Fund and the Supplementary Fund are presented and key financial figures for 2017 (unaudited) are provided.

The 2016 Financial Statements were audited by the External Auditor of the IOPC Funds, BDO International (BDO LLP), which was appointed by the governing bodies in October 2015 to audit the Financial Statements of both Funds for the financial years 2016—2019 inclusive (see Administration section, pages 26—27). The Financial Statements of the IOPC Funds for the period 1 January to 31 December 2016 were approved by the respective governing bodies during their sessions in October 2017.

The Financial Statements for 2016 were prepared in compliance with the International Public Sector Accounting Standards (IPSAS) and in accordance with the Financial Regulations of the respective Funds, where appropriate. The Key Financial Figures for 2017 (unaudited) which are provided in this section have also been arrived at in conformity with the requirements of IPSAS.

Extracts from the notes to the audited 1992 Fund Financial Statements and the Supplementary Fund Financial Statements for the financial year 2016 are presented on pages 43—46. Unaudited key financial highlights for 2017 with respect to each Fund are presented on pages 47—48 .

The full set of audited Financial Statements can be found on the IOPC Funds' website (www.iopcfunds.org) on the 'About us' page, along with the External Auditor's opinions on each set of statements, and the Auditor's Report on the Financial Statements of the 1992 Fund.

Certificate

External Auditor's Statement on the extracts from the 2016 Financial Statements

Extracts from the 1992 Fund Statement of Financial Position and the 1992 Fund Statement of Financial Performance, on which an unqualified opinion and a Report have been issued, are contained on pages 43—44. They are consistent with the audited Financial Statements for the year ended 31 December 2016, approved by the 1992 Fund Assembly (22nd session). Extracts from the Supplementary Fund Statement of Financial Position and the Supplementary Fund Statement of Financial Performance, on which an unqualified opinion has been issued, are contained on pages 45—46. They are also consistent with the audited Financial Statements for the year ended 31 December 2016, approved by the Supplementary Fund Assembly (14th session).

The full set of the IOPC Funds' 2016 Financial Statements can be obtained from the Funds' website at www.iopcfunds.org on the 'About us' page, or by contacting the Secretariat. The maintenance and integrity of the website of the International Oil Pollution Compensation Funds is the responsibility of the Director; the work carried out by the auditors does not involve consideration of these matters and, accordingly, the auditors accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the website.

David Eagles, Partner
BDO LLP
February 2018

Extracts from 2016 Financial Statements

1992 Fund Statement of Financial Position by segment

As at 31 December 2016

	2016 General Fund	2016 *Prestige* MCF*	2016 *Hebei Spirit* MCF	2016 *Volgoneft 139* MCF	2016 *Alfa I MCF*	2016 TOTAL	*2015 TOTAL*
ASSETS	**£**	**£**	**£**	**£**	**£**	**£**	**£**
Current assets							
Cash and cash equivalents	15 994 584	26 166 151	88 565 148	6 638 417	-	137 364 300	*160 670 942*
Contributions receivable	67 646	21 687	145 426	8 957	-	243 716	*1 708 228*
Other receivables	195 834	54 128	229 107	10 031	-	489 100	*1 273 124*
Staff Provident Fund (Externally managed)	1 360 359	-	-	-	-	1 360 359	*574 738*
Total current assets	**17 618 423**	**26 241 966**	**88 939 681**	**6 657 405**		**139 457 475**	***164 227 032***
Non-current assets							
Due from HNS Fund	341 551	-	-	-	-	341 551	*313 018*
Equipment and Intangible assets	110 569	-	-	-	-	110 569	*105 898*
Total non-current assets	**452 120**	**-**	**-**	**-**	**-**	**452 120**	***418 916***
TOTAL ASSETS	**18 070 543**	**26 241 966**	**88 939 681**	**6 657 405**	**-**	**139 909 595**	***164 645 948***
LIABILITIES							
Current liabilities							
Payables and accruals	193 963	106 012	483 176	-	30 564	813 715	*1 757 670*
Provision for compensation	93 953	72 370	60 659 637	3 245 935	85 361	64 157 256	*68 487 495*
Provision for relocation	-	-	-	-	-	-	*24 750*
Provision for employee benefits (short-term)	211 982	-	-	-	-	211 982	*135 463*
Prepaid contributions	687 928	-	-	-	496 344	1 184 272	*532 349*
Contributors' account	765 279	-	-	-	-	765 279	*1 202 730*
Loan from GF** to *Alfa I*	(6 730 314)	-	-	-	6 730 314	-	-
Total current liabilities	**(4 777 209)**	**178 382**	**61 142 813**	**3 245 935**	**7 342 583**	**67 132 504**	***72 140 457***
Non-current liabilities							
Staff Provident Fund	5 049 050	--	-	-	-	5 049 050	*4 802 895*
Provision for employee benefits (long-term)	352 198	-	-	-	-	352 198	*349 726*
Total non-current liabilities	**5 401 248**	**–**	**–**	**–**	**–**	**5 401 248**	***5 152 621***
TOTAL LIABILITIES	**624 039**	**178 382**	**61 142 813**	**3 245 935**	**7 342 583**	**72 533 752**	***77 293 078***
NET ASSETS	**17 446 504**	**26 063 584**	**27 796 868**	**3 411 470**	**(7 342 583)**	**67 375 843**	***87 352 870***
FUNDS' BALANCES							
Balance b/f: 1 January	18 344 806	23 839 173	47 547 178	2 733 633	(5 111 920)	87 352 870	*136 363 989*
(Deficit)/Surplus for the year	(898 302)	2 224 411	(19 750 310)	677 837	(2 230 663)	(19 977 027)	*(49 011 119)*
GENERAL FUND AND MAJOR CLAIMS FUNDS BALANCES	**17 446 504**	**26 063 584**	**27 796 868**	**3 411 470**	**(7 342 583)**	**67 375 843**	***87 352 870***

** MCF = Major Claims Fund* ***GF = General Fund*

1992 Fund Statement of Financial Performance by segment

For the financial period 1 January – 31 December 2016

	2016 General Fund	2016 *Prestige* MCF	2016 *Hebei Spirit* MCF	2016 *Volgoneft 139* MCF	2016 *Alfa I MCF*	2016 TOTAL	*2015 TOTAL*
REVENUE	£	£	£	£	£	£	£
Contributions	4 468 598	99 571	1 074 257	61 116	-	5 703 542	*4 036 095*
Contributions-in-kind	324 152	-	-	-	-	324 152	*381 200*
Interest on investments	125 871	48 866	675 083	222 005	-	1 071 825	*1 649 624*
Other revenue	55 651	6 766	12 215	740	-	75 372	*125 648*
Total revenue	**4 974 272**	**155 203**	**1 761 555**	**283 861**	**-**	**7 174 891**	***6 192 567***
EXPENSES							
Compensation claims	583 679	45 229	21 564 020	(231 171)	85 361	22 047 118	*45 155 552*
Claims-related expenses	156 729	421 860	1 940 428	-	133 515	2 652 532	*3 227 171*
Finance cost from hedging instrument	-	-	-	-	-	-	*329 058*
Personnel costs and other administrative costs	5 108 540	-	-	-	-	5 108 540	*4 435 903*
Allowance for relocation	(17 097)	-	-	-	-	(17 097)	*24 750*
Currency exchange differences	90 762	(2 542 465)	(2 015 816)	(163 280)	2 011 787	(2 619 012)	*2 000 114*
Increase in allowance for contributions and interest on overdue contributions	(50 039)	6 168	23 233	475	-	(20 163)	*31 138*
Total expenses	**5 872 574**	**(2 069 208)**	**21 511 865**	**(393 976)**	**2 230 663**	**27 151 918**	***55 203 686***
(DEFICIT)/SURPLUS FOR THE YEAR	**(898 302)**	**2 224 411**	**(19 750 310)**	**677 837**	**(2 230 663)**	**(19 977 027)**	***(49 011 119)***

Supplementary Fund Statement of Financial Position

As at 31 December 2016

	2016	*2015*
ASSETS	£	£
Current assets		
Cash and cash equivalents	880 511	*911 104*
Other receivables	2 597	*1 157*
Total current assets	**883 108**	***912 261***
TOTAL ASSETS	**883 108**	***912 261***
LIABILITIES		
Current liabilities		
Payables	-	-
Total current liabilities	**-**	**-**
TOTAL LIABILITIES	**-**	**-**
NET ASSETS	**883 108**	*912 261*
FUND BALANCE		
Balance b/f: 1 January	912 261	*942 816*
(Deficit)	(29 153)	*(30 555)*
GENERAL FUND BALANCE	**883 108**	***912 261***

Supplementary Fund Statement of Financial Performance

For the financial period 1 January – 31 December 2016

	2016	*2015*
REVENUE	**£**	***£***
Contributions	2 617	-
Interest on investments	5 729	*5 945*
Other revenue	1	-
Total revenue	8 347	*5 945*
EXPENSES		
Administrative costs	37 500	*36 500*
Total expenses	37 500	*36 500*
(DEFICIT) FOR THE YEAR	**(29 153)**	***(30 555)***

Financial Figures for 2017

1992 Fund Key Financial Figures for 2017 (unaudited)

Revenue and Expenditure figures rounded and subject to audit by the External Auditor (Prepared under IPSAS – accrual based accounting)

REVENUE (£)	**2017**
Contributions due in 2017	
General Fund	9 700 000
Alfa I Major Claims Fund	6 400 000
Other Revenue	
Interest on investments	800 000
Management fee payable by Supplementary Fund	34 000
Total Revenue	**16 934 000**

ADMINISTRATIVE COSTS (£)	**2017**
Joint Secretariat	
Budget (excluding External Auditor's fees for respective IOPC Funds)	4 396 520
Expenditure (excluding External Auditor's fees for respective IOPC Funds)	4 200 000
External Auditor's fees in respect of 1992 Fund	43 200

CLAIMS EXPENDITURE (£)	**2017**	**2017**	**2017**
Incident	**Compensation**	**Claims-related expenditure**	**Total**
Prestige (including interim reimbursement of £23 310 from the P&I Club for joint costs)	-	565 200	565 200
Volgoneft 139	(113 800)*	35 100	(78 700)
Hebei Spirit (including interim reimbursement of £64 218 from the P&I Club for joint costs)	6 500	850 600	857 100
Nesa R3	80 900	47 500	128 400
Alfa I	-	179 000	179 000
Agia Zoni II	-	1 113 800	1 113 800
Other incidents	-	52 480	52 480
Total Claims Expenditure	**(26 400)**	**2 843 680**	**2 817 280**

*Recovery of £113 800 from private claimants who were paid in 2013, in accordance with the judgment of the Arbitration Court of Saint Petersburg and Leningrad Region in November 2014 (see Incident section, page 16)

Supplementary Fund Key Financial Figures for 2017 (unaudited)

Revenue and Expenditure figures rounded and subject to audit by the External Auditor (Prepared under IPSAS – accrual based accounting)

REVENUE (£)	2017
Contributions due in 2017	-
Other revenue	
Interest on investments	4 600
Total revenue	**4 600**

EXPENDITURE (£)	2017
Administrative costs	
Management fee payable to 1992 Fund	34 000
External Auditor's fees	3 200

Notes

Notes

Notes

Acknowledgements

Photographs

Cover, inside cover and 14
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Pages 2, 3, 9–11, 26–27, 31, 33–35 and 38–39
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Published by the International Oil Pollution Compensation Funds.

Design by thecircus.uk.com

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