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International Oil Pollution Compensation Funds

# Annual Report 2018



**International  
Oil Pollution  
Compensation  
Funds**  
Annual Report

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## Foreword

I am very pleased to present the Annual Report of the International Oil Pollution Compensation Funds for 2018, a year which saw the organisation mark 40 years since the establishment of the first IOPC Fund. As Chairman of the 1992 Fund Assembly, it was with great pride that I attended the anniversary celebrations in October and joined the many members of the international maritime community who participated in what was an opportunity to recognise the achievements and continued importance of the organisation and the international liability and compensation regime.

Further details and photographs from the anniversary event are included in the Governing Bodies section of this report, where a summary of the key decisions and discussions at the 2018 meetings can also be found. From my point of view, the 2018 meetings were again very productive, with not only the essential regular decisions on financial and administrative matters being taken but also a number of decisions on policy and other matters being agreed. The governing bodies appreciated, in particular, the presentation by the Secretariat on issues identified relating to the implementation of the Conventions into national law and the progress report given by the Audit Body on its review of the risks arising from incidents involving unreliable insurers. Both those issues have been the subject of debate in recent years and these studies will certainly help to focus discussion at future meetings.

A review was undertaken in October 2018 of the international non-governmental organisations having observer status with the IOPC Funds, and the status of all 16 organisations was confirmed for a further three years. Their contribution during meeting discussions, and for many

interessionally, is invaluable and I certainly look forward to their continued input in 2019 and beyond. I will also look forward to welcoming Cedre, an organisation which was granted observer status in 2018 and which will be joining the governing bodies in the year ahead.

While the meetings are inevitably a focus for me as Chairman, it is always of great interest to read about the wider activities of the organisation and the efforts of the Secretariat to keep the IOPC Funds running smoothly. The Operational and Financial Review sections of this report provide a clear overview of what is involved on a yearly basis and specifically, the key developments, facts, and figures relating to 2018. The figures in terms of oil report submissions and payment of contributions continue to improve year on year, as do the information services to delegates and the efforts to increase awareness of the compensation regime to a wider audience. I take this opportunity, on behalf of the governing bodies, to thank the Secretariat for their hard work in all areas.

As always, the support of my fellow Chairmen in 2018, Mr Sung-Bum Kim for the Supplementary Fund Assembly and Ambassador Antonio Bandini

for the 1992 Fund Executive Committee, was very much appreciated and I look forward to us working together again in 2019. I would also like to thank the Vice-Chairmen of each of the governing bodies for making themselves available to provide their support and assistance.

I was very happy to participate in meetings of the joint Audit Body in 2018, together with the members of the joint Investment Advisory Body. We are very fortunate to have such an experienced and efficient team of experts on both Bodies. Their work is highly beneficial to the organisation as is their support and guidance to the Director and Secretariat. It was indeed with deep sadness that we learned of the sudden passing of the Chairman of the Audit Body, Mr Jerry Rysanek, early in 2019. He was an exceptional colleague and, as my predecessor, an inspirational Chairman.

**Gaute Sivertsen**  
Chairman of the 1992 Fund Assembly



THE FIGURES IN TERMS OF OIL REPORT SUBMISSIONS AND PAYMENT OF CONTRIBUTIONS CONTINUE TO IMPROVE YEAR ON YEAR, AS DO THE INFORMATION SERVICES TO DELEGATES AND THE EFFORTS TO INCREASE AWARENESS OF THE COMPENSATION REGIME TO A WIDER AUDIENCE.

## Director's Review

Forty years ago, the IOPC Fund was a new organisation created within the framework of a unique system for compensating victims of oil pollution damage. Today, that organisation has been involved with over 150 incidents and continues to pay compensation and provide support to States affected by oil tanker incidents.



### Jerry Rysanek 1946-2019

In January 2019, I received the very sad news that Mr Jerry Rysanek, Chairman of the Audit Body and good friend to many delegates and the Secretariat, had passed away after a short illness. Mr Rysanek had contributed to the work of the IOPC Funds for almost 25 years, first representing Canada at meetings of the IOPC Funds' governing bodies from 1995, acting as Chairman of the 1992 Fund Executive Committee from 2002–2004 and Chairman of the 1992 Fund Assembly from 2005 until his retirement in 2011. The IOPC Funds were very fortunate that he then chose to continue to contribute to the work of the organisation and was elected Chairman of the joint Audit Body in 2014, where his leadership and dedication were always greatly appreciated by his fellow Audit Body members. He will be sorely missed by all who knew him, and he will be a great loss to the IOPC Funds' family.

The 40-year anniversary provided a great opportunity not only to reflect on the achievements of the organisation and on the continued development of its role, but also to honour the individual contributions of the three former Directors. It was a great privilege to chair a special session in October 2018, during which they each received an award in the presence of eminent persons from the maritime and shipping industry, State representatives and more.

After 40 years in operation, it is interesting to note that membership of the IOPC Funds continues to increase, with the entry into force of the 1992 Fund Convention for Thailand and of the Supplementary Fund Protocol for New Zealand both occurring in 2018. It was also pleasing to see Canada, Denmark and Turkey, following in the footsteps of Norway to ratify the 2010 HNS Protocol.

Progress has, of course, continued on the ongoing incidents involving the 1992 Fund. In particular, 2018 saw the finalisation of the *Volgoneft 139* case (Russian Federation, November 2007), which had presented a number of challenges to the Fund and had also highlighted the difficulties that can arise in incidents where the insurer is uncooperative or where the national legislation has not been correctly implemented. It was a difficult case, but it has provided food for thought and has prompted the organisation to consider what could be done to reduce the risk of similar issues arising in future incidents.

The *Hebei Spirit* incident (Republic of Korea, December 2007), our largest in terms of the number of claims presented, has continued to make good progress and I am hopeful that an agreement will be reached in the near future to enable the 1992 Fund to finalise all payments in this case.

Payments of compensation in respect of the *Agia Zoni II* incident (Greece, September 2017) continue to be made, and the *Prestige* incident

continues to present issues which will need to be addressed in 2019. A judgment by the Spanish Supreme Court rendered in December 2018 will undoubtedly reinforce concerns raised already in relation to the uniform application of the Conventions across Member States. In 2019 the 1992 Fund will need to engage with all parties involved in order to resolve this case and to ensure the fundamental principles of the international liability and compensation regime are preserved. The 1992 Fund Executive Committee will also be kept informed of an incident in Canada (2016) and an incident in the Netherlands (*Bow Jubail*, 2018), either of which may involve the 1992 Fund.

Aside from the handling of ongoing incidents, the Secretariat was busy engaging with States and the oil industry, at a number of international conferences, exhibitions and workshops in 2018. It also provided training to Member State representatives at the annual IOPC Funds Short Course and made further efforts to ensure wider audiences are also reached through the launch of a short introductory video about the organisation.

Looking ahead to 2019, the Secretariat will strive to continue to provide an efficient service to the Member States and contributors with the improvement to or introduction of further online tools and facilities. This includes the option to fully submit oil reports online, reducing the administrative burden on administrations and oil companies. As an organisation, we will continue to address the key areas of concern highlighted through past incidents, such as implementation and the consistent application of the Conventions, will actively promote wider understanding, awareness and ratification of the 1992 Fund Convention and Supplementary Fund Protocol, and will ensure we remain fully prepared to pay prompt compensation when called upon.

**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.



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 comprise two organisations, the 1992 Fund and Supplementary Fund. It has a Secretariat based in London, United Kingdom.

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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 £684 million in compensation. No incidents have occurred so far which have involved or are likely to involve the Supplementary Fund.

## 32 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
- New Zealand
- Norway
- Poland
- Portugal
- Republic of Korea
- Slovakia
- Slovenia
- Spain
- Sweden
- Turkey
- United Kingdom

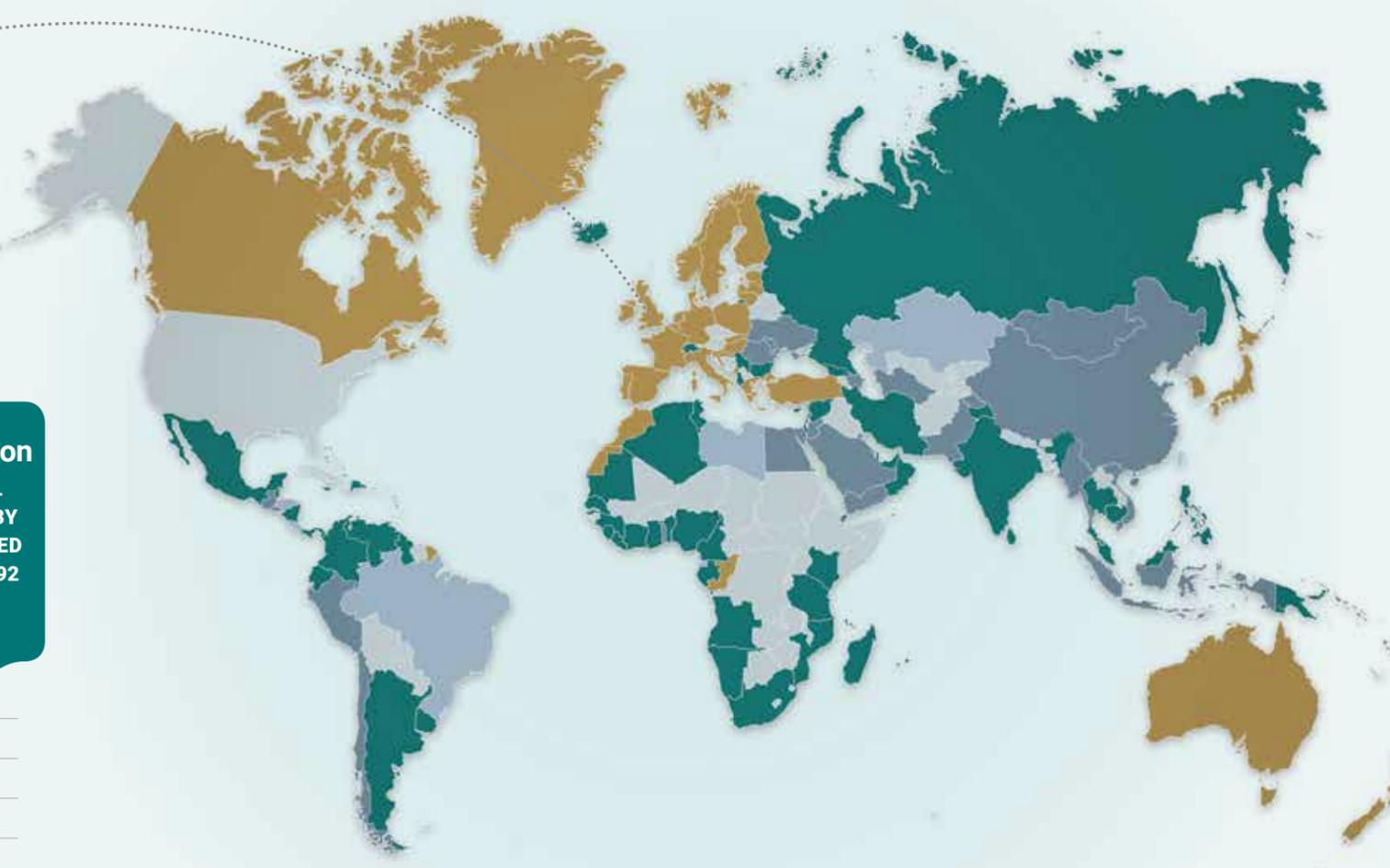
## 116 MEMBER STATES OF THE 1992 FUND

- 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
- Guyana (from 20/2/20)
- 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
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Tuvalu
- United Arab Emirates
- United Kingdom
- United Republic of Tanzania
- Uruguay
- Vanuatu
- Venezuela (Bolivarian Republic of)

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

\*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.

## 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 shipowner's liability is independent of 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.

Any claims for pollution damage under the 1992 CLC can be made only against the registered owner of the ship concerned.

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.

There are some exceptions to the shipowner's liability 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 an exceptional 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.

## 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.

## Supplementary Fund Protocol

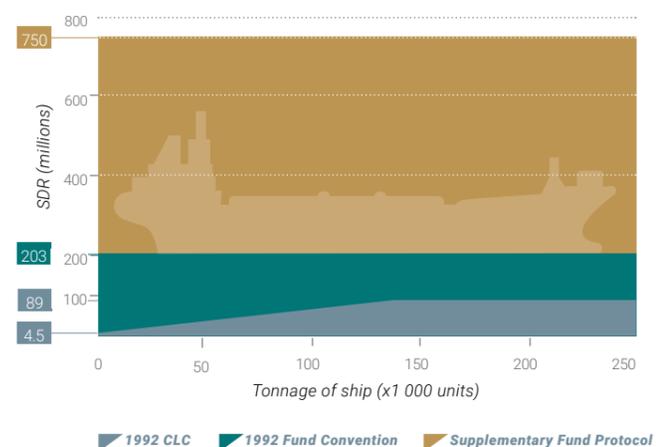
The Supplementary Fund provides a third tier of compensation on top of the amount available under the 1992 Fund Convention in States which are also Parties to the Supplementary Fund Protocol. The total amount available for compensation for each incident is SDR 750 million, including the amounts payable under the 1992 Conventions.

Contributions to the Supplementary Fund are levied 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.

## 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 is no longer in force, 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 should denounce the 1969 CLC as soon as possible.

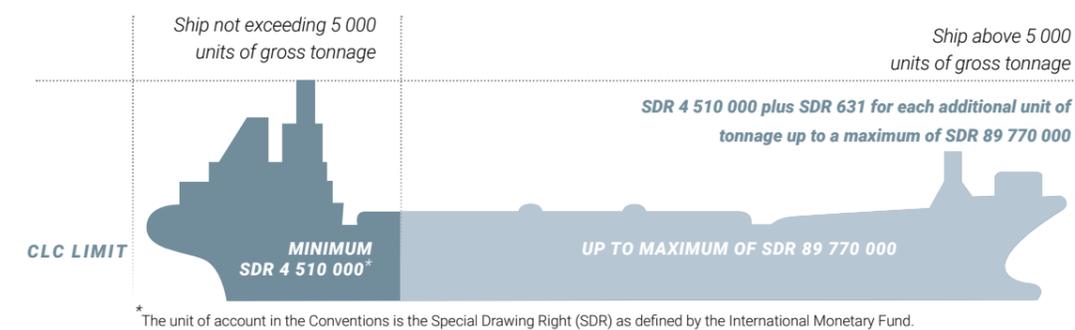
### MAXIMUM LIMITS OF COMPENSATION



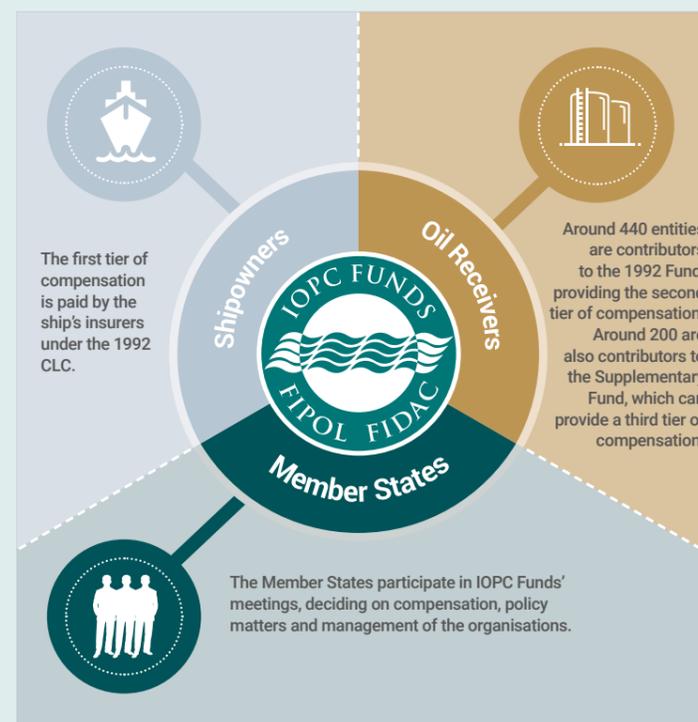
## STOPIA and TOPIA

The Small Tanker Oil Pollution Indemnification Agreement (STOPIA) and the Tanker Oil Pollution Indemnification Agreement (TOPIA) are two voluntary agreements set up 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 the compensation paid. Although not parties to these agreements, the 1992 Fund and Supplementary Fund have legally enforceable rights to indemnification from the shipowner in accordance with the agreements.

Indemnification was paid to the 1992 Fund under STOPIA in respect of the *Solar 1* incident (Philippines, 2006). STOPIA is also applicable to the *Trident Star* incident (Malaysia, 2014) meaning the 1992 Fund could be reimbursed up to SDR 20 million, should it be called upon to pay compensation. Since there have been no incidents involving the Supplementary Fund, TOPIA has not been applied.



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



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](http://WWW.IOPCFUNDS.ORG).



# Operational Review



In this section, the organisational structure of the IOPC Funds is explained and the operations and activities of the organisations, in terms of general administration, claims management and outreach during 2018, are described.

A full list of the 26 staff members of the Funds' Secretariat is provided on pages 10-11. Details of the joint Audit Body and the joint Investment Advisory Body and their role in overseeing the management of the IOPC Funds are also given on page 12.

An overview of the claims handling process as well as a summary of the incidents currently being dealt with by the 1992 Fund is provided on pages 14-19.

The total quantities of contributing oil received by Member States are reported under 'Oil Reporting and Contributions' (pages 20-25). An explanation is also given as to how the levies of contributions by the 1992 and Supplementary Funds are calculated. Further information relating to the financial administration of the Funds and relevant figures are provided later in the report under the Financial Review section (pages 40-45).

The activities undertaken by the IOPC Funds during 2018 to increase awareness of the Funds' role in the international liability and compensation regime are set out under External Relations (pages 26-29). 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 2018 (pages 30-31).

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# Secretariat

The 1992 Fund and the Supplementary Fund share a joint Secretariat, consisting of 27 staff members as at 31 December 2018. 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 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 2019

### DIRECTOR'S OFFICE



**José Maura**  
Director

**Kensuke Kobayashi**  
Legal Counsel

**María Basilico**  
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

**Julia Súkan del Río**  
External Relations &  
Conference Coordinator

**Sylvie Legidos**  
Translation Coordinator



**María Alonso Romero**  
Associate Editor (Spanish)

**Mariana Saúl**  
Associate Editor (Spanish)

**Johana Lanzeray**  
Associate Editor (French)



#### 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.

**Vacant Post**  
External Relations &  
Conference Assistant

# Administration

## Joint Secretariat expenses

The joint administrative expenses (excluding the external audit fees which are paid directly by each of the Funds) for the Secretariat are set out below.

| Joint Secretariat expenditure                                 | 2018 unaudited<br>£ | 2017 audited<br>£ | 2016 audited<br>£ |
|---|---------------------|-------------------|-------------------|
| Expenditure   | 4 070 235           | 4 038 496         | 3 985 620         |
| Budget  | 4 536 433           | 4 396 520         | 4 407 360         |
| Expenditure as % of budget                                    | 0%                  | 92%               | 90%               |
| External audit fees   |                     |                   |                   |
| 1992 Fund   | 43 200              | 43 200            | 50 000            |
| Supplementary Fund  | 3 200               | 3 200             | 3 500             |
| Management fees received by 1992 Fund from Supplementary Fund | 34 000              | 34 000            | 34 000            |

Commentary on the joint Secretariat expenditure is provided in Annex I of the 1992 Fund's Financial Statements, which are available on the About us page on the Funds' website: [www.iopcfunds.org](http://www.iopcfunds.org). Further details relating to the financial administration of the organisations are provided under the Financial Review section (pages 40-45).

## 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/November sessions. The term of the current Audit Body expires in October 2020.



The members of the joint Audit Body, elected in October 2017. (Left to right) Mr Makoto 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)

\*Mr Jerry Rysanek, Chairman of the Audit Body sadly passed away in January 2019 (see page 3).

## External Auditor

An External Auditor is appointed by the 1992 Fund Assembly and Supplementary Fund Assembly every four years. The current IOPC Funds' External Auditor is BDO International, who were appointed in October 2015 to audit the Financial Statements of the 1992 Fund and the Supplementary Fund for a period of four years from 2016, i.e. the financial years 2016–2019 inclusive.

BDO report on the audit of the Financial Statements of the 1992 Fund and Supplementary Fund at each regular session of the 1992 Fund and Supplementary Fund Assemblies (see Financial Review section, pages 40–45).

## 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.

## 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/November sessions. The current term of the IAB expires in October 2020.



The three current members of the joint Investment Advisory Body are (left to right): Ms Beate Grosskurth, Mr Brian Turner and Mr Alan Moore.



# 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.

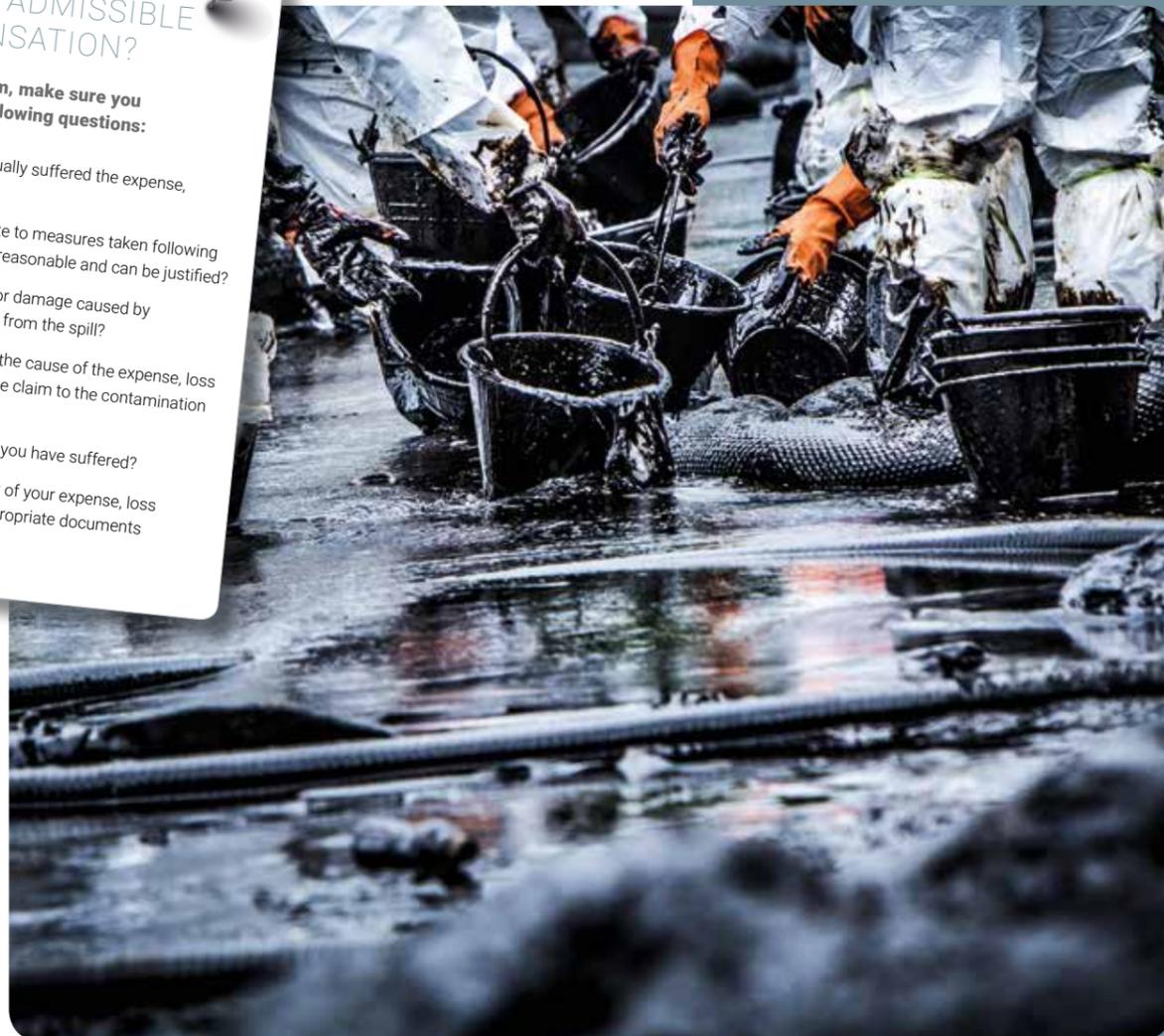
An oil pollution incident can generally give rise to claims for five types of pollution damage:



### IS MY CLAIM ADMISSIBLE FOR COMPENSATION?

Before submitting a claim, make sure you can answer yes to the following questions:

- Have you already actually suffered the expense, loss or damage?
- Does the expense relate to measures taken following the incident which are reasonable and can be justified?
- Was the expense, loss or damage caused by contamination resulting from the spill?
- Can you reasonably link the cause of the expense, loss or damage covered by the claim to the contamination caused by the spill?
- Can you quantify the loss you have suffered?
- Can you prove the amount of your expense, loss or damage and supply appropriate documents or other evidence?



## 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, including an online claims submission system, will normally be made available to claimants via the IOPC Funds' website ([www.iopcfunds.org](http://www.iopcfunds.org)).

## 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.

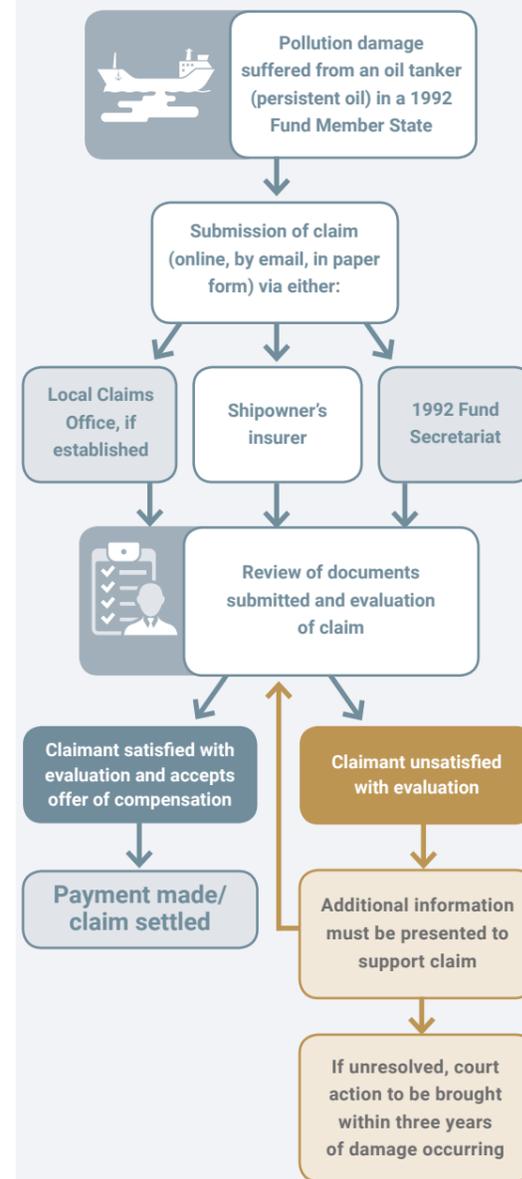
The Funds, normally in cooperation with the shipowner's insurer, usually appoint experts to monitor clean-up operations, to investigate the technical merits of claims and to make independent assessments of the losses.

## 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 in those States which ratify or accede to the Supplementary Fund Protocol is that, in practically all cases, it should be possible from the outset to pay compensation for pollution damage in those States at 100% of the amount of damage agreed between the Fund and the claimant.

## The process of a claim



## 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. 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. A summary of key developments in a number of cases during 2018 and the position taken by the governing bodies in respect of claims is set out below.

## NEW INCIDENTS

### Incident in Canada (October 2016)

On 13 October 2016, the articulated tug-barge (ATB) composed of the tug *Nathan E. Stewart* and the tank barge *DBL 55* ran aground on Edge Reef near Athlone Island, at the entrance to Seaforth Channel, approximately 10 nautical miles west of Bella Bella, British Columbia, Canada. The tug's hull was eventually breached, and approximately 110 000 litres of diesel oil was released into the environment. The tug subsequently sank and separated from the barge.

A first nation community consisting of five tribes has brought a legal action against the owner, operators, the master and an officer of the *Nathan E. Stewart/DBL 55* ATB. The claimants also include as third parties, among others, the Ship-source Oil Pollution Fund in Canada, the 1992 Fund and the Supplementary Fund and in October 2018 the Director was served with proceedings. Even if this case was proven to fall under the 1992 Civil Liability and Fund Conventions, there is no indication that the damages would exceed the shipowner's liability limit under the 1992 CLC. The Director intends to monitor the case and report on developments to future sessions of the Executive Committee.



## ONGOING INCIDENTS



€10 375 484

Compensation paid  
by 1992 Fund as at  
31/12/18

### Agia Zoni II (Greece, September 2017)

A Claims Submission Office was established in Piraeus, Greece to assist claimants with the submission of their claims relating to this incident. It was reported to the October 2018 session of the 1992 Fund Executive Committee that, in total, the 1992 Fund had received 232 claims amounting to €80.65 million and USD 175 000 and had already made compensation payments totalling some €10 million. The claims received include those by the salvors, which were being assessed. The 1992 Fund's experts are also assessing a large number of other claims and are awaiting further information from many claimants to enable assessments to be completed. Details of the investigation into the cause of the incident by the Public Prosecutor have not yet been released.



OMR 3 519 068

Compensation paid  
by 1992 Fund as at  
31/12/18



### Nesa R3 (Sultanate of Oman, June 2013)

All attempts made by the Omani authorities to obtain a financial commitment by the shipowner have been unsuccessful. 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. In December 2017, the Court rendered a judgment confirming the conclusions of a court expert who had recognised the validity of the claims by the 1992 Fund and the Omani Government. The Court found that the shipowner and insurer of the *Nesa R3* were jointly liable to pay compensation to the 1992 Fund and the Government totalling, respectively, OMR 1 777 113.4 plus BHD 8 419.35, and OMR 4 154 842.80.

The 1992 Fund has appealed the judgment since the Court had awarded the Omani Government amounts above the value of the claims already settled by the 1992 Fund. The Omani Government also appealed the judgment, claiming that the amount they should be entitled to receive in compensation should be OMR 10 million.

Shortly after the October 2018 session of the 1992 Fund Executive Committee, the Director and the Head of Claims travelled to Oman to discuss the incident with the Government and to review the claims situation in order to accelerate the assessment process. A total of 33 claims amounting to OMR 5 871 713.60 and BHD 43 504.04 had been received by the 1992 Fund. Thirty-three claims had been assessed at a total of OMR 3 521 366.38 and BHD 8 419.35. A total of 27 claims had been paid amounting to OMR 3 510 470.22 and BHD 8 419.35. The payment of the remaining claim assessed positively is being processed. As a result of this visit, all established claims arising from this incident were settled.



KRW 129 304 071 166

Compensation paid  
by 1992 Fund as at  
31/12/18



### Hebei Spirit (Republic of Korea, December 2007)

Almost 130 000 claims have been registered in this case. The Courts have awarded a total of KRW 433 billion in compensation, and only a few claims remain pending as at 31 December 2018. The total amount available for this incident under the 1992 Conventions, KRW 321.6 billion, is insufficient to pay all established claims in full. The shipowner's insurer (Skuld Club) has paid some KRW 186.8 billion in compensation. Under a Special Law, 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 and has been paying all claimants the full established amount of their claims, subrogating those claims against the 1992 Fund. The 1992 Fund has been making compensation payments to the Republic of Korea, with KRW 107 billion paid. At its October 2018 session, the 1992 Fund Executive Committee decided to maintain the level of payments at 60% of the amount of the established losses and to review this at its next session.



## Prestige (Spain, November 2002)

In November 2017, the Court in La Coruña, Spain delivered a judgment on the quantification of the compensation due in respect of the *Prestige* incident. 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 included €1.57 billion payable to the Spanish Government, €61 million to the French Government as well as various amounts to individual claimants. The total amount awarded by the Court is, after a correction in January 2018, €1 650 046 893. The 1992 Fund and other parties, including the shipowner's insurer, the London P&I Club, filed appeal before the Supreme Court. In October 2018, the Director presented a document to the 1992 Fund Executive Committee which examined the impact of the judgment by the Spanish Supreme Court on the claims made by Spain, France and Portugal and identified, on a provisional basis, the amount that the 1992 Fund could pay to the victims in the three countries. When summarising the discussion during the session, the Chairman of the Executive Committee noted that the main issue was to ascertain how to adapt the Court's decisions to the amount available for compensation and pointed out that there was general support for this matter to be discussed between the Director and Member States. In December 2018, the Spanish Supreme Court delivered its final judgment, ordering that the Spanish State, French State and other claimants be paid some €1.6 billion in compensation. The Court also partially accepted the Fund's appeal in that moral and pure environmental damages are not recoverable from the 1992 Fund but confirmed the Supreme Court's previous decision that the shipowner's insurer, the London P&I Club, is liable for all the damages caused by the incident, including moral and pure environmental damages, up to the limit of its policy of USD 1 000 million.

€120 737 978

Compensation paid  
by 1992 Fund as at  
31/12/18



### List of open 1992 Fund incidents as at 31 December 2018

| SHIP                      | PLACE OF INCIDENT | YEAR |
|---------------------------|-------------------|------|
| <i>Prestige</i>           | Spain             | 2002 |
| <i>Solar 1</i>            | Philippines       | 2006 |
| <i>Hebei Spirit</i>       | Republic of Korea | 2007 |
| <i>Redferm</i>            | Nigeria           | 2009 |
| <i>Haekup Pacific</i>     | Republic of Korea | 2010 |
| <i>Alfa I</i>             | Greece            | 2012 |
| <i>Nesa R3</i>            | Sultanate of Oman | 2013 |
| <i>Trident Star</i>       | Malaysia          | 2016 |
| <i>Incident in Canada</i> | Canada            | 2016 |
| <i>Agia Zoni II</i>       | Greece            | 2017 |

£684  
million

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

## INCIDENTS CLOSED DURING 2018

### 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. The 1992 Fund recovered the overpaid amounts from all individual claimants except for the Kerch Port Authority.

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

RUB 337 734 596

Compensation paid  
by 1992 Fund as at  
31/12/18



the amounts awarded by the November 2014 judgment to the three government claimants that remained to be paid.

The insurer, Ingosstrakh, refused to make payments of the amounts owed by it under the 2012 judgment and, as at October 2018, had only paid the amount it owed to one claimant that had brought a separate action against it.

Since the 1992 Fund has paid the amounts the Fund owed to the claimants in accordance with the final judgment of the Arbitration Court of Saint Petersburg and Leningrad Region, and all other issues arising from this case have been solved, this incident was closed in October 2018.



### Double Joy (Malaysia, August 2014)

All the claims arising from this incident were settled by the shipowner/insurer for some USD 6.8 million in 2018. This is within the limitation applicable to the *Double Joy* under the 1992 CLC and it is therefore certain that the 1992 Fund will not be called upon to pay compensation in relation to this incident. The case was therefore closed in October 2018.

### Incidents involving the Supplementary Fund

As at 31 December 2018, there have been no incidents involving, or likely to involve the Supplementary Fund.

# Oil Reporting and Contributions

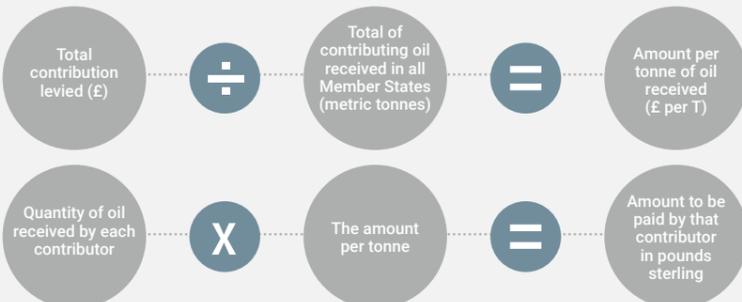
The IOPC Funds are financed by contributions levied on entities that receive more than 150 000 tonnes of contributing oil per calendar year in ports or terminal installations in a Member State, after carriage by sea. Contributions are paid by those entities (known as 'contributors') directly to the Funds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

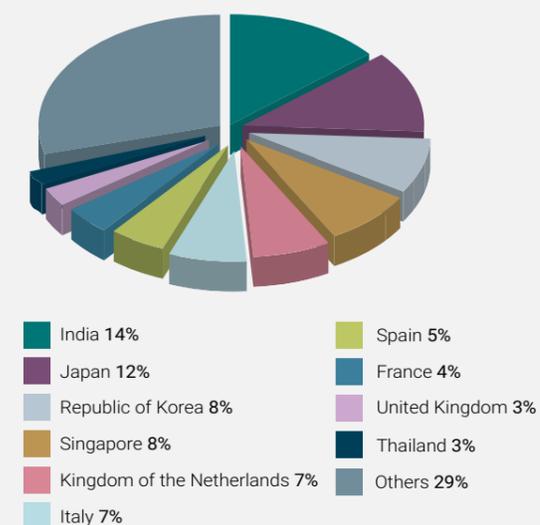
# 1992 Fund

At the October 2018 sessions of the governing bodies, the 1992 Fund Administrative Council decided to levy 2018 contributions to the General Fund of £5.9 million, based on oil received in the calendar year 2017 and payable by 1 March 2019. In 2017, the total contributing oil was 1 586 303 134 tonnes and contributions of £0.0037193 per tonne were levied. For the purpose of calculating the levy per tonne, the total contributing oil received in all Member States consists of the total amount reported to the IOPC Funds plus an estimate of the amount received by contributors whose reports are pending at the time of invoicing. The 10 largest contributing Member States to the 1992 Fund are shown in the pie chart below.

In addition, the 1992 Fund Administrative Council decided to close the *Volgoneft 139* Major Claims Fund and reimburse £3.675 million to contributors to that Major Claims Fund repayable on 1 March 2019. The Administrative Council also decided to levy contributions of £1.675 million to the Alfa I Major Claims Fund payable by 1 March 2019, and £26 million to the *Agia Zoni II* Major Claims Fund, with £10 million payable by 1 March 2019 and £16 million to be deferred. The Director will inform contributors and Member States by June 2019 whether the deferred levy to the *Agia Zoni II* Major Claims Fund is required. The levies of contributions to these Major Claims Funds were based on the oil reported for the calendar year 2006 in respect of the *Volgoneft 139*, 2011 in respect of the *Alfa I* and 2016 in respect of the *Agia Zoni II*.

The 1992 Fund Administrative Council decided not to levy 2018 contributions to the *Prestige* and *Hebei Spirit* Major Claims Funds.

**CONTRIBUTING OIL RECEIVED BY 1992 FUND MEMBER STATES IN 2017 (AS REPORTED BY 31 DECEMBER 2018)**



## Contributing oil received in the calendar year 2017 in the territories of 64 States which were Members of the 1992 Fund on 31 December 2018

| Member State                              | Contributing oil received in 2017, as at 31 December 2018 (tonnes) | % of Total |
|---|--|------------|
| India                                     | 218 709 791  | 13.84%     |
| Japan                                     | 196 693 667  | 12.45%     |
| Republic of Korea                         | 132 489 698  | 8.39%      |
| Singapore                                 | 122 208 460  | 7.74%      |
| Italy                                     | 114 873 264  | 7.27%      |
| Netherlands (Kingdom of the Netherlands)* | 104 841 136  | 6.64%      |
| Spain                                     | 72 020 982   | 4.56%      |
| France                                    | 64 330 030   | 4.07%      |
| United Kingdom                            | 53 322 219   | 3.38%      |
| Thailand                                  | 52 436 479   | 3.32%      |
| Canada                                    | 36 076 678   | 2.28%      |
| Malaysia                                  | 30 120 554   | 1.91%      |
| Greece                                    | 29 891 033   | 1.89%      |
| Turkey                                    | 28 279 675   | 1.79%      |
| Germany                                   | 22 779 972   | 1.44%      |
| United Arab Emirates                      | 22 142 210   | 1.40%      |
| Sweden                                    | 21 539 869   | 1.36%      |
| Australia                                 | 19 146 851   | 1.21%      |
| South Africa                              | 16 928 165   | 1.07%      |
| Portugal                                  | 14 737 483   | 0.93%      |
| Israel                                    | 14 086 423   | 0.89%      |
| Finland                                   | 13 052 934   | 0.83%      |
| Argentina                                 | 12 607 018   | 0.80%      |
| Philippines                               | 12 279 783   | 0.78%      |
| Norway                                    | 11 371 791   | 0.72%      |
| Bahamas                                   | 10 433 795   | 0.66%      |
| Panama                                    | 10 339 086   | 0.65%      |
| Curaçao (Kingdom of the Netherlands)*     | 9 900 303  | 0.63%      |
| Lithuania                                 | 9 821 752  | 0.62%      |
| Poland                                    | 8 535 330  | 0.54%      |
| Croatia                                   | 7 820 108  | 0.49%      |
| China**                                   | 7 635 819  | 0.48%      |
| Bulgaria                                  | 7 185 971  | 0.45%      |

| Member State                        | Contributing oil received in 2017, as at 31 December 2018 (tonnes) | % of Total |
|-------------------------------------|--|------------|
| Venezuela (Bolivarian Republic of)  | 6 354 966  | 0.40%      |
| New Zealand                         | 5 930 296  | 0.38%      |
| Denmark                             | 5 752 291  | 0.36%      |
| Trinidad and Tobago                 | 5 315 459  | 0.34%      |
| Belgium                             | 5 104 013  | 0.32%      |
| Saint Lucia                         | 4 744 240  | 0.30%      |
| Mexico                              | 4 249 690  | 0.27%      |
| Colombia                            | 3 495 462  | 0.22%      |
| Aruba (Kingdom of the Netherlands)* | 3 384 361  | 0.21%      |
| Ireland                             | 3 210 830  | 0.20%      |
| Malta                               | 2 839 088  | 0.18%      |
| Angola                              | 2 515 392  | 0.16%      |
| Estonia                             | 2 447 396  | 0.15%      |
| Jamaica                             | 2 077 581  | 0.13%      |
| Ecuador                             | 2 024 610  | 0.13%      |
| Côte d'Ivoire                       | 1 977 691  | 0.13%      |
| Sri Lanka                           | 1 903 678  | 0.12%      |
| Cameroon                            | 1 397 851  | 0.09%      |
| Papua New Guinea                    | 1 233 647  | 0.08%      |
| Tunisia                             | 948 401  | 0.06%      |
| Cyprus                              | 797 308  | 0.05%      |
| Nicaragua                           | 720 443  | 0.05%      |
| Mauritius                           | 579 057  | 0.04%      |
| Uruguay                             | 523 223  | 0.03%      |
| Algeria                             | 433 694  | 0.03%      |
| Qatar                               | 328 136  | 0.02%      |
| Tanzania                            | 231 160  | 0.01%      |
| Barbados                            | 225 346  | 0.01%      |
| Antigua and Barbuda                 | 190 261  | 0.01%      |
| Guinea                              | 173 942  | 0.01%      |
| Ghana                               | 166 112  | 0.01%      |
| <b>Total</b>                        | <b>1 579 913 954</b>   |            |

### No contributing oil was received during 2017 in the following 42 Member States:

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

### As at 31 December 2018, oil reports for the calendar year 2017 had not been received for the territories of 12 Member States:

Albania, Benin, Comoros, Djibouti, Dominican Republic, Islamic Republic of Iran, Liberia, Mauritania, Morocco, Senegal, Sint Maarten (Kingdom of the Netherlands)\*, Syrian Arab Republic.

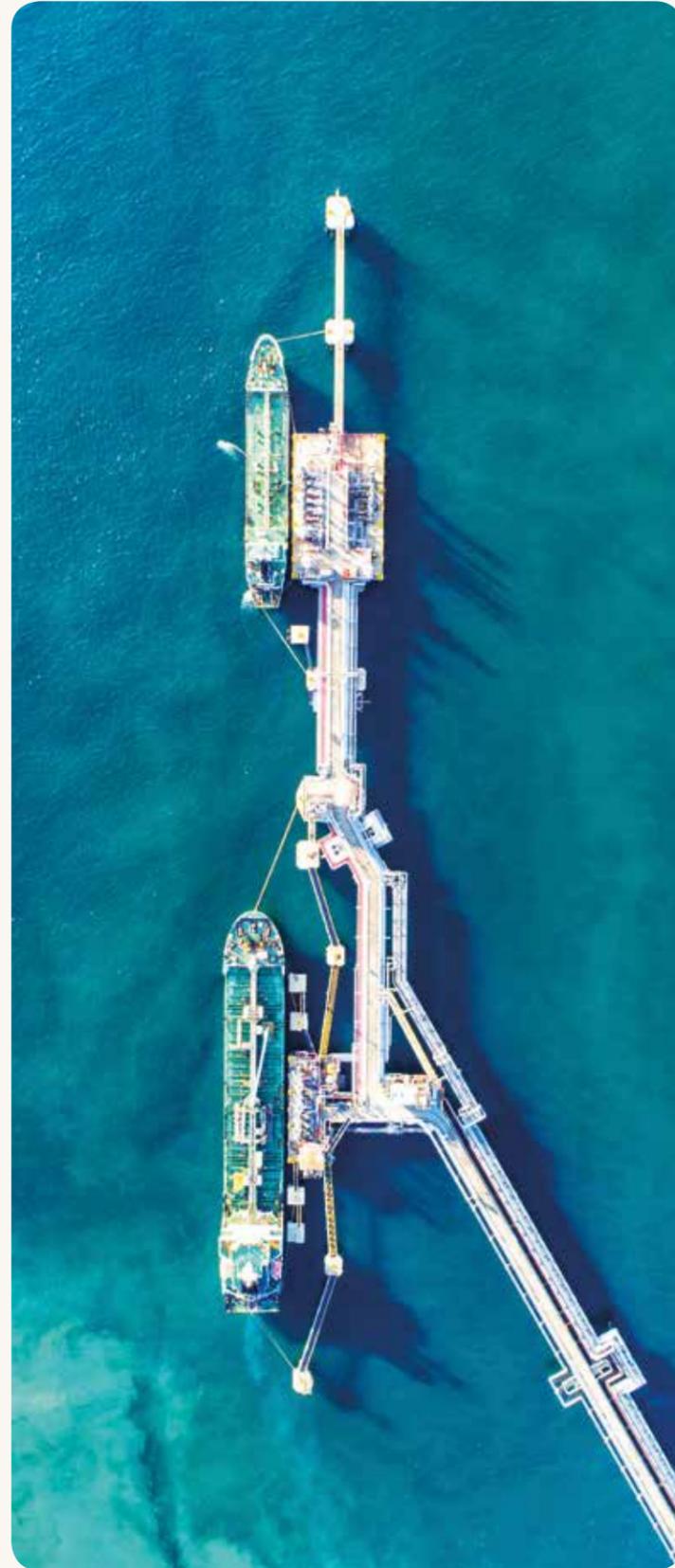
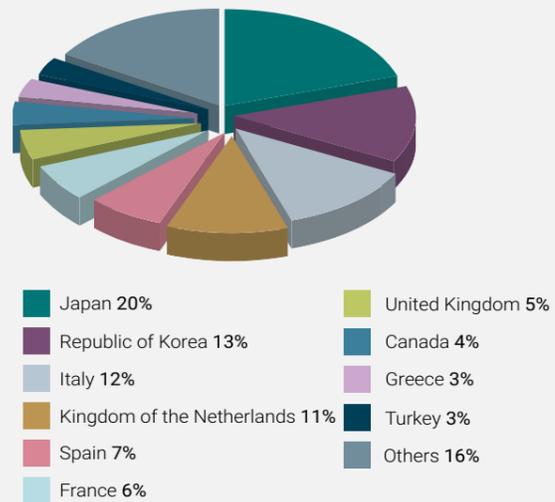
\* The Netherlands, Aruba, Curaçao and Sint Maarten are autonomous partners within the Kingdom of the Netherlands, a status which obliges them to submit reports of contributing oil to the 1992 Fund directly. The Supplementary Fund has not been extended to Aruba, Curaçao or Sint Maarten.

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

# Supplementary Fund

At the October 2018 sessions of the governing bodies, the Supplementary Fund Assembly decided not to levy 2018 contributions, since there had been no incidents involving the Supplementary Fund.

**CONTRIBUTING OIL RECEIVED BY SUPPLEMENTARY FUND MEMBER STATES IN 2017 (AS REPORTED BY 31 DECEMBER 2018)**



## Contributing oil received in the calendar year 2017 in the territories of States which were Members of the Supplementary Fund on 31 December 2018

| Member State                              | Contributing oil received in 2017, as at 31 December 2018 (tonnes) | % of Total |
|---|--|------------|
| Japan                                     | 196 693 667  | 19.85%     |
| Republic of Korea                         | 132 489 698  | 13.37%     |
| Italy                                     | 114 873 264  | 11.59%     |
| Netherlands (Kingdom of the Netherlands)* | 104 841 136  | 10.58%     |
| Spain                                     | 72 020 982   | 7.27%      |
| France                                    | 64 330 030   | 6.49%      |
| United Kingdom                            | 53 322 219   | 5.38%      |
| Canada                                    | 36 076 678   | 3.64%      |
| Greece                                    | 29 891 033   | 3.02%      |
| Turkey                                    | 28 279 675   | 2.85%      |
| Germany                                   | 22 779 972   | 2.30%      |
| Sweden                                    | 21 539 869   | 2.17%      |
| Australia                                 | 19 146 851   | 1.93%      |
| Portugal                                  | 14 737 483   | 1.49%      |
| Finland                                   | 13 052 934   | 1.32%      |
| Norway                                    | 11 371 791   | 1.15%      |
| Lithuania                                 | 9 821 752  | 0.99%      |
| Poland                                    | 8 535 330  | 0.86%      |
| Croatia                                   | 7 820 108  | 0.79%      |
| New Zealand                               | 5 930 296  | 0.60%      |
| Denmark                                   | 5 752 291  | 0.58%      |
| Belgium                                   | 5 104 013  | 0.52%      |
| Ireland                                   | 3 210 830  | 0.32%      |
| Estonia                                   | 2 447 396  | 0.25%      |
| Barbados**                                | 1 000 000  | 0.10%      |
| Congo**                                   | 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%      |
| <b>Total</b>                              | <b>991 069 298</b>   |            |



### 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. 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 2018, oil reports for the calendar year 2017 had not been received from Morocco.

\* 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.

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

# 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 2018 are outlined below and shown on the following map, together with other key outreach activities delivered since 2014.

## Key activities conducted during 2014–2018

**1 Location:** Kingston, Jamaica

**Name of Event:**

*National workshop*

Participation in a three-day national workshop focused on the claims-handling process, criteria for the admissibility of claims and implementation of the Conventions. Presentations given on the international liability and compensation regime, followed by delivery of an oil spill response strategy exercise.

**2 Location:** Panama city, Panama

**Name of Event:**

*National workshop*

Participation in a two-day national workshop on the international liability and compensation regime, as well as implementation of the international Conventions into the domestic legal system.

**3 Location:** Buenos Aires, Argentina

**Name of Event:**

*Regional workshop*

Participation in a five-day regional workshop on IMO civil liability conventions. Jointly organised by IMO's Integrated Technical Cooperation Programme (ITCP), ROCRAM (an association of Maritime Authorities of South America) and the Naval Prefecture of Argentina. Presentations delivered, followed by discussion sessions on the international regime, the role of the IOPC Funds and the 2010 HNS Convention.

**4 Location:** London, United Kingdom

**Name of Event:**

*4th Premiam Conference*

Participation in the fourth biennial Premiam Conference, an initiative aimed at improving post-spill environmental monitoring practices through the application of sound science and effective management and coordination.

**5 Location:** Lisbon, Portugal

**Name of Event:**

*EMSA training course on liability and compensation*

Participation in a training course organised by the European Maritime Safety Agency (EMSA) on liability and compensation, aimed at representatives from Member States of the European Union.

**6 Location:** La Maddalena Island, Italy

**Name of Event:**

*RAMOGEPOL 2018*

Participation, as part of the Exercise Evaluation Team, in an annual joint simulation exercise to prepare for marine pollution incident response, under the RAMOGE agreement set up by France, Italy and Monaco. Presentation also delivered about the application of the international liability and compensation regime.

**7 Location:** Larnaca, Cyprus

**Name of Event:**

*Sub-regional seminar on compensation*

Participation in a two-day sub-regional seminar, on compensation for oil pollution damage organised by the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC) with the assistance of the Cyprus Maritime Authority. Presentation delivered on the claims-handling process and the criteria for the admissibility of claims.

**8 Location:** Batumi, Georgia

**Name of Event:**

*International Maritime Forum*

Participation in forum aimed at raising awareness about the importance of shipping in the region as well as the need to ensure environmental protection. Followed by delivery of a training session on liability and compensation for incidents involving tankers.

**9 Location:** Maputo, Mozambique

**Name of Event:**

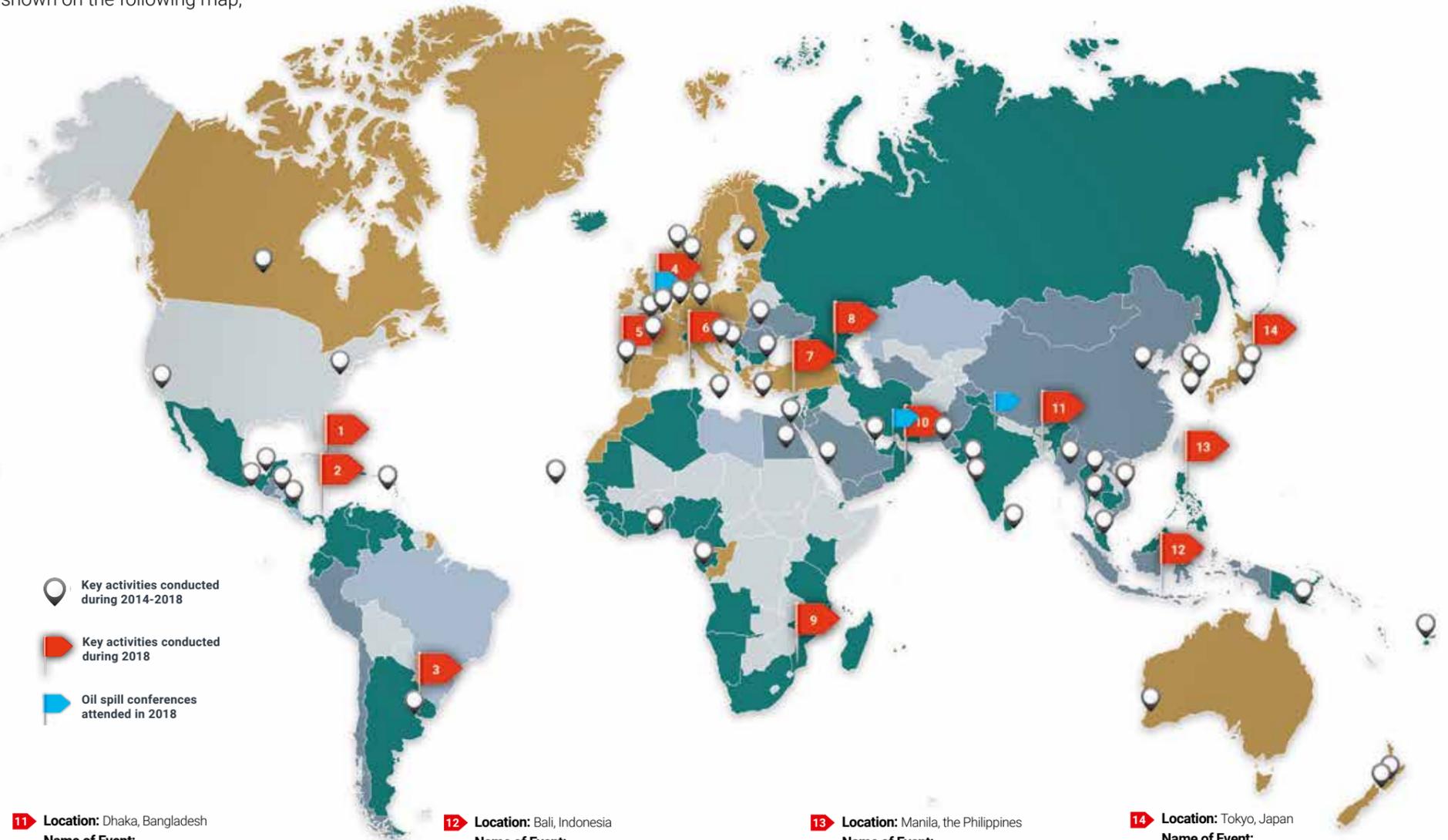
*National workshop*

Participation in a workshop hosted by National Maritime Institute (INAMAR) of Mozambique. Presentations given on the international liability and compensation regime and delivery of a simulation exercise covering response to a spill and the submission of claims for compensation.

**10 Location:** Muscat, Oman

**Name of Event:** *National workshop*

Participation in a national workshop on the international liability and compensation regime. Presentations given on the legal framework of the regime and on the admissibility criteria for claims under the applicable Conventions and on the handling of claims in general.



**Key activities conducted during 2014-2018**

**Key activities conducted during 2018**

**Oil spill conferences attended in 2018**

**11 Location:** Dhaka, Bangladesh

**Name of Event:**

*National workshop*

Participation in a one-day national workshop for maritime authorities, government agencies and interested stakeholders, on the international liability and compensation regime and meeting with senior officials of the Bangladeshi Ministry of Shipping to highlight the importance of protecting its coastline and, in particular, environmentally sensitive areas.

**12 Location:** Bali, Indonesia

**Name of Event:**

*National workshop*

Participation in a national workshop on the International IMO civil liability conventions. Delivery of presentations and leading discussion sessions on the international liability and compensation regime, the role of the IOPC Funds and the 2010 HNS Convention.

**13 Location:** Manila, the Philippines

**Name of Event:**

*National workshop*

Participation at a national workshop on the international liability and compensation regime, hosted by the Philippine Coast Guard and organised for government authorities and stakeholders to raise awareness of the regime.

**14 Location:** Tokyo, Japan

**Name of Event:**

*PAJ 2018 Oil Spill Response workshop*

Participation in the 7th Oil Spill Workshop organised by the Petroleum Association of Japan (PAJ) focused on recent incidents such as the *Agia Zoni II* and the *Sanchi*. Presentation given on the role of the IOPC Funds in such incidents, the international liability and compensation regime in general and the subject of future preparedness.

## Oil Spill Conferences

**Location:** London, United Kingdom

**Name of Event:**

*Interspill 2018*

Part of the organising committee and official supporter of this event, which is the European oil spill conference and exhibition taking place every three years. Delivery of a claims and compensation short course and chairing of conference session on working with governments. Hosting of exhibition stand, providing information on the work of the organisation and guidance on the claims process and admissibility criteria.



**Location:** Dubai, United Arab Emirates

**Name of Event:**

*9th Offshore Arabia 2018 Conference and Exhibition*

Participation in two-day conference covering oil spills and environmental protection, regional and international shipping and future projects and technologies. Presentation delivered on the recent developments in the international liability and compensation regime.

**Location:** Delhi, India

**Name of Event:**

*Oil spill India 2018*

Participation in an international conference and exhibition focussing on oil spill prevention, preparedness, and response. The Secretariat also held an exhibition stand at the event shared with the International Group of P&I Associations. The exhibition provided an opportunity to meet directly with potential future claimants and other stakeholders.

## Cooperation with IMO

The Secretariat has continued its close cooperation with the IMO Secretariat on various matters, liaising regularly with the Legal Affairs and External Relations Division on items of mutual interest, including sharing information on progress by States towards ratification and implementation of the 1992 Conventions and Supplementary Fund Protocol as well as the 2010 HNS Convention. That cooperation also extended to the Technical Cooperation and Marine Environment Divisions, working together on the delivery of various outreach activities to widen awareness of the international liability and compensation regime.

## In-house visits

In addition to these activities, delegations from a variety of organisations and universities visit the Funds' offices when in London. In 2018, visitors included students from the International Maritime Law Institute (IMLI) in Malta, the universities of Deusto and Catalonia in Spain, Ghent in Belgium and Hitotsubashi in Japan. During these visits, the Secretariat delivered presentations and held question and answer sessions on the international liability and compensation regime.

## 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. The online reporting system (ORS) and the HNS Convention website are also accessible via the main website.

The Document Services section of the website contains all meeting documents, resolutions and circulars issued by the IOPC Funds as well as the online meeting registration system. It serves as an essential tool for delegates to Funds' meetings, who are strongly encouraged to register for an account. Additional benefits for registered users include the facility to store and download documents in bulk, to receive direct notifications of meeting documents as they are published, regular updates of news and events from the IOPC Funds, including the confirmation of meeting dates and circulation of the invitation and agenda to those meetings, and the facility to more easily register multiple meeting attendees and to submit credentials online.

## IOPC Funds' Short Course

The eighth annual IOPC Funds' Short Course took place in June 2018 with representatives from 14 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 UK 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, ICS and INTERTANKO. Each year the course is open to self-funded participants from 1992 Fund Member States, nominated directly by their government.

## Short introductory video

In May 2018, the Secretariat released an introductory video, which was shown to delegations at the April 2018 sessions of the governing bodies, covering the role, structure and activities of the IOPC Funds, as well as an overview of the legal framework behind the international liability and compensation regime. The video is intended to provide a general introduction for those not familiar with the organisation and its work and brings all the basic information from reporting of contributing oil to the claims admissibility criteria together in one place. It is available in English, French and Spanish and can be found under the About Us section of the website.

## Publications

In addition to the Annual Report 2017, during 2018 the Secretariat also printed an updated version of the IOPC Funds' brochure which provides a general overview of the role of the organisation.

Following the approval of the text by the governing bodies in October 2017, the Guidelines to assist claimants with the submission of claims for environmental damage was published in February 2018 as a new addition to the Claims Information

Pack. The Pack itself, which also contains the Claims Manual, a number of other guidelines relating to specific sectors and an example Claim Form, and which was originally published in 2014, was updated and re-issued for 2018 to include the new set of Guidelines, incorporate the new logo and address on some of the earlier publications and some other minor amendments which were required. The information pack is available in hard copy upon request or via the Publications page of the IOPC Funds' website.



For quick, regular updates follow us @IOPCFunds



## 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
- 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
- Cedre
- 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 Union of Marine Insurance (IUMI)
- INTERTANKO
- ITOPF
- Oil Companies International Marine Forum (OCIMF)
- Sea Alarm Foundation (Sea Alarm)
- World LPG Association (WLPGA)

# The 2010 HNS Convention

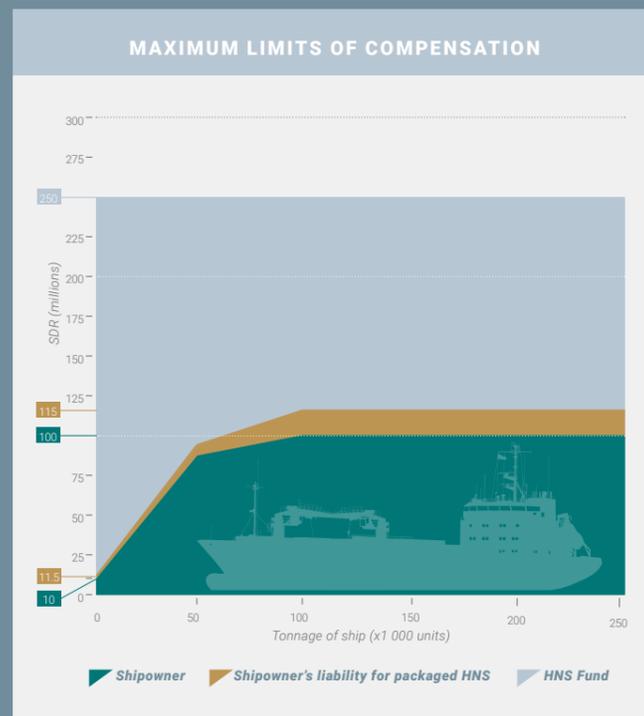
The International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 2010 (2010 HNS Convention) is largely modelled on the 1992 Civil Liability and Fund Conventions. Originally adopted in 1996 and amended in 2010, the Convention 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.

## 2010 HNS Convention – An overview

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. 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 2 million units of 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.

### 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.

## Work undertaken by the 1992 Fund in 2018

The Secretariat maintains the website [www.hnsconvention.org](http://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 determine whether a substance is contributing cargo that must be reported and whether it qualifies for compensation under the Convention.



In order to provide assistance on practical issues raised by States implementing the 2010 HNS Convention, a two-day HNS workshop was organised by IMO in cooperation with the IOPC Funds in London in April 2018. It was an occasion for a successful exchange of information and discussions among interested States and organisations. In particular, the workshop concluded that a united front of support for the Convention had been demonstrated by both shipping and cargo interests who were proactively encouraging States to proceed with the implementation process. States were encouraged to collaborate, make use of the advice provided, the expertise of IMO and the IOPC Funds and the tools that have been made available to assist in promoting the understanding of the Convention within administrations.

On the basis of the encouraging developments relating to the entry into force of the Protocol, the Secretariat presented to the 1992 Fund Administrative Council, in October 2018, a list of tasks to be undertaken to prepare for the setting up of the HNS Fund. This list included a fully functional HNS contributing cargo reporting system, claims criteria, financial and internal regulations and rules for the functioning of the HNS Secretariat. From 2019, the Secretariat will work together with IMO and other key stakeholders on these issues and will regularly report on its progress to the 1992 Fund Assembly and the IMO Legal Committee.

The Secretariat participated in various workshops on the liability and compensation regime for oil spills in 2018 (see pages 26–27) which enabled the Secretariat to also deliver presentations on the importance of introducing a similar system for HNS.



## 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. In 2018, Canada, Denmark and Turkey ratified the Protocol, bringing the number of Contracting States to four. These four States represent a third of the number of States required and each of those States has more than 2 million units of gross tonnage, thus fulfilling one of the three conditions for entry into force.

### Resources available:



Visit [www.hnsconvention.org](http://www.hnsconvention.org) for more information.



# Governing Bodies



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In this section, information is provided on the structure, composition and main functions of the governing bodies of the IOPC Funds. Details are also given of what a delegate should expect when planning on participating in a meeting for the first time (pages 34–35).

The 1992 Fund Convention and Supplementary Fund Protocol provide that regular sessions of the 1992 and Supplementary Fund Assemblies should take place once every calendar year. These regular sessions take place during the last quarter. In addition, the Director may convene further meetings as the need arises and, in practice, further sessions of the governing bodies are usually convened in the second quarter of the year.

In 2018, the April and October meetings included sessions of the 1992 Fund Administrative Council, acting on behalf of the Assembly, the Supplementary Fund Assembly and the 1992 Fund Executive Committee. Details of the key discussions and decisions taken at those sessions are provided on pages 36-37.

The October meeting also included a special celebratory session to commemorate 40 years since the establishment of the original International Oil Pollution Compensation Fund. Details and photographs from the event are provided on pages 38-39.

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

# Structure of the Governing Bodies

## 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 a 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.

## 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 a year.

### Role:

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

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

## SUPPLEMENTARY FUND ASSEMBLY

(Administrative Council if no quorum)

### 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 a 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.

# Participation at meetings

## What to expect as a delegate

### Before the meeting

#### Register to attend the meeting

**When:** No later than one week before

**How:** Online via Document Services website

#### Why:

- 1) For security/to gain access to the building
- 2) to ensure sufficient space is allocated in the conference hall;
- 3) to ensure your name appears on the official List of Participants to the meeting.



#### Register for a Document Services account

**When:** Any time

**How:** Online via Document Services website

#### Why:

- 1) To receive notification emails when new documents are published;
- 2) to create folders and store batches of documents;
- 3) to store previous registration details and register multiple participants at a time.

#### Download and review meeting documents

**When:** All documents are normally published no later than two weeks before the meeting in all languages

**How:** Download from Document Services website

#### Why:

Documents are not available in hard copy at the meetings so it is important to access these online beforehand.

#### Submit credentials

**When:** No later than one week before the meeting

**How:** By email online at time of registration, by post or fax.

#### Why:

- 1) To confirm authority to act as a Member State representative;
- 2) to ensure right to vote in any elections or other such decisions.

The Document Services website can be found at [www.iopcfunds.org/documentservices](http://www.iopcfunds.org/documentservices)

### During the meeting

#### Be seated in the conference hall promptly

**When:** No later than 9.30 am

**How:** Seating plan is available outside the hall

#### Why:

To determine whether a quorum has been achieved for each of the governing bodies. Late arrivals on the first day can lead to an Assembly being unable to convene.

#### Forward any lengthy statements to Secretariat

**When:** ASAP

**How:** By email to [conference@iopcfunds.org](mailto:conference@iopcfunds.org)

#### Why:

- 1) To assist the interpreters who will be delivering your statement as you make it;
- 2) to assist the Secretariat in summarising the key points for the draft Record of Decisions or for inclusion verbatim, if requested at the time of the statement.

#### Adopt the Record of Decisions

**When:** Final day of the meeting

**How:** The report of the meeting is made available for review one hour before the session.

#### Why:

To confirm all discussion and decisions from the meeting are accurately reflected.

### After the meeting

#### Download final Record of Decisions

The final Record of Decisions is published online in English within 14 days of the meeting and in French and Spanish soon thereafter.

#### Stay in touch

Delegates are encouraged to remain in contact with the Secretariat between meetings for any enquiries and the exchange of useful information, such as updating of contact information or changes in position within a delegation.

For further information email [conference@iopcfunds.org](mailto:conference@iopcfunds.org)

# Sessions of the governing bodies in 2018

The IOPC Funds' governing bodies held sessions from 30 April to 2 May 2018 and 29 October to 1 November 2018. Both meetings took place at the IMO headquarters in London and included the following sessions.

• 1992 FUND ADMINISTRATIVE COUNCIL (17TH AND 18TH SESSIONS) (ACTING ON BEHALF OF THE ASSEMBLY)

• SUPPLEMENTARY FUND ASSEMBLY (6TH EXTRAORDINARY SESSION AND 15TH SESSION)

• 1992 FUND EXECUTIVE COMMITTEE (70TH AND 71ST SESSIONS)

ALL DOCUMENTS INCLUDING FULL RECORDS OF DECISIONS FOR THE 2018 SESSIONS OF THE GOVERNING BODIES ARE AVAILABLE UNDER THE DOCUMENT SERVICES SECTION OF THE FUNDS' WEBSITE. A SUMMARY OF THE MAIN ISSUES DISCUSSED AND DECISIONS TAKEN IS SET OUT BELOW



**GAUTE SIVERTSEN**  
(NORWAY),  
CHAIRMAN SINCE OCTOBER 2011

## 1992 Fund Administrative Council

At its April 2018 session, the 1992 Fund Administrative Council noted developments and took decisions in respect of a number of items.

In particular, it adopted refined assessment criteria on the admissibility of claims for compensation made by employees who have suffered a reduction in wages, been placed on part-time work or been made redundant as a consequence of an incident. The text of the refined criteria was approved for inclusion in the Claims Manual and a number of subsequent editorial amendments to the Claims Manual, and other Guidelines from the Claims Information Pack were also approved.

In relation to procedural matters, the Administrative Council decided to revise the Guidelines on relations between the 1992 Fund and intergovernmental and international non-governmental organisations to introduce a new practice for the consideration of requests for observer status. In terms of financial matters,

the Administrative Council appointed Ms Beate Grosskurth as a member of the joint Investment Advisory Body. It also approved amendments to Internal Regulation 4 and the form for reporting receipts of contributing oil to allow for the electronic submission of oil reports and to define Member State and Secretariat responsibilities with regard to the use and verification of electronic signatures by contributors.

The 1992 Fund Administrative Council also noted the encouraging progress towards entry into force of the 2010 HNS Convention, with the ratifications by both Canada and Turkey of the 2010 HNS Protocol on 23 April 2018. It was subsequently reported at the October 2018 session that Denmark had also ratified the Protocol in June 2018 (see pages 30-31 for further information).

The Administrative Council also noted developments in the ongoing legal proceedings arising from the *Plate Princess* incident and in particular, the information that the National Assembly of the Bolivarian Republic of Venezuela had decided to bring this matter to the United Nations to request an explanation concerning the lack of payment of compensation to the fisherfolk concerned. The Director confirmed to the Administrative Council that he would defend the 1992 Fund in the English courts if required.

During the April 2018 session, a presentation was given of the online Claims Submission System developed by the Secretariat to facilitate the claims handling process for both claimants and the Secretariat and the short introductory film produced by the Secretariat was shown.

At its October 2018 session, the 1992 Fund Administrative Council took a number of key decisions relating to the administration of the

organisation, approving the financial statements for 2017 and adopting an administrative budget for the 1992 Fund of £4 692 577 for 2019. All decisions relating to the levying and reimbursement of contributions are set out on pages 20–23.

Cedre (Centre of Documentation, Research and Experimentation on Accidental Water Pollution) was granted observer status with the IOPC Funds at the session and, following a full review, the observer status of each of the 16 international non-governmental organisations currently holding that status was reconfirmed.

The Administrative Council was also informed of a number of activities and projects undertaken by the Secretariat and discussed various policy and treaty issues. In particular the Secretariat reported that, having examined the national legislation implementing the 1992 Civil Liability Convention (1992 CLC) and the 1992 Fund Convention in some Member States in recent years, it had noted, among other things, that legislation was not always updated with the latest limitation amount of the shipowner's liability under the 1992 CLC and the maximum amount of compensation payable under the 1992 Fund Convention. The Director therefore invited Member States to review their national legislation currently in force and offered the Secretariat's assistance in that regard.

The joint Audit Body provided an interim report on its ongoing review of the risks arising from incidents involving the IOPC Funds where the ships were insured by insurers that were not members of the International Group of P&I Associations. After some discussion, the Audit Body stated that it would continue to examine this matter and would report to the governing bodies at a future session, with proposals for a variety of tools to deal with the different problems arising.

## 1992 Fund Executive Committee

The Executive Committee was informed of all key developments during the course of the year in respect of the 11 open incidents involving the 1992 Fund and was notified of one new incident (Incident in Canada, October 2016). Detailed presentations were given on a number of ongoing incidents and discussions took place on key points. In particular, it was reported that since compensation had been paid to all claimants in relation to the *Volgoneft 139* incident, that case was considered closed. In addition, since all claims arising from the *Double Joy* incident had been settled by the shipowner/insurer, that incident was also reported to be closed. In respect of the *Hebei Spirit*, it was reported that only two claims remained pending. The 1992 Fund Executive Committee decided to maintain the level of payments at 60% of the amount of the established losses in that case. With regard to the *Agia Zoni II* incident, the 1992 Fund had received in excess of 230 claims and had already been paying compensation. However, some concerns were expressed during the October 2018 session about the cause of the incident, which was the subject of an investigation by the public prosecutor. However, the Director, while acknowledging that the circumstances were unusual, confirmed that the 1992 Fund would continue to assess and pay compensation and would await the report of the Greek authorities. With regard to the *Prestige* incident, following a judgment in November 2017 on the quantification of the compensation due, it was reported that the 1992 Fund and others had filed an appeal with the Supreme Court.



**ANTONIO BANDINI**  
(ITALY),  
CHAIRMAN SINCE OCTOBER 2017



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

### CURRENT 1992 FUND EXECUTIVE COMMITTEE MEMBERS (FROM OCTOBER 2018 UNTIL OCTOBER 2019)

|         |                      |
|---------|----------------------|
| CHINA   | SINGAPORE            |
| FRANCE  | SOUTH AFRICA         |
| GEORGIA | SPAIN                |
| INDIA   | SRI LANKA            |
| ITALY   | TURKEY               |
| JAMAICA | UNITED ARAB EMIRATES |
| JAPAN   | UNITED KINGDOM       |
| MEXICO  |                      |

### 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                   |                     |

## 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 in respect of a number of items also relevant to the Supplementary Fund; in particular, with regard to the refined assessment criteria on the admissibility of claims for compensation made by employees who have suffered a reduction in wages, been placed on part-time work or been made redundant as a consequence of an incident. It approved the financial statements of the Supplementary Fund for 2017 and adopted an administrative budget for 2019 of £49 200.

A management fee of £36 000 payable to the 1992 Fund for the financial year 2019 was also agreed upon by the Assembly in October 2018. During that session, the Assembly also adopted a Resolution establishing a Supplementary Fund Administrative Council.

### Attendance at the October 2018 sessions



# Celebrating 40 years of the IOPC Funds

On 16 October 1978, the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (1971 Fund Convention) entered into force with 14 Member States. A few weeks later, the very first 1971 Fund Assembly was held, and a new organisation, the IOPC Fund, was established.

Forty years later that organisation continues to successfully fulfil its role and its membership has grown to 115 States.

To mark this special anniversary, a special session was held at the International Maritime Organization (IMO) during the afternoon of 30 October 2018, during which the three former Directors, Dr Reinhard Ganten, Mr Måns Jacobsson and Mr Willem Oosterveen, were each presented with a special award in recognition of their valuable contribution to the work of the IOPC Funds.

The session was attended by the Secretary-General of IMO, Mr Kitack Lim, Secretaries-General Emeriti, Mr William O'Neil and Mr Efthymios E. Mitropoulos and other eminent persons from the maritime and shipping industry, State representatives, organisations and companies with whom the IOPC Funds has worked closely over years, as well as a large number of former members of the Secretariat.

In opening the session, the Director, Mr José Maura, referred to the IOPC Funds and the international liability and compensation regime as one of the big successes of IMO and thanked Dr Ganten, Mr Jacobsson and Mr Oosterveen personally for all that they had done for the organisation.

The Secretary-General of IMO, Mr Kitack Lim, the Chairman of the 1992 Fund Assembly, Mr Gaute Sivertsen, and the Chairman of the Supplementary Fund Assembly, Mr Sung-Bum Kim, presented the awards to the former Directors, each recalling the significant roles they had played in shaping the organisation into the truly international body it has become today.

A number of speeches were given during the afternoon, including acceptance words by the former Directors and congratulatory statements by a number of delegations.



## IOPC FUNDS' 40<sup>TH</sup> ANNIVERSARY CELEBRATORY SESSION – PROGRAMME –

Tuesday, 30 October 2018  
Held at the IMO Headquarters

### MAIN CONFERENCE HALL

**4.30 pm**  
Introductory remarks by Mr José Maura, Director, IOPC Funds.

**4.35 pm**  
A message on behalf of all staff of the Secretariat, by Mr Modesto Zotti, Office Manager, IOPC Funds.

**4.40 pm**  
Award presented to Dr Reinhard Ganten, Director of the 1971 Fund (1978–1984), by Mr Kitack Lim, Secretary-General of the International Maritime Organization.

**4.50 pm**  
Award presented to Mr Måns Jacobsson, Director of the 1971, 1992 and Supplementary Funds (1984–2006), by Mr Gaute Sivertsen, Chairman of the 1992 Fund Assembly.

**5.00 pm**  
Award presented to Mr Willem Oosterveen, Director of the 1971, 1992 and Supplementary Funds (2006–2011), by Mr Sung-Bum Kim, Chairman of the Supplementary Fund Assembly.

**5.10 pm**  
Open floor for interventions.

**5.25 pm**  
Closing remarks by Mr José Maura.

**5.30 pm**  
Celebratory session closes.

### DELEGATES' LOUNGE ON THE FIRST FLOOR

**5.45 pm until 9.00 pm**  
All guests of the celebratory session are invited to join the buffet and cocktail reception.



# Financial Review



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In this section, an explanation is provided as to how the 1992 Fund and Supplementary Fund are administered from a financial point of view.

The 2018 accounts of the 1992 Fund and Supplementary Fund for the period 1 January to 31 December 2018 will be audited by the External Auditor of the IOPC Funds, BDO International, during early 2019 (see Administration section, page 12). The 2018 Financial Statements will then be presented for approval by the respective governing bodies during their sessions in October/November 2019. This section of the 2018 Annual Report therefore contains unaudited key financial figures for 2018.

A summary of the status of the Major Claims Funds that were open in 2018 is also provided.

The full set of audited Financial Statements for 2017 can be found on the IOPC Funds' website ([www.iopcfunds.org](http://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.

## Financial Administration

The 1992 Fund and the Supplementary Fund each have General Funds which cover administrative expenses, 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 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.

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.

The full set of the IOPC Funds' 2017 Financial Statements can be obtained from the Funds' website at [www.iopcfunds.org](http://www.iopcfunds.org) on the 'About us' page, or by contacting the Secretariat.

The financial year runs from January to December, with income and expenditure information for 2018 published in this annual report. The annual accounts are subject to external audit, are reviewed by the Audit Body and presented to the governing bodies for approval at their October/November sessions.



## Financial Highlights for 2018 - 1992 Fund

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

| REVENUE                                      |                   |
|--|-------------------|
| Contributions due in 2018:                   | £                 |
| General Fund                                 | 1 500 000         |
| Agia Zoni II Major Claims Fund               | 26 000 000        |
| Other Revenue:                               | £                 |
| Interest on investments                      | 870 000           |
| Management fee payable by Supplementary Fund | 34 000            |
| <b>Total Revenue</b>                         | <b>28 404 000</b> |

| ADMINISTRATIVE COSTS  |           |
|---|-----------|
| Joint Secretariat   | £         |
| Budget (excluding external audit fees for respective IOPC Funds)      | 4 536 433 |
| Expenditure (excluding external audit fees for respective IOPC Funds) | 4 070 235 |
| External audit fees in respect of 1992 Fund (for 2017 and 2018)       | 86 400    |

| CLAIMS EXPENDITURE 2018         |                   |                            |                   |
|---------------------------------|-------------------|----------------------------|-------------------|
| Incident                        | Compensation      | Claims-related expenditure | Total             |
|                                 | £                 | £                          | £                 |
| <i>Prestige</i> *               |                   | 523 800                    | 523 800           |
| <i>Volgoneft 139</i>            |                   | 1 100                      | 1 100             |
| <i>Hebei Spirit</i> *           |                   | 982 300                    | 982 300           |
| <i>Nesa R3</i>                  | 3 533 700         | 98 500                     | 3 632 200         |
| <i>Alfa I</i>                   |                   | 67 600                     | 67 600            |
| <i>Agia Zoni II</i>             | 9 150 100         | 925 000                    | 10 075 100        |
| Other Incidents                 |                   | 57 300                     | 57 300            |
| <b>Total Claims Expenditure</b> | <b>12 683 800</b> | <b>2 655 600</b>           | <b>15 339 400</b> |

\* including interim reimbursements from the P&I Club for joint costs of £14 276 for *Hebei Spirit* MCF and £19 484 for *Prestige* MCF

## Financial Highlights for 2018 - Supplementary Fund

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

| REVENUE                                 |                |
|---|----------------|
| Contributions due in 2018:              | £              |
| 2006 General Fund reimbursement         | (830 000)      |
| 2016 General Fund                       | 1 500 000      |
| Other Revenue: £                        |                |
| Interest on investments                 | 10 400         |
| <b>Total Revenue</b>                    | <b>680 400</b> |
| ADMINISTRATIVE COSTS                    |                |
| Management fee payable to 1992 Fund     | 34 000         |
| External audit fees (for 2017 and 2018) | 6 400          |



## Summary of Major Claims Funds

The first SDR 4 million for all incidents is paid from the General Fund and covers compensation and claims-related expenditure. Separate Major Claims Funds are established for incidents for which the total amounts payable exceed these amounts. These cumulative incident costs include both General Fund and Major Claims Fund expenditure. All compensation is paid in the currency of the incident – see pages 16-19 for more details of each incident.

### Cumulative incident expenditure to 31/12/2018 (unaudited)

|   | Prestige           | Hebei Spirit       | Volgoneft 139    | Alfa I            | Agia Zoni II      | Nesa R3          |
|---|--------------------|--------------------|------------------|-------------------|-------------------|------------------|
|   | £                  | £                  | £                | £                 | £                 | £                |
| Compensation paid to 31/12/17   | 83 119 382         | 84 113 523         | 4 978 755        | 10 856 126        | -                 | 3 148 410        |
| Compensation paid 2018  | -                  | -                  | -                | -                 | 9 150 131         | 3 533 737        |
| <b>Total compensation</b>   | <b>83 119 382</b>  | <b>84 113 523</b>  | <b>4 978 755</b> | <b>10 856 126</b> | <b>9 150 131</b>  | <b>6 682 147</b> |
| Claims-related expenditure paid to 31/12/17   | 23 572 413         | 35 666 396         | 1 240 353        | 491 143           | 1 113 816         | 208 469          |
| Claims-related expenditure paid 2018  | 523 852            | 982 298            | 1 097            | 67 600            | 925 010           | 98 492           |
| <b>Total Claims-related expenditure paid</b>  | <b>24 096 265</b>  | <b>36 648 694</b>  | <b>1 241 450</b> | <b>558 743</b>    | <b>2 038 826</b>  | <b>306 961</b>   |
| <b>TOTAL expenditure (cash basis, including SDR 4 million paid for each incident from General Fund)</b> | <b>107 215 647</b> | <b>120 762 217</b> | <b>6 220 205</b> | <b>11 414 869</b> | <b>11 188 956</b> | <b>6 989 108</b> |

### Major Claims Fund balances

|   | Prestige          | Hebei Spirit      | Volgoneft 139    | Alfa I             | Agia Zoni II                          | Nesa R3                               |
|---|-------------------|-------------------|------------------|--------------------|---------------------------------------|---------------------------------------|
|   | £                 | £                 | £                | £                  |                                       |                                       |
| Fund balance 31/12/17 (accrual basis - see Financial Statements for more details) | 1 500 214         | 23 374 492        | 3 725 001        | (1 334 869)        | Major Claims Fund established in 2018 | Major Claims Fund established in 2018 |
| Provision for compensation at 31/12/2017, added back                              | 24 857 748        | 18 982 960        | -                | 88 762             |                                       |                                       |
| <b>Fund balance 31/12/17 (adjusted cash basis)</b>                                | <b>26 357 962</b> | <b>42 357 452</b> | <b>3 725 001</b> | <b>(1 246 107)</b> |                                       |                                       |

Major Claims Funds are accounted for on an accruals basis and as such they recognise interest earned on investments, provision for compensation, exchange gains and losses, and other assets and liabilities. Full balance sheets for each Major Claims Fund are published in the Financial Statements.

### Contributions levied to Major Claims Funds

|   | Prestige           | Hebei Spirit       | Volgoneft 139    | Alfa I           | Agia Zoni II      | Nesa R3  |
|---|--------------------|--------------------|------------------|------------------|-------------------|--|
|   | £                  | £                  | £                | £                | £                 |  |
| Contributions levied, due by March 2018 or before | 119 000 000        | 131 500 000        | 7 500 000        | 6 400 000        | 26 000 000        | No levy has been made in relation to this Major Claims Fund, established in 2018 following payments for this incident exceeding SDR 4 million (£3.1 million) paid from loans from the General Fund |
| 2018 levy, due 1 March 2019                       | -                  | -                  | (3 675 000)*     | 1 675 000        | 10 000 000        |  |
| 2018 deferred levy                                | -                  | -                  | -                | -                | 16 000 000        |  |
| <b>Total contributions levied or approved</b>     | <b>119 000 000</b> | <b>131 500 000</b> | <b>3 825 000</b> | <b>8 075 000</b> | <b>52 000 000</b> |  |

Upon the establishment of a Major Claims Fund, the governing bodies can decide to levy contributions (see pages 20-21 for more information on contributions). Levies are usually approved at the October meetings, invoices are issued to contributors in November and payment of contributions is due the following March, except in the case of deferred levies.

\* Reimbursement due to contributors of this Major Claims Fund.



# Acknowledgements

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**International Oil Pollution Compensation Funds**

4 Albert Embankment  
London SE1 7SR  
United Kingdom

Telephone: **+44 (0)20 7592 7100**

Fax: **+44 (0)20 7592 7111**

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

Website: **[www.iopcfunds.org](http://www.iopcfunds.org)**