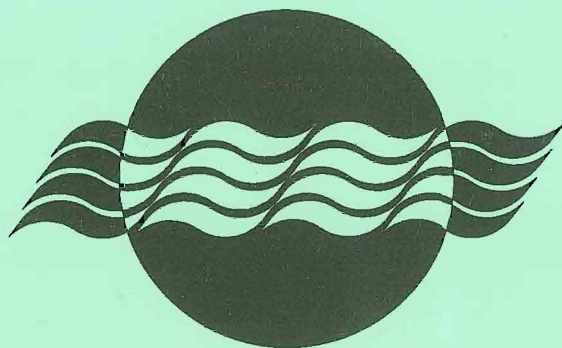


**INTERNATIONAL
OIL POLLUTION
COMPENSATION FUND**

**ANNUAL REPORT
1989**



**REPORT ON THE ACTIVITIES OF THE
INTERNATIONAL OIL POLLUTION
COMPENSATION FUND
IN THE CALENDAR YEAR 1989**

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1 INTRODUCTION

The International Oil Pollution Compensation Fund (IOPC Fund) was set up in October 1978 for the purpose of providing compensation for oil pollution damage resulting from spills of persistent oil from laden tankers. This Annual Report for the calendar year 1989 covers the activities of the IOPC Fund during its eleventh year of operation.

Compensation for damage caused by oil spills from laden tankers is governed by two international conventions, the 1969 International Convention on Civil Liability for Oil Pollution Damage (Civil Liability Convention) and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund Convention). The Civil Liability Convention deals with the liability of shipowners for oil pollution damage. This Convention lays down the principle of strict liability for shipowners and creates a system of compulsory liability insurance. The shipowner is normally entitled to limit his liability to an amount which is linked to the tonnage of his ship. The Fund Convention, which is supplementary to the Civil Liability Convention, establishes a regime for compensation to victims when the compensation under the Civil Liability Convention is inadequate.

The IOPC Fund is a worldwide inter-governmental organisation established to administer the regime of compensation created by the Fund Convention. The organisation has its headquarters in London. Details of the IOPC Fund's organs (the Assembly, the Executive Committee and the Secretariat) are given in Annex I.

The main functions of the IOPC Fund are to provide supplementary compensation to those who cannot obtain full compensation for oil pollution damage under the Civil Liability Convention and to indemnify shipowners for a portion of their liability under that Convention. The compensation payable by the IOPC Fund in respect of any one incident is limited to 60 million Special Drawing Rights (corresponding to £49 million or US\$79 million), including the sum actually paid by the shipowner or his insurer under the Civil Liability Convention.

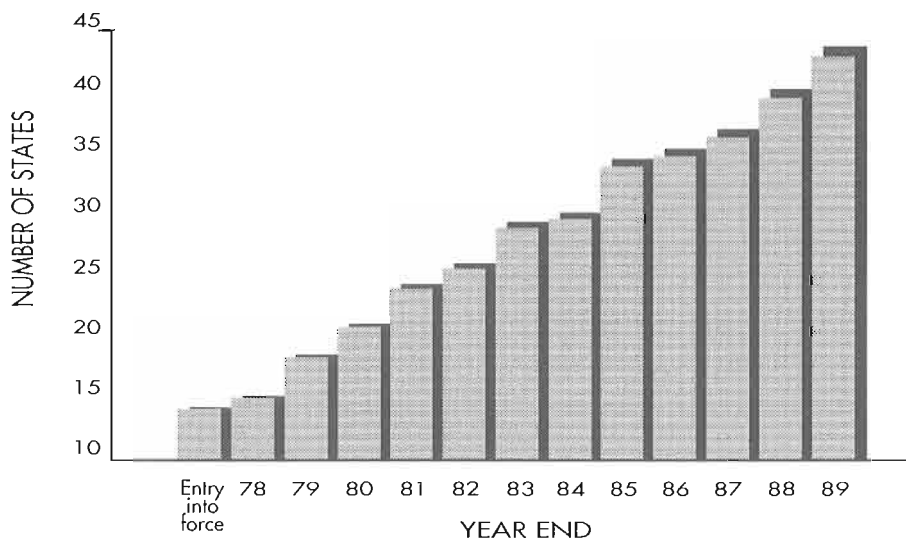
2 MEMBERSHIP OF THE IOPC FUND

At the time of the entry into force of the Fund Convention in October 1978, 14 States were Parties to the Convention and thus Members of the IOPC Fund. Since then, there has been a constant growth in the number of Member States. At the end of 1988, there were 40 Member States.

Three States became Members of the IOPC Fund during 1989. The Fund Convention entered into force for the Republic of Vanuatu on 13 April 1989, for Canada on 24 April 1989 and for the Republic of Cyprus on 24 October 1989, bringing the number of Member States to 43.

The development of the IOPC Fund's membership is illustrated in the following graph.

Membership of the IOPC Fund



As at 31 December 1989, the following 43 States were Members of the IOPC Fund:

Algeria	Monaco
Bahamas	Netherlands
Benin	Nigeria
Cameroon	Norway
Canada	Oman
Côte d'Ivoire	Papua New Guinea
Cyprus	Poland
Denmark	Portugal
Fiji	Qatar
Finland	Seychelles
France	Spain
Gabon	Sri Lanka
Germany, Federal Republic of	Sweden
Ghana	Syrian Arab Republic
Greece	Tunisia
Iceland	Tuvalu
Indonesia	Union of Soviet Socialist Republics
Italy	United Arab Emirates
Japan	United Kingdom
Kuwait	Vanuatu
Liberia	Yugoslavia
Maldives	



Member States of the IOPC Fund as at 31 December 1989

The geographical distribution of Member States is shown on the map reproduced on page 7.

On the basis of the information available to the IOPC Fund's Secretariat, it is expected that several States will join the IOPC Fund in the near future. In Ireland, Parliament has approved the Fund Convention and the necessary implementing legislation. Legislation implementing the Fund Convention is in an advanced stage in Djibouti, the German Democratic Republic, India, Morocco and Saudi Arabia. Many other States are also considering acceding to the Fund Convention.

The Assembly of the IOPC Fund has, over the years, granted observer status to a number of non-Member States. At the end of 1989, the following States had observer status:

Argentina	Ireland
Belgium	Mexico
Brazil	Switzerland
Chile	United States of America
China	Venezuela
German Democratic Republic	

3 CONTACTS WITH GOVERNMENTS

The operation of the IOPC Fund has been greatly facilitated by strong support from the Governments of Member States. As in previous years, the Director's visits to Member States have contributed to the establishment of valuable personal contacts between the IOPC Fund's Secretariat and officials within the national administrations dealing with Fund matters. During 1989, the Director visited eight Member States - Algeria, Canada, Finland, France, Japan, Norway, Sweden and the Union of Soviet Socialist Republics - for discussions with government officials on the Fund Convention and the activities of the IOPC Fund.

As instructed by the Assembly at its 11th session, the IOPC Fund's Secretariat has continued its efforts to increase the number of Member States, taking into account the emphasis placed by the Assembly on the importance of strengthening the financial basis of the Fund. To this end, the Secretariat has tried to convey as much information as possible about the complex compensation system created by the Civil Liability Convention and the Fund Convention to governments and representatives of industry. In 1989, the Director went to Mexico and the United States of America for discussions on the Civil Liability Convention and the Fund Convention with government officials in these States.

The Director and the Legal Officer also had discussions with government representatives of both Member and non-Member States in connection with meetings within the International Maritime Organization (IMO), in particular during the session of the IMO Assembly in October 1989.

At the invitation of the Commandant of the United States Coast Guard, the Director went to the scene of the EXXON VALDEZ incident in Alaska where he followed the clean-up operations for four days in April 1989.

The IOPC Fund's Secretariat has, on request, assisted some non-Member States in the elaboration of the national legislation necessary for the implementation of the Civil Liability Convention and the Fund Convention.

4 RELATIONS WITH INTERNATIONAL ORGANISATIONS AND INTERESTED CIRCLES

As in previous years, the IOPC Fund has benefitted from close co-operation with many international inter-governmental organisations. The assistance and support given by IMO to the IOPC Fund was of special importance also during 1989. The United Nations and IMO are always invited to be represented as observers at the sessions of the Assembly and the Executive Committee. The United Nations Environment Programme (UNEP) and two other inter-governmental organisations, the European Economic Community (EEC) and the International Institute for the Unification of Private Law (UNIDROIT), also have observer status.

Over the years the IOPC Fund has maintained close co-operation with a number of international non-governmental organisations and other non-governmental bodies. The co-operation with the P & I Clubs in connection with the settlement of claims is of great importance. This co-operation is not only in the interest of the IOPC Fund and the Clubs, but also in the interest of claimants, as it contributes to speedy settlements. The International Tanker Owners Pollution Federation Ltd (ITOPF) is usually called upon by the IOPC Fund to provide technical expertise with regard to oil pollution incidents; ITOPF's assistance is crucial, as the IOPC Fund does not have such expertise within its Secretariat. There is also close co-operation between the IOPC Fund and oil industry interests represented by the Oil Companies International Marine Forum (OCIMF) and CRISTAL Ltd. The co-operation between the IOPC Fund and CRISTAL is today even more important than before, in view of the link between the system of compensation governed by the international Conventions and the voluntary industry schemes (TOVALOP and CRISTAL) created by the revision of these schemes in 1987.

The following international non-governmental organisations have observer status with the IOPC Fund:

- Advisory Committee on Pollution of the Sea (ACOPS)
- Baltic and International Maritime Conference (BIMCO)
- Comité Maritime International (CMI)
- Cristal Ltd
- Friends of the Earth International (FOEI)
- International Association of Independent Tanker Owners (INTERTANKO)
- International Chamber of Shipping (ICS)
- International Group of P & I Clubs
- International Tanker Owners Pollution Federation Ltd (ITOPF)
- International Union for the Conservation of Nature and Natural Resources (IUCN)
- Oil Companies International Marine Forum (OCIMF)

5 CONFERENCES AND SEMINARS

During 1989 the Director and the Legal Officer gave lectures at a number of seminars, conferences and workshops on liability and compensation for oil pollution damage and the operations of the IOPC Fund.

The Director took part in the 1989 Oil Spill Conference in San Antonio (United States of America), organised by the United States Coast Guard, the American Petroleum Institute and the United States Environmental Protection Agency, where he presented a paper entitled "The International Oil Pollution Compensation Fund - Ten Years of Claim Settlement Experience". He gave lectures on Liability and Compensation for Oil Pollution Damage and the Operations of the IOPC Fund at a seminar in Mexico City (Mexico) and participated in an oil spill seminar in Ottawa (Canada). He lectured on Liability and Compensation for Oil Pollution Damage to students at the World Maritime University in Malmö (Sweden). The Director gave a lecture on recent developments within the framework of the Civil Liability Convention and the Fund Convention to representatives of the oil industry, shipowners and P & I insurers in Tokyo (Japan). He also made presentations on the IOPC Fund's activities to members of the German Maritime Law Association in Hamburg (Federal Republic of Germany) and to the Nordic Institute of Maritime Law in Oslo (Norway).

The Legal Officer gave a lecture on the Civil Liability Convention and the Fund Convention at a regional seminar on Liability and Compensation for Marine Pollution held in Cartagena (Colombia) under the auspices of the Permanent South Pacific Commission. He also participated in a seminar on Evidence to Court held in Copenhagen (Denmark), sponsored by the European Economic Community, where he lectured on Liability and Compensation for Oil Pollution Damage.

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

In 1984, a Diplomatic Conference held in London adopted two Protocols to amend the Civil Liability Convention and the Fund Convention, respectively. These Protocols provide higher limits of compensation and a wider scope of application than the Conventions in their original versions.

The Protocol to the Civil Liability Convention has been ratified by Australia, the Federal Republic of Germany, France, Peru, St Vincent and Grenadines and South Africa, whereas only France and the Federal Republic of Germany have so far become Parties to the Protocol to the Fund Convention. In the United Kingdom, a bill which would enable the Government to ratify the Protocols has been approved by Parliament, and it is expected that the United Kingdom will soon deposit its instruments of ratification. In the United States of America, a number of bills dealing with liability and compensation for damage caused by oil spills have been submitted to Congress, and the 1984 Protocols are being considered by Congress in that context. Several other States, eg Denmark, Finland, Netherlands, Norway and Sweden, have begun preparing legislation enabling them to ratify the Protocols.

7 ASSEMBLY AND EXECUTIVE COMMITTEE

7.1 12th Session of the Assembly

The Assembly, which is composed of representatives of all Member States, held its 12th session from 25 to 27 October 1989. Mr J Bredholt (Denmark) was re-elected Chairman of the Assembly.

The major decisions taken at this session were as follows.

- (a) The Assembly took note of the opinion given in the External Auditor's Report on the Financial Statements of the IOPC Fund and approved the accounts for the financial period 1 January to 31 December 1988.
- (b) The budget appropriations for 1990, with an administrative expenditure totalling £485 530, were adopted by the Assembly.
- (c) The Assembly unanimously appointed Mr Måns Jacobsson (Sweden) to serve as Director of the IOPC Fund for a second term of office of five years from 1 January 1990.
- (d) The Assembly decided to levy 1989 annual contributions in the amounts of £1.6 million for the general fund, £1.7 million for the THUNTANK major claims fund and £1.5 million for the KASUGA MARU N°1 major claims fund, to be paid by 1 February 1990.
- (e) The following States were elected members of the Executive Committee to hold office until the end of the next regular session of the Assembly:

Bahamas	Liberia
Canada	Monaco
Côte d'Ivoire	Netherlands
Cyprus	Poland
Finland	Spain
Germany, Federal	Sweden
Republic of	Syrian Arab Republic
Japan	Union of Soviet Socialist Republics
- (f) The Assembly decided that the definition of "contributing oil" in Article 1.3 of the Fund Convention should not be construed to cover catalytic cracker feedstock, visbreaker feedstock and aromatic tar.

7.2 22nd Session of the Executive Committee

The Executive Committee is composed of one third of the Member States but of not more than 15 States. The main function of the Committee is to approve settlements of claims against the IOPC Fund, to the extent that the Director is not authorised to make such settlements.

The Executive Committee held its 22nd session from 24 to 25 October 1989 under the chairmanship of Mr P Novia (Italy).

The Executive Committee was informed of the situation in respect of the settlement of claims arising out of pollution incidents involving the IOPC Fund and took note of the settlements made by the Director. In particular, the Committee

discussed the developments that had taken place in the PATMOS, OUED GUETERINI, THUNTANK 5, ANTONIO GRAMSCI and KASUGA MARU N°1 cases. It approved the settlement of a claim submitted by the Swedish Government in the THUNTANK 5 case at an aggregate amount of SKr23.2 million (£2.3 million). The Committee also approved certain claims submitted in the KASUGA MARU N°1 case, totalling ¥388 million (£1.7 million), and authorised the Director to settle the remaining claims in this case.

In the context of the PATMOS and ANTONIO GRAMSCI incidents, the Executive Committee considered the admissibility of claims relating to environmental damage. The Committee also took certain decisions concerning the interpretation of the notion of "pollution damage" with respect to claims arising out of the TSUBAME MARU N°58 and TSUBAME MARU N°16 incidents.

The Executive Committee considered the text of a revised Claims Manual, the purpose of which is to give information of a practical nature to victims of oil pollution damage in respect of the presentation of claims against the IOPC Fund.

7.3 23rd Session of the Executive Committee

At its 23rd session, held on 27 October 1989, the Executive Committee elected Mr W W Sturms (Netherlands) as its Chairman.

8 SECRETARIAT

The Secretariat administers the IOPC Fund and, in particular, deals with claims for compensation. It has at present seven staff members: the Director, the Legal Officer, the Finance/Personnel Officer, three Secretaries and a Messenger.

In October 1984, the Assembly had appointed Mr Måns Jacobsson (Sweden) to the post of Director for the period 1 January 1985 - 31 December 1989. As already mentioned, in October 1989 the Assembly re-appointed Mr Jacobsson to this post for the period 1 January 1990 - 31 December 1994.

9 ACCOUNTS OF THE IOPC FUND

The accounts of the IOPC Fund for the financial period 1 January to 31 December 1988 were approved by the Assembly in October 1989.

The Income and Expenditure Accounts for the period 1 January to 31 December 1988 are shown in Annexes II-IV to this Report.

Regarding the general fund (Annex II), the major part of the income in 1988 consisted of initial and annual contributions (£896 519 out of a total income of £1 318 539). A considerable amount (£337 223) was derived from interest on the investment of the IOPC Fund's assets. The administrative expenditure was £309 789, about 10% less than the budgetary appropriations. Expenditure on minor claims was £705 630. An excess of income over expenditure of £302 205 was recorded for the financial year 1988, and this amount was added to the accumulated surplus from previous years, bringing the surplus to £3 441 432. This latter amount includes the working capital which, during 1988, was £2 million. It should be noted that the



Mr M Jacobsson, Director (left), Mr J Bredholt, Chairman (centre), and Mr K Wada, Legal Officer (right), with other members of the Secretariat during the Assembly



The Assembly in session

working capital was increased to £4 million, with effect from 1 February 1989, as decided by the Assembly in October 1988.

In respect of the TANIO major claims fund (Annex III), an amount of £9 537 856 had been recovered in December 1987 as a result of an out-of-court settlement in a recourse action which the IOPC Fund had taken in France. There was only a small payment of compensation (£87 559) in 1988 from the TANIO major claims fund. The interest on the investment of the assets in the major claims fund totalled £1 100 985. The balance on the TANIO major claims fund was £13 658 916 as at 31 December 1988.

Concerning the BRADY MARIA major claims fund (Annex IV), annual contributions were received in 1988 for a total amount of £400 753. An amount of £105 355 was recovered as a result of recourse proceedings against the owner of the other vessel involved in the BRADY MARIA incident. After allowing for the repayment of a loan of £434 374 taken from the general fund, there was a balance of £54 040 on the BRADY MARIA major claims fund as at 31 December 1988.

The balance sheet of the IOPC Fund as at 31 December 1988 is shown in Annex V to this Report. As at that date, the IOPC Fund's contingent liabilities with respect to pollution incidents were estimated at £7 657 738.

The accounts of the IOPC Fund for the financial period 1 January to 31 December 1989 will be submitted in the spring of 1990 to the External Auditor for an audit opinion, and will be presented to the Assembly for approval at its 13th session, in September 1990. These accounts will then be reproduced in the Report on the Activities of the IOPC Fund for the calendar year 1990.

As in previous years, the accounts were audited by the Comptroller and Auditor General of the United Kingdom.

10 CONTRIBUTIONS

The IOPC Fund is financed by contributions paid by any person who has received more than 150 000 tonnes of crude oil or heavy fuel oil (contributing oil) in a Member State after carriage by sea in the relevant calendar year. The levy of contributions is based on reports on oil receipts in respect of individual contributors which are submitted by Governments of Member States. The contributions are paid by the individual contributors directly to the IOPC Fund. Governments have no responsibility for these payments, unless they have voluntarily accepted such responsibility.

There are initial and annual contributions. Initial contributions are payable when a State becomes a Member of the IOPC Fund on the basis of a fixed amount per tonne of contributing oil received the year preceding that in which the Fund Convention entered into force for that State. This amount was fixed by the Assembly at 0.04718 (gold) francs per tonne (0.003145 SDR, which at 29 December 1989 corresponded to £0.0025640). Annual contributions are levied to meet the anticipated payments of compensation and indemnification by the IOPC Fund and the administrative expenses of the Fund during the coming year.

In October 1988, the Assembly decided to levy 1988 annual contributions in the amount of £2 900 000 for the general fund and in the amount of £90 000 for the JAN major claims fund, to be paid by 1 February 1989. The amount payable by each contributor per tonne of contributing oil received was £0.0036502 in respect of the general fund, based on the quantities of oil received in 1987, and £0.0001097 in respect of the JAN major claims fund, based on the quantities received in 1984 (the year before the incident). Only a small amount of these contributions remains unpaid.

As already mentioned, the Assembly decided, in October 1989, to raise £1.6 million for the 1989 annual contributions to the general fund, £1.7 million for the THUNTANK 5 major claims fund and £1.5 million for the KASUGA MARU N°1 major claims fund, to be paid by 1 February 1990. The amount payable per tonne of contributing oil was £0.0018797 in respect of the general fund, based on the quantities of oil received in 1988, £0.0022037 in respect of the THUNTANK 5 major claims fund, based on the quantities received in 1985, and £0.0018788 in respect of the KASUGA MARU N°1 major claims fund, based on the quantities received in 1987. Only a small part of these contributions had been received by 31 December 1989.

In respect of contributions levied for previous years, the situation must be considered very satisfactory, since only very small amounts are in arrears. On 31 December 1989, only an amount of £65 000 was outstanding, representing less than 0.15% of the contributions assessed for all previous years. In October 1989, the Assembly again expressed its satisfaction with the positive response of contributors regarding the payment of contributions.

The payments made by the IOPC Fund in respect of claims for compensation for oil pollution damage vary considerably from year to year. As a result, the level of contributions to the Fund varies from one year to another, as illustrated in the following table which sets out the contributions levied during the period 1979-1989.

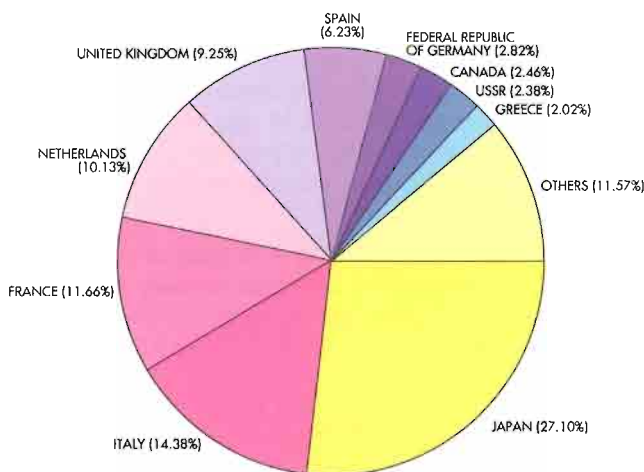
Year	General Fund	Major Claims Funds	Total Levy
	£	£	£
1979	750 000	0	750 000
1980	800 000	9 200 000	10 000 000
1981	500 000	0	500 000
1982	600 000	260 000	860 000
1983	1 000 000	23 106 000	24 106 000
1984	0	0	0
1985	1 500 000	0	1 500 000
1986	1 800 000	0	1 800 000
1987	800 000	400 000	1 200 000
1988	2 900 000	90 000	2 990 000
1989	1 600 000	3 200 000	4 800 000

If contributions levied to a given major claims fund are not totally used for the payments made by the IOPC Fund in respect of the particular incident for which they were levied, the balance is repaid to the contributors. In accordance with a decision taken by the Assembly, an amount of £13.9 million of the balance on the TANIO major claims fund was reimbursed on 1 February 1989 to the persons who paid 1983 contributions to that major claims fund. The high balance resulted from the recovery of an important amount in recourse proceedings.

The quantities of contributing oil received in 1988 in Member States are given in Annex VI to this Report.

The shares of the 1989 annual contributions to the general fund in respect of Member States is illustrated by the following chart.

1989 General Fund Contributions



11 INVESTMENT OF FUNDS

In accordance with the IOPC Fund's Internal Regulations, the Director invests funds which are not required for the short-term operation of the IOPC Fund. The investments are made mainly in Pounds Sterling. The assets are placed on term deposit.

During 1989, investments were made with several leading London banks. Apart from investments placed overnight till the next business day, or for less than three days fixed, the investments were made at interest rates varying from 12.125% to 15.0625% per annum, with an average of 13.45%. Interest due in 1989 on the investments amounted to £913 000, on an average capital of £6.8 million. This interest does not include an amount of £315 028 earned in January 1989 on the balance on the TANIO major claims fund, which was liquidated on 1 February 1989 by reimbursement to contributors.

As at 31 December 1989, the IOPC Fund's portfolio of investments totalled £3 515 158. This amount was made up of the assets of the IOPC Fund, the Staff Provident Fund and a credit balance of £1 060 974 on the contributors' account.

12 SETTLEMENT OF CLAIMS

12.1 General Information

Since its establishment in October 1978 the IOPC Fund has, up to 31 December 1989, been involved in the settlement of claims arising out of 43 incidents. 25 of these incidents occurred in Japan, whereas 13 incidents, leading in general to much larger claims, took place in European waters, one in Indonesia, one in Algeria, one in Canada and two in the Gulf. However, some of these incidents did not result in any payments of compensation by the IOPC Fund. The total amount of compensation and indemnification paid by the IOPC Fund to date is £41 million.

During 1989 six incidents occurred that gave rise to claims against the IOPC Fund, namely the FUKKOL MARU N°12, TSUBAME MARU N°58, TSUBAME MARU N°16, KIFUKU MARU N°103 and DAINICHI MARU N°5 incidents, which took place in Japan, and the NANCY ORR GAUCHER incident which occurred in Canada. All of these incidents resulted in only comparatively small claims.

In addition to these new incidents, there were, as at 31 December 1989, four incidents in respect of which final settlements had not yet been reached, namely: the KOSHUN MARU N°1 (in respect of which only a recourse claim is outstanding), PATMOS, AKARI and AMAZZONE incidents. In addition, there were certain outstanding issues in respect of the ANTONIO GRAMSCI incident.

The most important developments in 1989 related to the final settlement of all claims against the IOPC Fund arising out of four major incidents: the OUED GUETERINI (Algeria, 1986), THUNTANK 5 (Sweden, 1986), ANTONIO GRAMSCI (Finland, 1987) and KASUGA MARU N°1 incidents (Japan, 1988).

The IOPC Fund has become involved in complex legal proceedings in Italy concerning certain claims arising out of the PATMOS incident, which occurred in March 1985 in the Straits of Messina. In these proceedings some important legal issues have arisen. The main outstanding issue relates to a claim submitted by the Italian Government for compensation for damage to the marine environment which was rejected by the Court of first instance. This claim is being considered by the Court of Appeal in Messina.

A claim for compensation can be accepted by the IOPC Fund only to the extent that the claim meets the criteria laid down in the Civil Liability Convention and the Fund Convention. The definition of "pollution damage" laid down in the Conventions is not very clear. However, the IOPC Fund has, over the years, developed certain principles as to the admissibility of claims. The Assembly and the Executive Committee have taken a number of important decisions in this regard. These principles have also been developed by the Director in his negotiations with claimants. The settlements made by the Director and the principles upon which these settlements have been based have either been explicitly approved by the Executive

Committee, or have been reported to and endorsed by the Committee. In this regard reference is made to the IOPC Fund's Annual Report 1988, pages 57-62, which sets out in general terms the policy of the IOPC Fund in respect of the admissibility of claims as developed over the years. It should be noted that the Assembly has expressed the opinion that a uniform interpretation of the definition of "pollution damage" is essential for the functioning of the regime of compensation established by the Civil Liability Convention and the Fund Convention.

Details relating to incidents with which the IOPC Fund has dealt in 1989 are given in Section 12.2 of this Report. The conversion of foreign currencies into Pound Sterling is as at 29 December 1989, except for those claims in respect of which payments have been made; with regard to the latter, conversion is made at the rate of exchange on the date of payment.

Annex VII contains a summary of all incidents with which the IOPC Fund has dealt over the years, and in respect of which the Fund has paid compensation or indemnification, or in respect of which it is possible that such payments will be made by the Fund. It also includes some other incidents in which the IOPC Fund was involved but in respect of which the Fund in the end was not called upon to make any payments.

12.2 Incidents Dealt with by the IOPC Fund during 1989

KOSHUN MARU N°1

(Japan, 5 March 1985)

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

Claims for clean-up costs were agreed in the amount of ¥28 020 909. In September 1985, the IOPC Fund paid ¥26 124 589 (£81 512), representing the total agreed amount of the clean-up costs minus the owner's liability of ¥1 896 320.

According to the findings of the Yokohama Marine Court, part of the blame for the collision fell on the RYOZAN MARU. The IOPC Fund has started negotiations with the owner of that vessel with a view to recovering part of the amount paid in compensation by the Fund. These negotiations have become lengthy, as they also cover personal injury claims resulting from the collision.

Indemnification of the shipowner amounting to ¥474 080 (£2 050) has not yet been paid.

PATMOS

(Italy, 21 March 1985)

The Incident

The Greek tanker PATMOS (51 627 GRT), carrying 83 689 tonnes of crude oil, collided with the Spanish tanker CASTILLO DE MONTEARAGON (92 289 GRT), which was in ballast, off the coast of Calabria in the Straits of Messina (Italy).

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

The owner of the PATMOS and the owner's insurer, the United Kingdom Steamship Assurance Association (Bermuda) Ltd (UK Club), established a limitation fund with the Court of Messina. The Court fixed the limitation amount at Lit13 263 703 650 (£6.5 million).

Claims and Negotiations with Claimants

Claims were lodged against the limitation fund, totalling Lit76 112 040 216 (£37.2 million).

There were 30 claims which clearly related to costs for clean-up operations or to preventive measures as defined in the Civil Liability Convention, totalling approximately Lit14 000 million (£6.8 million). In February 1986, all but two claims in this category were settled at a total of Lit4 140 189 659 (£2.0 million).

Twelve claims totalling about Lit40 000 million (£19.6 million) related to costs of operations which, in the IOPC Fund's view, would normally be considered as salvage operations and related measures. The IOPC Fund took the position that these twelve claims did not relate to operations which had the prevention of pollution as their primary purpose and rejected these claims.

A claim of Lit20 000 million (£9.8 million), later reduced to Lit5 000 million (£2.4 million), was submitted by the Italian Government for damage to the marine environment. The Italian Government did not provide any documentation indicating the kind of damage which had allegedly been caused or the basis on which the amount claimed had been calculated. The IOPC Fund Assembly had in 1980 unanimously adopted a Resolution stating that the assessment of compensation to be paid by the IOPC Fund was not to be made on the basis of an abstract quantification of damage calculated in accordance with theoretical models. In view of this Resolution, the IOPC Fund rejected this claim.

First Decision by the Court

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

Opposition Proceedings

Oppositions to the decision of 18 February 1986 were lodged by eight claimants. The Court of first instance rendered its judgement in respect of the oppositions on 30 July 1986. With regard to the claims relating to salvage operations, the Court rejected some of these claims and accepted some in reduced amounts.

The Court rejected the claim by the Italian Government relating to damage to the marine environment.

The aggregate amount of the claims as accepted by the Court of first instance was Lit5 797 263 479 (£2.8 million).

Appeal Proceedings

Appeals against the judgement of 30 July 1986 were lodged with the Court of Appeal in Messina by six claimants, including the Italian Government, whose claims had been wholly or partly rejected in opposition.

Out-of-Court Settlements During Appeal Proceedings

Esso (the owner of the cargo on board the PATMOS), whose claim had been totally rejected by the Court of first instance, claimed in appeal a total of Lit22 628 039 202 (£11.1 million). One item of this claim, amounting to Lit13 280 million (£6.5 million), related to a salvage reward due by Esso to the salvors in subrogation of the latter. In its judgement the Court of first instance made a general statement to the effect that salvage operations could not be considered as preventive measures, since the primary purpose of such operations was that of rescuing ship and cargo; this applied even if the operations had the further effect of preventing pollution. On the basis of this position of principle, the Court of first instance rejected some of these claims (including that of Esso) and accepted some in reduced amounts. In January 1988, an out-of-court settlement was reached in respect of Esso's claim for a total amount of Lit4 939 742 171 (£2.4 million), inclusive of interest, devaluation and costs. Under the settlement, no payment was made in respect of the salvage reward. In the record of the court hearing at which the settlement was approved, it was stated that Esso waived its claim in respect of remuneration for salvage.

In November 1988, a further out-of-court settlement was reached in respect of a claim submitted by the owner of a Libyan vessel who had claimed compensation for loss resulting from that vessel having to be moved from a shipyard in order to leave room for the PATMOS.

Outstanding Claims in Appeal Proceedings

As mentioned above, the Italian Government appealed against the decision of the Court of first instance rejecting the Government's claim in respect of damage to the marine environment. The Italian Government maintained that the damage was a violation of the right of sovereignty over the territorial sea of the State of Italy. The Court of first instance stated that this right was not one of ownership and could not be violated by acts committed by private subjects. In addition, the Court declared that the State had not suffered any loss of profit nor incurred any costs as a result of the alleged damage to the territorial waters, or the fauna or flora. The State had, therefore, not suffered any economic loss. The Court also drew attention to the above-mentioned Resolution adopted by the IOPC Fund Assembly. For these reasons the Court rejected this claim.

In the appeal proceedings the Italian Government has taken the position that this claim relates to actual damage to the marine environment and to actual economic loss suffered by the tourist industry and fishermen. For this reason, the Italian Government has maintained that the claim is not in contravention of the interpretation of the definition of pollution damage adopted by the Assembly in that Resolution.

In October 1988, the Executive Committee reiterated the IOPC Fund's position that a claimant was entitled to compensation under the Civil Liability Convention and the Fund Convention only if he had suffered quantifiable economic loss. In view of the position of the Italian Government that this claim relates to actual damage to the marine environment, the Committee referred to the interpretation of the definition of pollution damage laid down in the Resolution. With regard to the economic loss which had allegedly been suffered by the tourist industry and fishermen, the Committee expressed the opinion that compensation in respect of such damage could only be claimed by the individual person having suffered the damage who, in addition, had to prove the amount of the economic loss sustained.

The Italian Government's claim was dealt with by the Court of Appeal in a non-final judgement, rendered on 30 March 1989. In that judgement the Court stated that the owner of the PATMOS, the UK Club and the IOPC Fund were liable for the damage covered by the claim made by the Italian Government. By order of the same date, the Court appointed three experts with the task of ascertaining the existence, if any, of damage to the marine resources off the coasts of Sicily and Calabria consequent on the oil pollution; if such damage existed, they should determine the amount thereof or, in any case, supply any useful element suitable for the equitable assessment of the damage. The report of the experts should be submitted to the Court by 16 January 1990.

In respect of a non-final judgement of this kind, a party may, under Italian law, *either* make an immediate appeal to the Supreme Court *or* reserve the right to appeal as to the question of principle addressed by the non-final judgement in conjunction with appeal against the final judgement to be rendered by the Court of Appeal. The IOPC Fund decided to reserve the right to appeal before the Supreme Court. The owner of the PATMOS and the UK Club took the same decision.

In October 1989, the Executive Committee expressed its concern about this non-final judgement. The Committee reiterated the position taken in 1988 in respect of the Italian Government's claim.

In addition to the Italian Government's claim, there are three claims subject to appeal proceedings, totalling approximately Lit690 million (£340 000).

Present Situation Regarding the Claims

The aggregate amount of the claims accepted by the Courts is Lit9 418 318 650 (£4.6 million). The rejected claims maintained in the appeal proceedings total Lit5 735 268 884 (£2.8 million). The total amount of the claims against the limitation fund is thus Lit15 153 587 534 (£7.4 million). As already mentioned, the limitation amount is Lit13 263 703 650.

During 1986, the UK Club made payments for the claims in respect of which the decision of the Court had become final. Further payments were made by the UK Club during 1988, following two out-of-court settlements. The total amount paid to claimants by the UK Club stands at Lit9 436 318 650 (£4.6 million).

Recourse Action

Legal proceedings concerning liability and compensation for damage arising out of the collision between the PATMOS and the CASTILLO DE MONTEARAGON

were initiated in the Court of Genoa. After a settlement had been reached between the two shipowners and related interests, the legal actions were withdrawn.

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

OUED GUETERINI

(Algeria, 18 December 1986)

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

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

The owner of the power station (SONELGAZ) brought legal action in the Court of Algiers against the UK Club (the shipowner's P & I insurer) and the IOPC Fund. The Court fixed the limitation amount of the shipowner's liability at 1 175 064 Algerian Dinars (£91 000). The limitation fund was constituted by the UK Club by means of a bank guarantee.

SONELGAZ submitted a claim totalling Din5 278 525 (£409 850) relating to damage to equipment in the power station, costs for cleaning or replacing some equipment and loss of profit as a result of the closure of the station. The main part of the claim (Din4 088 000) related to such loss of profit.

In the court proceedings, the UK Club maintained that the shipowner should be exonerated from liability in respect of this incident, in accordance with Article III.2(b) of the Civil Liability Convention. The Club argued that the damage was wholly caused by an act or omission done with intent to cause damage by a third party, ie the operator of the oil terminal where the unloading took place, since the operator had continued to discharge oil in spite of the grave risk caused by the location of this terminal near the water intake of the power station, evidenced by similar incidents in the past. The IOPC Fund rejected this defence on the ground that the circumstances in this case could not be considered as being covered by Article III.2(b). This defence was not pursued by the Club.

The IOPC Fund and the UK Club engaged external experts to assess the claim made by SONELGAZ, in particular as regards loss of profit. This assessment raised many difficult questions, eg the quantification of the loss of production resulting from the closure of the power plant, and the establishment of the price per KWh to be applied for the calculation of the loss of profit. The damage to the equipment of the power station had resulted in certain expenses for SONELGAZ in US dollars and French Francs, whereas the major part of the loss, in particular the part relating to loss of profit, had been sustained in Algerian Dinars. After lengthy negotiations, the claim submitted by SONELGAZ was settled in June 1989 at US\$1 133 plus FF708 824 plus Din2 706 480.

Under the settlement agreement, payment had to be made within fifteen days of the Court of Algiers approving the agreement. The agreement was submitted to the Court in June 1989; however, the Court's approval was not given until 19 September 1989. On 21 September 1989, the IOPC Fund paid SONELGAZ the amount agreed minus the limitation amount applicable to the shipowner, or a total of £195 183.

A claim was also submitted by the owner of the OUED GUETERINI in the amount of Din5 650 (£440) in respect of costs for clean-up operations. This claim was accepted by the UK Club and the IOPC Fund, and was paid by the Club in 1988.

The indemnification of the shipowner, amounting to Din293 766 (£22 800), has not been paid by the IOPC Fund, as the shipowner's payment of the limitation amount to SONELGAZ has not yet been confirmed.

THUNTANK 5

(Sweden, 21 December 1986)

The Swedish vessel THUNTANK 5 (2 866 GRT), carrying 5 024 tonnes of heavy fuel oil, ran aground in very bad weather outside Gävle, on the east coast of Sweden, 200 kilometres north of Stockholm. The tanker was severely damaged, and there was a considerable risk that the ship would break up. However, after about half the cargo had been transferred to another vessel, the THUNTANK 5 was refloated. Most of the remaining cargo was then transferred to the other vessel, and the THUNTANK 5 was towed to a safe port. It was estimated that 150-200 tonnes of oil escaped as a result of the incident.

Due to the difficult weather conditions with ice and snow, clean-up operations were postponed until the beginning of April 1987. By then the oil had affected various areas along a 150 kilometre stretch of coast around Gävle, including a number of small islands. The polluted areas were very difficult to clean, since they consisted mainly of stones and rough rocks, which had to be scraped manually. The oil which remained was then removed by hot water washing or high pressure steam washing. The clean-up operations on the coast were mainly completed in late September 1987. However, in May 1989 oil from the THUNTANK 5 polluted a few kilometres of coast-line, necessitating further clean-up operations which lasted two weeks.

A small quantity of oil - estimated at 20-40 tonnes - was found on the sea bed at a depth of between 8 and 16 metres, close to where the vessel had grounded. As it was feared that the sunken oil might resurface and pollute the coast, attempts were made by the Swedish Coast Guard in April and May 1987 to collect this oil, firstly by divers working manually and, later, by hydraulic pumping. In view of the very high costs and the small quantities of oil collected, the Swedish authorities called off these operations. The cost of the operations amounted to SKr1 295 995 (£129 800). The Swedish Government did not include these costs in the claim, since it considered the operations in April and May 1987 as of an experimental character carried out at the Swedish Government's own expense. In August 1987, parts of the sunken oil resurfaced. The Coast Guard had by then developed new equipment for the recovery of this oil, and the operations were resumed. These operations, which were more successful than the earlier attempts, were completed at the end of August 1987.



THUNTANK 5 Incident - Manual clean-up operations



THUNTANK 5 Incident - Hot water washing of polluted rocks

The official investigation into the cause of the incident showed that the grounding was due to an error by the master of the THUNTANK 5 in the navigation of the ship.

The Swedish Government took legal action against the owner of the THUNTANK 5 in the City Court of Stockholm. The Court established the limit of the shipowner's liability at SKr2 741 746 (£274 600). Under Swedish law, an extra amount should be added to cover interest and costs, and the Court fixed that additional amount at SKr700 000 (£70 100). The limitation fund was constituted by the shipowner's insurer (the Skuld Club) by means of a letter of guarantee.

The Swedish Government submitted its claim in July 1988, at an aggregate amount of SKr24 992 884 (£2.5 million). This claim covered the operations of the Swedish Coast Guard and the on-shore operations undertaken by the municipalities concerned. An additional claim, in the amount of SKr114 949 (£11 500), relating to the clean-up operations carried out in May 1989, was presented in August 1989.

The Swedish Government's claim gave rise to some important issues, viz questions relating to the tariffs applied in respect of oil combating vessels owned by public authorities which took part in the operations at sea and to the rates for personnel of Government agencies used for clean-up operations. These items related partly to "fixed costs", ie costs which would have arisen for the Swedish authorities even if the incident had not occurred, as opposed to "additional costs", ie expenses incurred solely as a result of the incident and which would not have arisen had the incident and the operations relating thereto not taken place.

The question of the admissibility of claims for compensation for fixed and additional costs has been considered by the IOPC Fund in relation to a number of incidents. The position taken by the Assembly and the Executive Committee in this regard can be summarised as follows (cf the 1988 Annual Report, pages 59-60). Additional costs are always recoverable under the Civil Liability Convention and the Fund Convention. In addition a reasonable proportion of fixed costs are recoverable, since it is in the interest not only of the particular State but also of the IOPC Fund that a State maintains a response force in order to be able to respond quickly and cheaply in the event of a spill. In the calculation of the relevant fixed costs only those expenses which correspond closely to the clean-up period in question and which do not include remote overhead charges should be included. The Assembly has stressed the necessity of a restrictive approach to fixed costs.

In the negotiations with the Swedish Government in connection with the THUNTANK 5 incident, the Director based his approach on the position taken by the Assembly and the Executive Committee. The Director considered that certain tariffs applied in respect of oil combating vessels owned by public authorities were too high. After discussions, the Swedish Government agreed to considerable reductions in these rates. The Director also considered that the rates for personnel of Government and municipal agencies used for clean-up operations were not acceptable, as they contained elements of general overheads and other costs not directly related to the clean-up operations. In view of the Director's position, the Swedish Government conceded that certain elements of its claim related to general overheads or remote costs, and reduced its claim by the amounts which related to such elements. It should

be noted that the amounts originally claimed had been calculated on the basis of tariffs issued by the Swedish Customs Board, as authorized by Statute.

The negotiations held between the Swedish Government and the Director resulted in the claim being settled at a total amount of SKr21 931 232 (£2.2 million) plus interest. This settlement was approved by the Executive Committee in October 1989.

On 2 November 1989 the IOPC Fund paid SKr23 168 271 (£2 291 257) to the Swedish Government, representing the accepted amount of the claim minus the shipowner's limitation amount plus interest (SKr3 978 785).

Claims totalling SKr51 469 (£5 150) were submitted by seven fishermen and two other private claimants. They related to compensation for destroyed equipment, costs of cleaning polluted equipment and loss of earnings due to polluted catches. These claims were accepted at an aggregate amount of SKr49 361 (£4 925). Seven of the claims were paid in December 1987, one in February 1988 and one in August 1988.

Indemnification of the shipowner, SKr685 437 (£68 393), was paid by the IOPC Fund to the Skuld Club in December 1989.

ANTONIO GRAMSCI

(Finland, 6 February 1987)

The USSR tanker ANTONIO GRAMSCI (27 706 GRT), loaded with 38 445 tonnes of crude oil, grounded near Borgå on the south coast of Finland. It is estimated that 600-700 tonnes of the cargo escaped as a result of the incident.

Oil combating vessels were sent to the area on 9 February 1987. Under the prevailing icy weather conditions, it was extremely difficult to recover the spilt oil. Operations for this purpose were carried out by the Finnish authorities during February and March, but they had to be suspended several times, due to weather conditions. At the end of May, on-shore clean-up operations were carried out on the Finnish coast, east of the grounding site.

In May, a USSR oil combating vessel was deployed in Soviet territorial and international waters, off the coast of Estonia, in an attempt to recover films of oil from the water surface. This operation was abandoned after a few days, due to a deterioration in the weather conditions and an assessment that the oil films were too thin for the effective use of this equipment. It was reported that some 40 tonnes of oil were recovered during this period.

According to the results of the official Finnish investigation into the cause of the incident, the grounding was due to a misunderstanding between the master of the ANTONIO GRAMSCI and the pilot.

A limitation fund amounting to Rbls2 431 854 (£2.5 million) was established with the Court in Riga (USSR) on behalf of the owner of the ANTONIO GRAMSCI, for the purpose of limiting his liability under the Civil Liability Convention.

Since the USSR was not Party to the Fund Convention on the date of the incident, pollution damage in the USSR, including measures taken to prevent or



ANTONIO GRAMSCI Incident - Finnish coastguard vessel monitoring oil



AKARI Incident - Beach clean-up operations

minimise pollution damage in the USSR, is not covered by the Fund Convention. However, claims in respect of pollution damage in the USSR will be compensated under the Civil Liability Convention and will compete with claims in respect of pollution damage in Finland for the amount available in the limitation fund set up under that Convention. For this reason, the amount of compensation paid under the Civil Liability Convention for pollution damage in the USSR is of importance in establishing the extent of the IOPC Fund's obligation to pay compensation for pollution damage in Finland.

A claim amounting to FM22 124 415 (£3.4 million) was made by the Finnish authorities against the IOPC Fund as well as against the owner of the ANTONIO GRAMSCI.

The claim submitted by the Finnish Government raised the same issues as were dealt with in connection with the THUNTANK 5 incident, ie the tariffs applied in respect of oil combating vessels owned by public authorities and the rates of personnel of Government agencies used for clean-up operations. The IOPC Fund took the same position on these points as in the THUNTANK 5 case. In view of the Fund's arguments, the Finnish Government reduced its claim in respect of a number of items to amounts which the Fund considered reasonable.

A major part of the claim related to the purchase of equipment and materials which were not actually used during the operations resulting from the ANTONIO GRAMSCI incident. The Finnish Government originally argued that the total cost of these purchases should be charged to the ANTONIO GRAMSCI incident. The IOPC Fund took the view that, even if it were accepted that it was reasonable to purchase all the equipment and materials covered by the claim, it was unreasonable to charge the total purchase cost to this incident. The IOPC Fund maintained that reasonable hire charges should be met for equipment which was actually used but which had a considerable remaining value after the completion of the operations, and stand-by rates for equipment which was not used but was reasonably placed on stand-by. After lengthy discussions, the Finnish Government accepted the Fund's position.

The Finnish Government's claim originally contained an item of FM2 146 000 (£329 300) relating to environmental research. The IOPC Fund objected to this item since, in its view, the cost of environmental research was not covered by the definition of "pollution damage" as laid down in the Civil Liability Convention. The Finnish Government did not pursue this item of the claim further.

Discussions were also held concerning losses suffered by 19 Finnish fishermen, totalling FM91 554 (£14 050). These losses related mainly to costs incurred for cleaning polluted salmon traps. The IOPC Fund requested more information so as to enable it to establish whether the salmon traps were actually polluted by oil from the ANTONIO GRAMSCI. However, the IOPC Fund was later informed that no claims would be pursued in respect of these losses.

In August 1989, agreement was reached between the Finnish Government, on the one side, and the IOPC Fund and the P & I insurer, on the other, to settle the claims submitted by the Finnish Government at a total amount of FM9 758 250 (£1 497 470). This settlement was accepted in October 1989 by all the parties concerned.

With regard to the damage caused in the USSR, three claims were submitted, totalling Rbls2 456 486 (£2 484 050).

A claim for Rbls1 176 817 (£1 190 000) related to the operating costs for a vessel used to collect oil in Soviet territorial waters. The P & I insurer and the IOPC Fund considered that the amounts claimed in respect of certain elements of this claim were not reasonable. In October 1989, this claim was settled at Rbls500 000 (£505 600).

A claim in the amount of Rbls567 469 (£537 850) covered the use of two vessels for clean up operations. The IOPC Fund and the insurer have not yet received satisfactory explanations in respect of certain elements of the claim. Consequently, this claim is still outstanding.

A claim relating to environmental damage was submitted by the Estonian State Committee for Environmental Protection and Forestry. The amount claimed (Rbls712 200, corresponding to £720 200) had been arrived at by the application of a formula, the so called "metodika", in accordance with Soviet legislation, under which the assessment of the damage is linked to the quantity of the oil collected in the USSR territorial waters.

A similar claim was made by the USSR authorities in a USSR Court in connection with the first ANTONIO GRAMSCI incident which took place in February 1979 and caused pollution damage in Sweden, Finland and the USSR. After having examined the question of the admissibility of claims for damage to the marine environment, the IOPC Fund Assembly in 1980 unanimously adopted a Resolution stating that "the assessment of compensation to be paid by the IOPC Fund is not to be made on the basis of an abstract quantification of damage calculated in accordance with theoretical models". Following the adoption of this Resolution, a special Working Group set up to consider the admissibility of claims came to the conclusion that compensation for environmental damage could be granted only if a claimant had suffered quantifiable economic loss. The position taken by the Working Group was endorsed by the Assembly in 1981.

The Estonian State Committee's claim was discussed by the Executive Committee in October 1988. Referring to the above-mentioned Resolution, the Executive Committee expressed its objection to this claim. In the view of the Committee, claims of this kind were not admissible under the Civil Liability Convention, because the claimant had not suffered any quantifiable economic loss. The Executive Committee considered that it was likely that, since the adoption of that Resolution, some Member States had refrained from submitting claims relating to damage to the marine environment, in view of the interpretation of the notion of "pollution damage" adopted by the Assembly. The Executive Committee instructed the Director to negotiate with the USSR authorities on the basis of this Resolution.

This claim was also questioned by the IOPC Fund and the P & I insurer with regard to the application of the "metodika". The calculation of the amount of damage claimed was based on the quantity of oil allegedly collected in USSR territorial waters. The experts used by the IOPC Fund and the insurer maintained, however, that the quantity of oil actually collected in USSR territorial waters was less than the quantity used for the purpose of these calculations. In addition, it was argued that the quantity collected consisted partly of water.

During the negotiations that took place in 1989, the Estonian State Committee maintained its claim, on the ground that the claim was based on the "metodika" which formed part of Soviet law and which therefore had to be applied by the USSR courts. However, the Estonian State Committee re-examined the documentation and found that the observations of the IOPC Fund and the insurer as to the calculations were justified. The Committee therefore revised the calculations and reduced the amount claimed from Rbls712 200 to Rbls436 448 (£441 350).

In October 1989, the Executive Committee reiterated its objection to the claim submitted by the Estonian State Committee. The Executive Committee was of the opinion that it would be possible for the IOPC Fund to intervene in the court proceedings in the Court of Riga in order to challenge the claim submitted by the Estonian State Committee on the ground that the claim was at variance with the definition of "pollution damage" in the Civil Liability Convention, as interpreted by the IOPC Fund Assembly. However, the Executive Committee recognised that such an intervention would raise a number of complex legal issues and would be very costly. It also took into account the fact that the USSR was not Party to the Fund Convention at the time of the incident. In addition, the Executive Committee recognised that, in view of the reductions in the Finnish Government's claim and in the Estonian State Committee's claim, the financial consequences for the IOPC Fund of an acceptance by the Court of the Estonian State Committee's claim would be rather limited. For these reasons, the Executive Committee decided that the IOPC Fund should not intervene in the proceedings in the Court of Riga to challenge the latter claim. The Executive Committee instructed the Director to inform the Court of Riga, in an appropriate way, of the position of the IOPC Fund in respect of this claim and, in particular, of the principles embodied in the 1980 Resolution.

In the context of its examination of the Executive Committee's report to the Assembly, the Assembly endorsed the position taken by the Committee in respect of these principles.

SOUTHERN EAGLE

(Japan, 15 June 1987)

The Panamanian tanker SOUTHERN EAGLE (4 461 GRT), carrying 3 000 tonnes of lubricating oil, collided with the Liberian vessel GOOD FAITH (9 187 GRT) off Sada Misaki on the western coast of Shikoku (Japan). As a result of the collision, the SOUTHERN EAGLE sustained damage to one fuel tank and spilled approximately 15 tonnes of bunker oil into the sea.

Claims were submitted for clean-up costs in the amount of ¥37 189 390 (£160 470) and for fishery damage in the amount of ¥94 800 000 (£409 060).

The limitation amount of the SOUTHERN EAGLE was ¥93 874 528 (£405 070).

The claims were settled in early 1989 at a total amount of ¥86 867 862 (£374 830), ie an amount lower than the limitation amount applicable to the vessel. Since the SOUTHERN EAGLE was registered in a State which was not Party to the Fund Convention, no indemnification was payable under Article 5 of the Fund Convention. Consequently, the IOPC Fund was not called upon to make any payments in respect of this incident.

AKARI

(United Arab Emirates, 25 August 1987)

While outside Dubai (United Arab Emirates), the Panamanian coastal tanker AKARI (1 345 GRT) had a switchboard fire resulting in a loss of electrical power and of the use of the main engines. The ship took in water and was towed towards the port of Jebel Ali, where she was refused entry. The AKARI was then towed along the coast. Since the vessel was listing badly, she was beached to the east of the port of Jebel Ali with tug assistance. Approximately 1 000 tonnes of her cargo of heavy fuel oil escaped before the AKARI was refloated. The remaining cargo was then transferred to another vessel, and the AKARI was towed back to the port of Jebel Ali.

It was estimated that 30-40 kilometres of the coast were polluted as a result of the incident. Clean-up operations at sea were undertaken by the Dubai Petroleum Company and the Coast Guard. Booms were deployed to protect the water intakes of a power station and an aluminium plant. Both plants provide desalinated water for Dubai, and some contamination which required clean-up inside the plants was reported. However, no contamination of desalinated water occurred and the plants remained operational. On-shore clean-up was undertaken by the local authorities and continued over a period of some five weeks. Certain anti-pollution measures were undertaken by the company which salvaged the AKARI.

Claims for clean-up costs, totalling approximately £304 440, have been submitted to the shipowner's P & I insurer (Shipowners' Mutual Protection and Indemnity Association Ltd) by several private claimants and local authorities. It is possible that further claims will be presented. No legal action has been taken against the shipowner or the insurer under the Civil Liability Convention.

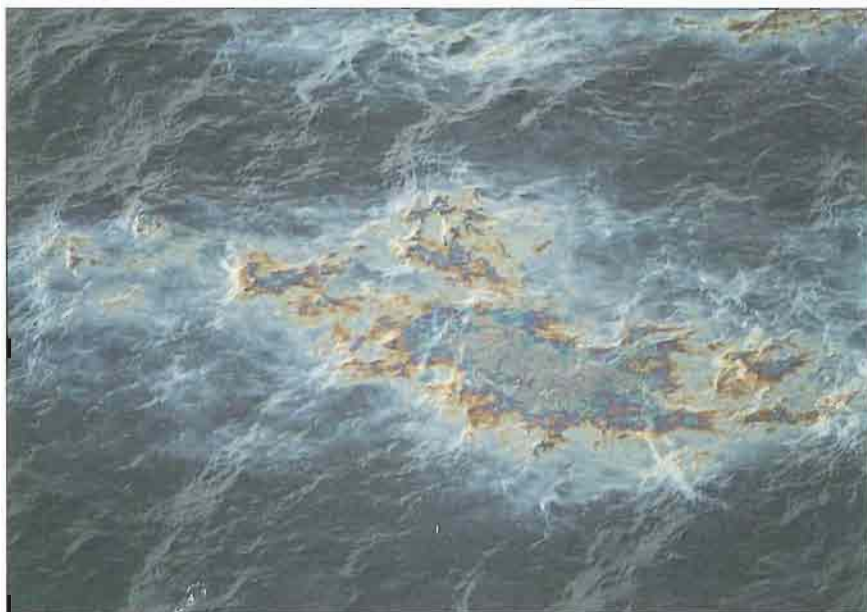
The IOPC Fund has not received any claims from victims but has obtained some claim documents from the P & I Club. The Director has requested further information from the Club on a number of points.

According to information given to the IOPC Fund in the spring of 1989 by the lawyer acting for the shipowner, the claims for compensation would not be pursued. However, further investigations carried out by the Director indicate that it cannot in fact be ruled out that claims would be actively pursued against the shipowner and the insurer, and consequently also against the IOPC Fund.

The limitation amount of the shipowner's liability under the Civil Liability Convention is estimated at approximately £115 000. No limitation fund has been established so far.

The Director has held several meetings with those representing the P & I Club and the shipowner to discuss the legal problems involved. These discussions have not resulted in any agreement on the issues raised by the incident.

The investigations undertaken by the IOPC Fund have shown that it is likely that the owner is financially incapable of meeting his obligations under the Civil Liability Convention.



KASUGA MARU N°1 Incident - Oil surfacing from sunken tanker



KASUGA MARU N°1 Incident - Beach polluted by oil balls

HINODE MARU N°1

(Japan, 18 December 1987)

The Japanese coastal tanker HINODE MARU N°1 (19 GRT), carrying a cargo of heavy fuel oil, spilled approximately 25 tonnes of cargo oil into the sea in the port of Yawatahama on the western coast of Shikoku (Japan). The cause of the incident appears to be a mishandling of a cargo hose by the crew.

Clean-up operations were carried out in the port by private contractors. As a result of the incident, several fishing vessels were polluted and had to be cleaned. Claims for these operations, totalling ¥3 301 225 (£14 250), were submitted to the shipowner and paid in full by him.

The limitation amount of the HINODE MARU N°1 was ¥608 000 (£2 600).

The claims were settled for a total amount of ¥2 455 225 (£10 600). In July 1989, the IOPC Fund paid ¥1 847 225 (£8 133), representing the total amount of the agreed claims minus the owner's liability of ¥608 000.

In view of the disproportionately high legal costs that would be incurred in establishing the limitation fund compared with the low limitation amount under the Civil Liability Convention, the Executive Committee decided that the IOPC Fund could, as an exception, pay compensation in this case without the limitation fund being established.

Indemnification of the shipowner, amounting to ¥152 000 (£674), was paid in November 1989.

AMAZZONE

(France, 31 January 1988)

During the night of 30 to 31 January 1988, the Italian tanker AMAZZONE (18 325 GRT) was damaged in a severe storm off the west coast of Brittany (France). The vessel was on a voyage from Libya to Antwerp (Belgium), carrying about 30 000 tonnes of heavy fuel oil. Several covers were lost from the butterworth holes (access points for tank washing) of two cargo tanks and, as a result, approximately 2 000 tonnes of the cargo escaped, displaced by sea-water entering the open holes. Over the following three to four weeks, oil came ashore in patches along 450-500 kilometres of coastline, affecting four different Departments in France (Finistère, Côtes-du-Nord, Manche and Calvados) and the Channel Islands (Jersey and Guernsey).

It was not possible to combat the oil at sea due to severe weather conditions and the nature of the oil, which was not amenable to dispersants. After the weather had moderated, the Navy attempted to recover oil off the coast of Finistère, but these attempts were later abandoned as they proved to be ineffective.

In order to cope with the widespread pollution onshore, the French national oil spill contingency plan, PLAN POLMAR, was activated in Finistère, in Côtes-du-Nord and on the Cherbourg Peninsula. In the Calvados area of Normandy, the level of pollution was not considered sufficiently severe to merit activating PLAN POLMAR, and the clean-up was handled on a local basis. The clean-up operations were carried

out by personnel drawn from local fire brigades, the Army, the Civil Defence and the Ministry of Public Works supported by local authorities.

In Finistère, booms were deployed to protect the mouths of the three main rivers. For the most part, the shore was cleaned manually. In some areas specialised equipment was used to clean oiled cobbles. Most of the clean-up was completed by the end of February, but the cobble cleaning continued into March. In Côtes-du-Nord, the major river estuaries were boomed. The north and east coasts were affected by the oil, the length of patchily oiled coast totalling about 120 kilometres. The coast was cleaned over a period of approximately two weeks. As for the Cherbourg Peninsula, it is estimated that 200-300 tonnes of balls of oiled weed came ashore along approximately 60 kilometres of coast. Clean-up operations started on 12 February and continued until the beginning of March 1988. More than 3 000m³ of oil mixed with sand, stones and weed were collected, using a combination of manual and mechanical techniques. On the Calvados coast of Normandy, the oil was scattered along about 45 kilometres of the coast. Clean-up operations were completed by 5 March 1988.

Throughout the affected area, mariculture, commercial fisheries, important recreational beaches and holiday resorts are widespread. Despite this and the length of coast affected, it is the opinion of the IOPC Fund's experts that the impact on these commercial resources and the marine environment in general was minimal.

As for the island of Guernsey, five to ten kilometres of coast were contaminated. About 500m³ of oily debris were collected. In Jersey, approximately fifteen kilometres of coast were contaminated with weed mixed with oil. A total of some 65m³ of oily waste was collected.

The Commercial Court of Antwerp (Belgium) appointed a legal expert with the task of establishing the cause of the incident. An investigating judge (juge d'instruction) in Paris appointed two technical experts for the same purpose. The findings of the Courts have not yet been published.

The limitation amount of the shipowner's liability was provisionally fixed by the Court in Brest at FFfr13 612 749 (£1 459 030). The limitation fund was constituted on 12 February 1988 in the Court by the shipowner's insurer (the Standard Steamship Owners' Protection and Indemnity Association Ltd) by payment of the above-mentioned amount into the Court.

After the instruments on the tonnage measurement had been examined, it was established that the limitation amount should be increased to FFfr13 860 369 (£1 485 570). A request by the Standard Club for an adjustment of the limitation amount was rejected by the Court on formal grounds. The French Government has appealed against this decision.

The limitation fund was constituted on behalf of two persons, since in the Italian registration document the vessel was registered in the name of two persons, indicated as "proprietario" and "armatore". The IOPC Fund objected to this procedure, and after discussions with the Standard Club and the French lawyer representing the Club and the shipowner, it was agreed that the limitation fund should be established on behalf of only the person indicated in the registration document as "proprietario". A request

by the Standard Club to the Court that the decision relating to the setting up of the limitation fund should be amended to this effect was rejected by the Court on formal grounds. The French Government has lodged an appeal also against this decision.

The French Government has not yet submitted its claim. It is expected that the Government's claim will total approximately FF22 million (£2.4 million).

A claim has been presented by the Department of Côtes-du-Nord for an amount of FF978 853 (£104 900). In addition, fifteen municipalities in Calvados have claimed a total amount of FF146 138 (£15 660). These claims are being examined by the IOPC Fund and the Standard Club. It is possible that further claims will be presented by local authorities in France.

Claims for clean-up costs were submitted by the authorities in Jersey and Guernsey in the amounts of £11 380 and £10 013, respectively. These claims were accepted in full by the IOPC Fund and the Standard Club, but have not yet been paid.

Claims by two French fishermen were accepted by the IOPC Fund and the Standard Club, one of them in full (FF55 576) and the other with a small reduction in amount (FF3 817 agreed out of FF4 515 claimed). These claims were paid by the Club in October 1988 and June 1989, respectively.

Further claims have been submitted by three French fishermen, totalling FF189 012 (£20 260), and by a private organisation for the cost of cleaning oiled sea-birds in the amount of FF50 949 (£5 460). These claims are being examined.

TAIYO MARU N°13

(Japan, 12 March 1988)

While heavy fuel oil was being transferred from one cargo tank of the Japanese tanker TAIYO MARU N°13 (86 GRT) to another in the Port of Yokohama (Japan), part of the cargo spilled into the sea, due to a mistake by the crew in handling the valves. It is estimated that about six tonnes of heavy fuel oil escaped as a result of this incident. Clean-up operations were immediately undertaken by the shipowner who deployed several oil combating vessels supplied by contractors. The clean-up operations were completed within four days of the incident.

Claims for clean-up costs, totalling ¥10 212 210 (£44 070), were submitted to the shipowner and the IOPC Fund by three private claimants. In August 1988, these claims were settled at ¥8 611 685 (£37 160). In May 1989, the IOPC Fund paid ¥6 134 885 (£27 254), representing the amount of the agreed claims minus the shipowner's liability under the Civil Liability Convention, ¥2 476 800.

Indemnification of the shipowner, amounting to ¥619 200 (£2 745), was paid in November 1989.

KASUGA MARU N°1

(Japan, 10 December 1988)

While carrying approximately 1 100 tonnes of heavy fuel oil along the west coast of Japan, the Japanese coastal tanker KASUGA MARU N°1 (480 GRT) capsized and sank in stormy weather off Kyoga Misaki in the Kyoto prefecture (Japan).

The sunken tanker, lying at a depth of approximately 270 metres, was leaking oil. Extensive fishing is carried out by local fishermen in the area around the site of the incident. The shipowner and his P & I insurer, the Japan Ship Owners' Mutual Protection & Indemnity Association (JPIA), engaged the services of the Japan Maritime Disaster Prevention Centre to organise and implement oil spill clean-up in accordance with the directives given by the Maritime Safety Agency. The operations were supervised by a surveyor employed by JPIA and the IOPC Fund. At the height of the activities there were some 13 vessels and four helicopters involved. The purpose of the operations was to prevent surfacing oil from coming ashore by applying dispersants, mainly from helicopters. It is estimated that about 200 tonnes of dispersants were applied during the spraying operation. A reduction in the quantities of oil surfacing over the wreck was observed by the end of December 1988 and the operations were then scaled down. In March 1989 the response activities were reduced further to an occasional monitoring of the oil quantities surfacing over the site of the wreck.

When considering possible ways of stopping the oil flow from the wreck and removing the remaining threat of oil pollution, the Maritime Safety Agency examined three options, viz lifting the wreck from the bottom of the sea, pumping the oil from the wreck and sealing the leakage points on the wreck. The IOPC Fund maintained that none of these options were feasible in view of the fact that the wreck was located at a depth of 270 metres. Two major Japanese salvage companies agreed that it was impracticable to carry out salvage work at such a depth, and it appears that this position was accepted by the authorities and the local fishery interests. A fourth option of applying explosive charges to the wreck in an attempt to release all remaining oil at once was dismissed by fishermen as posing too great a danger to a nearby crab sanctuary.

The Maritime Safety Agency also requested that an under-water inspection of the sunken vessel should be carried out with the use of a robot controlled video camera. It was first understood that the purpose of such an inspection would be to explore the possibility of taking measures to prevent further leakage of oil. As it was not technically feasible to prevent further leakage, the IOPC Fund opposed the request. However, an additional reason behind the request was advanced, ie the desirability of establishing the exact location and condition of the wreck so as to make it possible for fishermen to avoid having their trawls damaged when fishing in the area. The IOPC Fund maintained that the cost of an underwater inspection carried out for such a purpose would not be covered by the definitions of "pollution damage" and "preventive measures", since the damage to be avoided was not damage by contamination but physical damage to the trawls. The inspection was not undertaken.

The limitation amount of the KASUGA MARU N°1 is ¥17 015 040 (£73 400).

A claim submitted in August 1989 in the amount of ¥9 615 650 (£41 500) in respect of the expenses incurred by the Maritime Safety Agency was approved in full by the Executive Committee in October 1989. The claim was paid on 2 November 1989.

Claims relating to clean-up expenses incurred by the Japan Maritime Disaster Prevention Centre (JMDPC), the shipowner and 20 sub-contractors were submitted in

July 1989 for a total amount of ¥429 197 213 (£1 852 800). After negotiations, these claims were reduced to an aggregate amount of ¥378 312 701 (£1 632 400). The Executive Committee approved these claims in that amount. These claims were also paid on 2 November 1989. An additional claim by the shipowner for ¥951 856 (£4 100) was approved in full by the Director and paid in December 1989.

Claims were submitted in September 1989 by four fishery co-operative associations, totalling ¥129 842 781 (£560 300). These claims included an amount of ¥30 million (£129 450) relating to "expenses for the creation of a crab protection area by surrounding the sunken vessel with concrete blocks". The Executive Committee rejected this part of the claim, as the purpose of the creation of such an area would not be to prevent damage by contamination but to prevent physical damage to fishing nets; these expenses could therefore not be considered as "pollution damage".

The remaining parts of the claims submitted by the fisheries co-operative associations (¥99 842 781) related mainly to loss of income due to the fact that oil which had escaped from the KASUGA MARU N°1 prevented the fishermen from fishing for a certain period of time. These claims were settled by the Director at ¥53 500 000 (£230 850) and paid in December 1989.

The settlements can be summarised as follows:

	Claimed	Agreed
	¥	¥
Maritime Safety Agency	9 615 650	9 615 650
JMDPC and 13 sub-contractors	138 491 977	116 142 701
Shipowner and 7 sub-contractors	291 657 092	263 121 856
Fisheries co-operative associations	<u>129 842 781</u>	<u>53 500 000</u>
	569 607 500	442 380 207
	(£2.5 million)	(£1.9 million)

The payments made by the IOPC Fund total ¥425 365 167 (£1.9 million), representing the aggregate amount of the agreed claims minus the shipowner's liability of ¥17 015 040.

There is no reliable estimate of the quantity of oil remaining in the sunken vessel. Some oil is still leaking from the wreck. For this reason, further claims against the IOPC Fund cannot be ruled out.

Indemnification of the shipowner, ¥4 253 760 (£18 350), has not yet been paid.

FUKKOL MARU N°12

(Japan, 15 May 1989)

The Japanese tanker FUKKOL MARU N°12 (94 GRT) was supplying heavy fuel oil to a fishing boat at Shiogama (Japan) through a hose connected to a tank on board the fishing boat, when some oil overflowed and spread on the deck of that boat and partly flowed over into the sea and on to a pier. Some fishing nets on the pier as well as cars parked there became contaminated by the oil.

Claims were submitted relating to expenses for clean-up operations at sea, for washing polluted cars and for replacing polluted fishing nets, totalling ¥2 691 035

(£11 610). These claims were accepted by the IOPC Fund in full in July 1989. The claims have not yet been paid.

The limitation amount applicable to the FUKKOL MARU N°12 is ¥2 198 400 (£9 490).

For the reason indicated above in respect of the HINODE MARU N°1 case, the Executive Committee decided, as an exception, to waive the requirement to establish the limitation fund in the FUKKOL MARU N°12 case.

TSUBAME MARU N°58

(Japan, 18 May 1989)

During a transfer of heavy fuel oil from the Japanese tanker TSUBAME MARU N°58 (74 GRT) to a fishing boat at Shiogama (Japan), a crew member erroneously put the nozzle of the supply line into a cargo hole instead of into the inlet to the bunker tank. As a result of this mistake about seven tonnes of oil entered into the cargo tank and polluted about 140 tonnes of fish which had been loaded as cargo in that tank. No oil escaped into the sea as a result of the incident.

In this case, the question arose as to whether the damage resulting from the incident fell within the definition of "pollution damage" laid down in Article I.6 of the Civil Liability Convention. The notion of "pollution damage" covers damage by contamination caused outside the ship carrying the oil which caused the damage. The IOPC Fund had, in previous cases in Japan, paid compensation for damage caused by an overflow of oil during the transfer of oil from a tanker to another vessel, but in those cases the oil had escaped into the sea and necessitated clean-up operations. The TSUBAME MARU N°58 case was different in that no oil escaped into the sea and no clean-up operations took place. However, the Executive Committee decided that the damage in this case also should be considered as being covered by the definition of "pollution damage".

Claims were submitted totalling ¥33 349 310 (£143 900) for damage to the fish cargo and for the cost of cleaning the tanks of the fishing vessel. The claims were settled in November 1989 at ¥22 131 425 (£95 500). Compensation has not yet been paid.

The limitation amount applicable to the TSUBAME MARU N°58 is ¥2 971 520 (£12 820).

TSUBAME MARU N°16

(Japan, 15 June 1989)

Heavy fuel oil was being supplied by the Japanese tanker TSUBAME MARU N°16 (56 GRT) to the fuel tanks of a fishing boat at Kushiro (Japan), when the fuel oil spouted and spilled through a gap in the nozzle of the oil hose of the TSUBAME MARU N°16. The spilt oil polluted some fish which had already been unloaded from the fishing vessel on to the pier. No oil escaped into the water.

Also in this case the question arose as to whether the damage resulting from the incident was covered by the definition of "pollution damage" in the Civil Liability Convention. The Executive Committee decided that the damage fell within that definition.

A claim was submitted in respect of the damage to the unloaded fish in the amount of ¥1 886 700 (£8 140). This claim was accepted by the IOPC Fund in November 1989 but has not yet been paid.

The Executive Committee decided, also in this case, to waive the requirement to establish the limitation fund in the TSUBAME MARU N°16 case, for the same reason as in the HINODE MARU N°1 case.

The limitation amount applicable to the TSUBAME MARU N°16 is ¥1 613 120 (£6 960).

KIFUKU MARU N°103

(Japan, 28 June 1989)

The Japanese tanker KIFUKU MARU N°103 (59 GRT) was supplying heavy fuel oil to a fishing boat in the port of Otsuji, Iwate prefecture (Japan). Towards the end of the operation, the fuel oil was by mistake supplied into a fresh water tank instead of a fuel tank, and oil overflowed onto the deck of the fishing boat. A small quantity of oil escaped into the sea. Some fishing nets on board the fishing boat were polluted and had to be cleaned. A small scale clean-up operation at sea was undertaken.

Claims were submitted, totalling ¥12 100 640 (£52 210). The claims related to costs for cleaning the polluted nets (¥11 516 440) and costs for clean-up operations at sea (¥584 200). The claims were settled in November 1989 at an aggregate amount of ¥10 013 000 (£43 200) but have not yet been paid.

Also in respect of this case the Executive Committee decided, as an exception, to waive the requirement to establish the limitation fund, for the reason given in respect of the HINODE MARU N°1 case.

The limitation amount applicable to the KIFUKU MARU N°103 is ¥1 727 040 (£7 450).

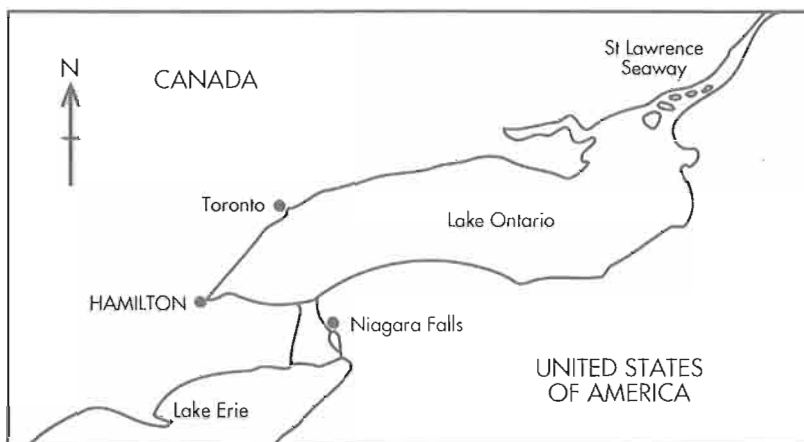
NANCY ORR GAUCHER

(Canada, 25 July 1989)

The Liberian tanker NANCY ORR GAUCHER (2 899 GRT) spilled about 250 tonnes of her cargo of asphalt during a violent tank overflow whilst discharging at an asphalt plant in Hamilton Harbour, Ontario (Canada). The asphalt contaminated much of the vessel's deck, and 25m³ of the asphalt sank to the harbour bed.

The Canadian authorities insisted on the sunken oil being retrieved, and dredging operations were started on 11 August 1989. Between 250m³ and 300m³ of sediments and oil were recovered by the dredging operations, which were completed within two weeks. The cost of these operations was Can\$230 599 (£123 480). The shipowner has accepted and paid a claim for that amount.

The deck and hull of the vessel were cleaned by a local contractor for Can\$483 184 (£258 730). The IOPC Fund questions whether this claim is covered by the definition of pollution damage.



The question as to the appropriate method for disposing of the recovered material is being examined. Disposal at a local landfill may be feasible.

The limitation amount of the NANCY ORR GAUCHER is estimated at Can\$450 000 (£240 960).

DAINICHI MARU N°5

(Japan, 28 October 1989)

During the transfer of heavy fuel oil from the Japanese tanker DAINICHI MARU N°5 (173 GRT) to a fishing boat in the port of Yaizu (Japan), a cargo hose was mishandled, resulting in a small quantity of oil flowing into a cargo hold. No oil spilled into the sea.

This incident resulted in claims totalling ¥7 092 256 (£30 600). The claims relate mainly to loss of earnings of the owner of the fishing boat for the two days during which the polluted hold was being cleaned. The IOPC Fund is examining the claims.

The limitation amount applicable to the DAINICHI MARU N°5 is estimated at ¥4 428 800 (£19 100).

13 CONCLUDING REMARKS

When the IOPC Fund was established in October 1978, the Fund had 14 Member States. On 31 December 1989, there were 43 Member States. This expansion of membership shows that States have found the system of compensation created by the Civil Liability Convention and the Fund Convention a viable one. As indicated above, it is expected that a number of States will join the IOPC Fund in the near future. Some of these States are situated in parts of the world where the IOPC Fund at present has few Members or no Members at all. The States which will soon accede to the Fund Convention may give the organisation an even more universal character, thereby enabling the IOPC Fund to provide compensation to victims of oil pollution damage on a more world-wide basis.

There has been no major oil pollution incident in any Member State during 1989. In recent years Member States have been fortunate in this regard, no disaster having occurred in these States since the TANIO incident in 1980. However, several incidents involving laden tankers which took place in these States in 1989 were very close to becoming real disasters. It should also be noted that some serious oil spills involving laden tankers occurred in 1989 in non-Member States.

During 1989, problems relating to oil pollution have attracted world-wide attention as a result of the grounding of the tanker EXXON VALDEZ on 24 March 1989 in Prince William Sound in Alaska (United States of America). This grounding led to one of the most serious oil pollution incidents in history. In addition, two grave incidents occurred in December 1989 off the coast of Morocco (the KHARK 5 and ARAGON incidents). The ensuing discussions have been focused on the necessity of enhancing safety in tanker navigation, of improving contingency plans and of developing better equipment and materials for oil spill clean-up. The Summit of the Leaders of seven leading world economies, held in Paris in July 1989, dealt with this matter in its final communiqué, in which the leaders expressed their concern that national, regional and global capabilities to contain and alleviate the consequences of maritime oil spills be improved, and all countries were urged to implement fully the international conventions for the prevention of oil pollution of the oceans. In November 1990, a Diplomatic Conference will be held under the auspices of IMO for the purpose of adopting an International Convention on Oil Pollution Preparedness and Response.

Questions of liability and compensation have also been addressed in the public debate following these three incidents. This has led to increased interest in the IOPC Fund and its activities from Governments and public bodies, as well as from the media and the general public. The increased awareness of the potential consequences of tanker incidents may contribute to more States joining the IOPC Fund.

ANNEX I

Structure of the IOPC Fund

ASSEMBLY

Composed of all Member States

Chairman:	Mr J Bredholt	(Denmark)
Vice-Chairmen:	Professor H Tanikawa	(Japan)
	Mr A Al-Yagout	(Kuwait)

EXECUTIVE COMMITTEE

22nd session

Chairman:	Mr P Novia (Italy)
Bahamas	Nigeria
France	Sri Lanka
Greece	Sweden
Indonesia	Tunisia
Italy	Union of Soviet Socialist Republics
Japan	United Kingdom
Kuwait	
Liberia	

23rd session

Chairman:	Mr W W Sturms (Netherlands)
Bahamas	Monaco
Canada	Netherlands
Côte d'Ivoire	Poland
Cyprus	Spain
Finland	Sweden
Germany, Federal Republic of	Syrian Arab Republic
Japan	Union of Soviet Socialist Republics
Liberia	

IOPC FUND SECRETARIAT

Officers

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

AUDITORS

Comptroller and Auditor General
United Kingdom

ANNEX II

General Fund

INCOME AND EXPENDITURE ACCOUNT FOR THE FINANCIAL PERIOD 1 JANUARY - 31 DECEMBER 1988

INCOME	£	£
<i>Contributions</i>		
Initial Contributions		87 172
Annual Contributions 1987		805 822
Add adjustment to Prior Year's Assessments		<u>3 525</u>
		896 519
<i>Miscellaneous</i>		
Miscellaneous Income	73 997	
Interest on Overdue Contributions	10 800	
Interest on Investments	<u>337 223</u>	<u>422 020</u>
		1 318 539
EXPENDITURE		
<i>Secretariat Expenses</i>		
Unliquidated Obligations	32 354	
Liquidated Obligations	<u>277 435</u>	
	309 789	
<i>Claims</i>		
General Claims	<u>705 630</u>	<u>1 015 419</u>
		303 120
Exchange Adjustment		<u>915</u>
Excess of Income over Expenditure		<u>302 205</u>

ANNEX III

Major Claims Fund - Tanio

INCOME AND EXPENDITURE ACCOUNT FOR THE PERIOD ENDED 31 DECEMBER 1988

INCOME	£	£
Miscellaneous	1 520	
Interest on Overdue Contributions	16 252	
Interest on Investments	1 100 985	1 118 757
EXPENDITURE		
Compensation	87 559	
Fees and Travel Costs	108 603	196 162
Excess of Income over Expenditure		922 595
Balance brought forward from 1987		12 736 321
Balance as at 31 December 1988		13 658 916

ANNEX IV

Major Claims Fund - Brady Maria

INCOME AND EXPENDITURE ACCOUNT FOR THE PERIOD ENDED 31 DECEMBER 1986

INCOME	£	£
<i>Contributions</i>		
Annual Contributions 1987		400 753
<i>Miscellaneous</i>		
Miscellaneous Income	105 355	
Interest on Overdue Contributions	765	
Interest on Investments	<u>2 478</u>	<u>108 598</u>
		509 351
EXPENDITURE		
Fees and Travel Costs	16 152	
Interest on Loans	<u>4 785</u>	<u>20 937</u>
Excess of Income over Expenditure*		<u>488 414</u>

- * The surplus of £488 414 is reduced in the Balance Sheet by the deficit of £434 374 accrued up to the period ended 31 December 1987.

ANNEX V

Balance Sheet of the IOPC Fund as at 31 December 1988

LIABILITIES	£	£	ASSETS	£	£
Accumulated Surplus from General Fund			Cash at Banks and in Hand		17 336 302
Prior Years	3 139 227		Contributions Outstanding:		
Add Surplus 1988	302 205	3 441 432	Annual Contributions 1982	675	
Due to Staff Provident Fund		136 599	Annual Contributions 1983	4 556	
Accounts Payable		2 895	Annual Contributions 1985	2 718	
Unliquidated Obligations			Annual Contributions 1986	17 552	
1987	2 863		Annual Contributions 1987	8 812	
1988	32 354	35 217	Initial Contributions	2 617	
Prepaid Contributions			Major Claims Fund Brady Maria	4 323	41 253
General Fund	132 385		Due from Major Claims Fund Jan		81 881
Major Claims Fund Jan	4 191	136 576	VAT Recoverable		1 630
Contributors' Account		3 858	Miscellaneous Receivable		6 538
Due to Major Claims Fund Brady Maria			Interest on Overdue Contributions:		
Deficit 1987	434 374		General Fund	593	
Add Surplus 1988	488 414	54 040	Major Claims Funds:		
Due to Major Claims Fund Tanio		<u>13 658 916</u>	Brady Maria	205	
		<u>17 469 533</u>	Tanio	1 131	1 929
					<u>17 469 533</u>

Note 1 There are contingent liabilities in respect of incidents which are estimated to amount to £7 657 738. Those liabilities which mature will, under the Fund Convention, be met from contributions assessed by the Assembly.

Note 2 In addition to the assets shown in this statement, investment in equipment, furniture, office machines, supplies and library books as at 31 December 1988 amounted at cost price to £45 668 net of VAT.

ANNEX VI

Contributing Oil Received in the Territories of Member States in the Calendar Year 1988

As reported at 31 December 1989

Member State	Contributing Oil (tonnes)	% of Total
Japan	229 867 256	26.80
Italy	121 928 308	14.22
France	98 918 228	11.54
Netherlands	85 891 659	10.02
United Kingdom	78 431 051	9.15
Spain	52 835 150	6.16
Canada	30 173 643	3.52
Federal Republic of Germany	23 907 309	2.79
Union of Soviet Socialist Republics	20 175 600	2.35
Greece	17 135 850	2.00
Sweden	16 367 118	1.91
Norway	15 088 913	1.76
Finland	11 641 300	1.36
Portugal	10 520 555	1.23
Yugoslavia	8 740 778	1.02
Indonesia	8 697 786	1.01
Denmark	8 599 532	1.00
Bahamas	5 658 586	0.66
Côte d'Ivoire	3 104 141	0.36
Tunisia	2 913 701	0.34
Sri Lanka	1 848 063	0.22
Cameroon	1 487 396	0.17
Poland	1 454 526	0.16
Ghana	836 638	0.10
Syrian Arab Republic	477 084	0.06
Algeria	499 000	0.06
Papua New Guinea	259 253	0.03
Fiji	0	0
Iceland	0	0
Kuwait	0	0
Liberia	0	0
Maldives	0	0
Monaco	0	0
Oman	0	0
Seychelles	0	0
Tuvalu	0	0
Benin <1>	-	-
Cyprus <1>	-	-
Gabon <1>	-	-
Nigeria <1>	-	-
Qatar <1>	-	-
United Arab Emirates <1>	-	-
Vanuatu <1>	-	-
	<hr/> 857 458 424	<hr/> 100.00

<1> No report

ANNEX VII

Summary of Incidents

(31 December 1989)

Vessel (Flag State)	Gross Tonnage (CLC Liability)	Date & Place of Incident	Cause of Incident & Quantity of Oil Spilled (tonnes)	Claims: Compensation & Indemnification	Remarks
ANTONIO GRAMSCI (USSR)	27 694 GRT Rbls2 431 584	27.2.79 off Ventspils, USSR	Grounding (5 500)	Clean-up costs of Swedish authorities SKr89 057 717 <u>Interest</u> 6 649 440 Total SKr95 707 157	paid paid
MIYA MARU N°8 (Japan)	997 GRT ¥37 710 340	22.3.79 Bisan Seto, Japan	Collision (540)	Clean-up costs ¥108 589 104 Fishery damage 31 521 478 <u>Indemnification</u> 9 427 585 Total ¥149 538 167	paid paid paid ¥5 438 909 recovered by way of recourse
TARPENBEK (FRG)	999 GRT £64 356	21.6.79 off Selsey Bill, UK	Collision (not known)	UK Government £175 000 Nature Conservancy Council 1 400 Local authorities 7 150 <u>Owner's clean-up costs</u> 180 000 Total £363 550	paid paid paid paid
MEBARUZAKI MARU N°5 (Japan)	19 GRT ¥845 480	8.12.79 Mebaru Port, Japan	Sinking (10)	Clean-up costs ¥7 477 481 Fishery damage 2 710 854 <u>Indemnification</u> 211 370 Total ¥10 399 705	paid paid paid
SHOWA MARU (Japan)	199 GRT ¥8 123 140	9.1.80 Naruto Strait, Japan	Collision (100)	Clean-up costs ¥10 408 369 Fishery damage 92 696 505 <u>Indemnification</u> 2 030 785 Total ¥105 135 659	paid paid paid ¥9 893 196 recovered by way of recourse

UNSEI MARU (Japan)	99 GRT ¥3 143 180	9.1.80 off Akune Port, Japan	Collision (no information but less than 140 tonnes)	Owner's clean-up costs	¥6 903 461	esti- mated	Because of recourse against same insurer, no compensation paid by IOPC Fund
TANIO (Madagascar)	18 048 GRT FFr11 833 718	7.3.80 off Brittany, France	Breaking (13 500)	French Government French local authorities Private claimants Port Autonome du Havre UK P & I Club Total	FFr208 736 142 5 689 025 2 961 290 74 444 4 679 742 FFr222 140 643	paid paid paid paid paid	US \$17 480 028 recovered by way of recourse; total payment equalled limit of compensation available under Fund Convention
FURENAS (Sweden)	999 GRT SKr612 443	3.6.80 Oresund, Sweden	Collision (200)	Clean-up costs: - Swedish authorities - Swedish private claimants Sub-total Clean-up costs: - Danish authorities - Danish private claimants Sub-total Indemnification	SKr2 911 637 276 050 SKr3 187 687 DKr408 633 9 956 DKr418 589 SKr153 111	paid paid paid paid paid	SKr449 961 recovered by way of recourse
HOSEI MARU (Japan)	983 GRT ¥35 765 920	21.8.80 off Miyagi, Japan	Collision (270)	Clean-up costs Fishery damage Indemnification Total	¥163 051 598 50 271 267 8 941 480 ¥222 264 345	paid paid paid	¥18 221 905 recovered by way of recourse
JOSE MARTI (USSR)	27 706 GRT SKr23 844 593	7.1.81 off Dalarö, Sweden	Grounding (1 000)	Clean-up costs of Swedish authorities 4 Private claimants Total	SKr19 296 000 1 065 000 SKr20 361 000	claimed claimed	Total damage less than owner's liability. Owners' defence that he should be exonerated from liability rejected by final judgement.

Vessel (Flag State)	Gross Tonnage (CLC Liability)	Date & Place of Incident	Cause of Incident & Quantity of Oil Spilled (tonnes)	Claims: Compensation & Indemnification		Remarks
SUMA MARU N°11 (Japan)	199 GRT ¥7 396 340	21.11.81 off Karatsu, Japan	Grounding (10)	Owner's clean-up costs <u>Indemnification</u> Total	¥6 426 857 1 849 085 ¥8 275 942	paid paid
GLOBE ASIMI (Gibraltar)	12 404 GRT Rbls1 350 324	22.11.81 Klaipeda, USSR	Grounding (estimated at more than 16 000 tonnes)	Indemnification	US \$467 953	paid No damage in Member State
ONDINA (Netherlands)	31 030 GRT DM10 080 383 (including interest)	3.3.82 Hamburg, FRG	Discharge (estimated 200-300 tonnes)	Clean-up costs: - Owner - Authorities Total	DM11 303 011 42 163 DM11 345 174	paid paid
SHIOTA MARU N°2 (Japan)	161 GRT ¥6 304 300	31.3.82 Takashima Island, Japan	Grounding (20)	Clean-up costs Fishery damage <u>Indemnification</u> Total	¥46 524 524 24 571 190 1 576 075 ¥72 671 789	paid paid paid
FUKUTOKU MARU N°8 (Japan)	499 GRT ¥20 844 440	3.4.82 Tachibana Bay, Japan	Collision (85)	Clean-up costs Fishery damage <u>Indemnification</u> Total	¥200 476 274 163 255 481 5 211 110 ¥368 942 865	paid paid paid
KIFUKU MARU N°35 (Japan)	107 GRT ¥4 271 560	1.12.82 Ishinomaki, Japan	Sinking (33)	Indemnification	¥598 181	paid Total damage less than owner's liability
SHINKAI MARU N°3 (Japan)	48 GRT ¥1 880 940	21.6.83 Ichikawa, Japan	Discharge (3.5)	Clean-up costs <u>Indemnification</u> Total	¥1 005 160 470 235 ¥1 475 395	paid paid

EIKO MARU N°1 (Japan)	999 GRT ¥39 445 920	13.8.83 Karakuwazaki, Japan	Collision (357)	Clean-up costs Fishery damage Indemnification Total	¥23 193 525 1 541 584 9 861 480 ¥34 596 589	paid paid paid	¥14 843 746 recovered by way of recourse
KOEI MARU N°3 (Japan)	82 GRT ¥3 091 660	22.12.83 Nagoya, Japan	Collision (49)	Clean-up costs Fishery damage Indemnification Total	¥18 010 269 8 971 979 772 915 ¥27 755 163	paid paid paid	¥8 994 083 recovered by way of recourse
TSUNEHISA MARU N°8 (Japan)	38 GRT ¥964 800	26.8.84 Osaka, Japan	Sinking (30)	Clean-up costs Indemnification Total	¥16 610 200 241 200 ¥16 851 400	paid paid	
KOHO MARU N°3 (Japan)	199 GRT ¥5 385 920	5.11.84 Hiroshima, Japan	Grounding (20)	Clean-up costs Fishery damage Indemnification Total	¥68 609 674 25 502 144 1 346 480 ¥95 458 298	paid paid paid	
KOSHUN MARU N°1 (Japan)	68 GRT ¥1 896 320	5.3.85 Tokyo Bay, Japan	Collision (80)	Clean-up costs Indemnification	¥26 124 589 ¥474 080	paid not yet paid	Recourse claim by IOPC Fund pending
PATMOS (Greece)	51 627 GRT Lit13 263 703 650	21.3.85 Straits of Messina, Italy	Collision (700)	Preventive measures} and clean-up costs} Lit9 418 318 650 (including salvage)} 735 268 884 Damage to marine environment 5 000 000 000 Total Lit15 153 587 534	agreed claimed claimed	Most claims settled; Lit9 436 318 650 paid by P & I insurer; court proceedings in progress against IOPC Fund.	
JAN (FRG)	1 400 GRT DKr1 576 170	2.8.85 Aalborg, Denmark	Grounding (300)	Danish authorities Municipality Private claimants Indemnification Total	DKr9 378 528 24 126 53 007 394 043 DKr9 849 704	paid paid paid paid	

Vessel (Flag State)	Gross Tonnage (CLC Liability)	Date & Place of Incident	Cause of Incident & Quantity of Oil Spilled (tonnes)	Claims: Compensation & Indemnification		Remarks
ROSE GARDEN MARU (Panama)	2 621 GRT US \$364 182 (estimate)	26.12.85 Umm Al Qaiwain, UAE	Discharge of oil (unknown)	P & I Club in subrogation	US \$44 204	Claim against IOPC Fund claimed withdrawn
BRADY MARIA (Panama)	996 GRT DM324 629	3.1.86 Elbe Estuary, FRG	Collision (200)	German authorities Private claimants Total	DM3 219 425 1 086 DM3 220 511	DM333 027 recovered by way of recourse
TAKE MARU N°6 (Japan)	83 GRT ¥3 876 800	9.1.86 Sakai-Senboku Port, Japan	Discharge of oil (0.1)	Indemnification	¥104 987	paid Total damage less than owner's liability
OUED GUETERINI (Algeria)	1 576 GRT Din1 175 064	18.12.86 Algiers, Algeria	Discharge (estimated 15)	Power station Power station Power station Owner's clean-up costs Indemnification	US \$1 133 FFr708 824 £126 120 Din5 650 Din293 766	paid paid paid paid not yet paid
THUNTANK 5 (Sweden)	2 866 GRT SKr2 741 746	21.12.86 Gävle, Sweden	Grounding (150-200)	Swedish authorities Private claimants Indemnification Total	SKr23 168 271 49 361 685 437 SKr23 903 069	paid paid paid
ANTONIO GRAMSCI (USSR)	27 706 GRT Rb1s2 431 854	6.2.87 Borgå, Finland	Grounding (600-700)	<u>Finland</u> Finnish authorities Clean-up costs <u>USSR</u> Clean-up costs Clean-up costs Environmental damage Sub-total	FM9 758 250 Rb1s 500 000 567 469 436 448 Rb1s1 503 917	agreed agreed claimed claimed

SOUTHERN EAGLE (Panama)	4 461 GRT ¥93 874 528	15.6.87 Sada Misaki, Japan	Collision (15)	Clean-up costs <u>Fishery damage</u> Total	¥35 346 679 51 521 183 ¥86 867 862	agreed agreed	Total damage less than owner's liability.
EL HANI (Libya)	81 412 GRT £7 900 000 (estimate)	22.7.87 Indonesia	Grounding (3 000)	Indonesian authorities: request for advance payment	US \$242 800	claimed	Claim not pursued
AKARI (Panama)	1 345 GRT £115 000 (estimate)	25.8.87 Dubai, UAE	Fire (1 000)	Clean-up costs	£304 440	claimed	Further claims may be submitted
HINODE MARU N°1 (Japan)	19 GRT ¥608 000	18.12.87 Yawatahama, Japan	Mishandling of cargo (25)	Clean-up costs <u>Indemnification</u> Total	¥1 847 225 152 000 ¥1 999 225	paid paid	
AMAZZONE (Italy)	18 325 GRT FFr13 860 369	31.1.88 Brittany, France	Storm damage to tanks (2 000)	French Government French local authorities French private claimants <u>French private claimants</u> Total Channel Islands authorities	FFr22 255 375 1 124 991 239 961 59 393 FFr23 679 720 £21 393	claimed claimed claimed paid agreed	FFr59 393 paid by P & I insurer; further claims will be submitted
TAIYO MARU N°13 (Japan)	86 GRT ¥2 476 800	12.3.88 Port of Yokohama, Japan	Discharge (6)	Clean-up costs <u>Indemnification</u> Total	¥6 134 885 619 200 ¥6 754 085	paid paid	
KASUGA MARU N°1 (Japan)	480 GRT ¥17 015 040	10.12.88 Kyoga Misaki, Japan	Sinking (1 100)	Clean-up costs <u>Fishery damage</u> Total Indemnification	¥372 295 167 53 500 000 ¥425 795 167 ¥4 253 760	paid paid not yet paid	Further claims may be submitted
FUKKOL MARU N°12 (Japan)	94 GRT ¥2 198 400	15.5.89 Shiogama, Japan	Overflow from supply pipe (0.5)	Clean-up costs Indemnification	¥2 691 035 ¥549 600	agreed not yet paid	

Vessel (Flag State)	Gross Tonnage (CLC Liability)	Date & Place of Incident	Cause of Incident & Quantity of Oil Spilled (tonnes)	Claims: Compensation & Indemnification	Remarks
TSUBAME MARU N°58 (Japan)	74 GRT ¥2 971 520	18.5.89 Shiogama, Japan	Mishandling of oil transfer (7)	Damage to fish cargo	¥22 131 425 agreed
				Indemnification	¥742 880 not yet paid
TSUBAME MARU N°16 (Japan)	56 GRT ¥1 613 120	15.6.89 Kushiro, Japan	Discharge (unknown)	Fishery damage	¥1 886 700 agreed
				Indemnification	¥403 280 not yet paid
KIFUKU MARU N°103 (Japan)	59 GRT ¥1 727 040	28.6.89 Port of Otsuji, Japan	Mishandling of cargo (unknown)	Clean-up costs	¥10 013 000 agreed
				Indemnification	¥431 760 not yet paid
NANCY ORR GAUCHER (Liberia)	2 899 GRT Can\$450 000 (estimate)	25.7.89 Hamilton, Canada	Overflow during discharge (250)	Clean-up costs	Can\$713 783 claimed
DAINICHI MARU N°5 (Japan)	173 GRT ¥4 428 800 (estimate)	28.10.89 Yaizu, Japan	Mishandling of cargo (0.2)	Loss of earnings	¥6 339 460 claimed
				Clean-up costs	752 796 claimed
				Total	¥7 092 256

Notes

1 Amounts are given in national currencies; the relevant conversion rates as at 29 December 1989 are as follows:

£ =	Din	12.879	£ =	FM	6.5165	£ =	Lit	2045	£ =	US \$	1.6125
	Can\$	1.8675		FFr	9.33		¥	231.75		RbIs	0.9889
	DKr	10.61		DM	2.7275		SKr	9.9850			

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