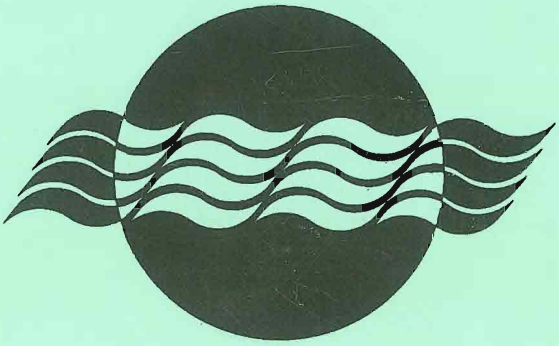
INTERNATIONAL OIL POLLUTION COMPENSATION FUND

ANNUAL REPORT 1991



REPORT ON THE ACTIVITIES OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND IN THE CALENDAR YEAR 1991

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1 INTRODUCTION

The International Oil Pollution Compensation Fund (IOPC Fund) is a worldwide inter-governmental organisation which 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 1991 covers the activities of the IOPC Fund during its thirteenth year of operation.

The IOPC Fund operates within the framework of two international Conventions establishing a legal regime for compensation for damage caused by oil spills from laden tankers, namely 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 system of additional compensation.

The IOPC Fund was 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 function of the IOPC Fund is to provide supplementary compensation to those suffering oil pollution damage in Fund Member States who cannot obtain full compensation for the damage under the Civil Liability Convention. The compensation payable by the IOPC Fund in respect of any one incident is limited to 900 million (gold) francs equivalent to 60 million Special Drawing Rights (approximately £46 million or US$86 million), including the sum actually paid by the shipowner or his insurer under the Civil Liability Convention.

This Annual Report contains a review of some of the main issues relating to the IOPC Fund's activities during 1991. It summarises the decisions taken by the IOPC Fund Assembly and Executive Committee, and deals with the development of the IOPC Fund's membership and the Fund's contacts with governments, intergovernmental organisations and interested circles. The Report includes a section on the work carried out within the IOPC Fund relating to the future of the system of compensation established by the Conventions. The finances of the IOPC Fund are also presented, in particular the payment of contributions. A major part of the Report contains information on the settlement of claims for compensation against the IOPC Fund.

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 1990, there were 45 Member States.

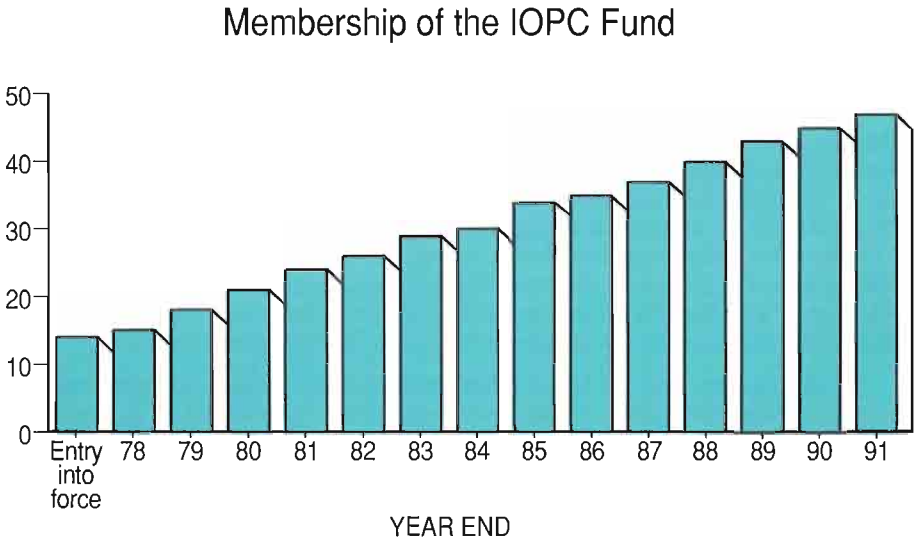
Malta became a Member of the IOPC Fund during 1991, the Fund Convention entering into force for Malta on 26 December 1991. In addition, the Gambia acceded to the Fund Convention on 1 November 1991, and the Convention will enter into force in respect of the Gambia on 30 January 1992, bringing the number of Member States to 47.

The Secretary-General of the International Maritime Organization (IMO) was informed by a note verbale dated 26 December 1991 by the Russian Federation that the membership of the Union of Soviet Socialist Republics (USSR) in all conventions concluded within the framework of IMO would be continued by the Russian Federation. At the end of 1991 it had not yet been established whether any of the other independent States which previously formed part of the USSR would continue to be or would become parties to the Fund Convention.

As at 31 December 1991, the following 47 States were Members of the IOPC Fund:

Algeria
Bahamas
Benin
Cameroon
Canada
Côte d'Ivoire
Cyprus
Denmark
Djibouti
Fiji
Finland
France
Gabon
Gambia (from 30 January 1992)
Germany
Ghana
Greece
Iceland
India
Indonesia
Italy
Japan
Kuwait
Liberia
Maldives
Malta
Monaco
Netherlands
Nigeria
Norway
Oman
Papua New Guinea
Poland
Portugal
Qatar
Russian Federation
Seychelles
Spain
Sri Lanka
Sweden
Syrian Arab Republic
Tunisia
Tuvalu
United Arab Emirates
United Kingdom
Vanuatu
Yugoslavia

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



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. It is anticipated that Costa Rica, Ireland, Morocco, Republic of Korea, Saudi Arabia and Venezuela will soon deposit their instruments of accession to the Fund Convention. Legislation implementing the Fund Convention is in an advanced stage in Australia, Belgium, Brazil, Malaysia, Panama, Senegal and Saint Kitts and Nevis. Many other States are also examining the question of accession 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 1991, the following States had observer status:

Argentina
Australia
Belgium
Brazil
Chile
China
Democratic People's Republic of Korea
Ireland
Jamaica
Mexico
Morocco
Republic of Korea
Saudi Arabia
Switzerland
United States of America
Venezuela

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 1991, the Director visited four Member States - Canada, France, Ghana and Italy - for discussions with government officials on the Fund Convention and the activities of the IOPC Fund.

As instructed by the Assembly, 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 1991, the Director held discussions on the Civil Liability Convention and the Fund Convention with government officials in Malaysia, Malta, Mauritius, Morocco and Panama, and the Legal Officer held similar discussions in the Congo and the Republic of Korea.

The Director and the Legal Officer also had discussions with government representatives of both Member and non-Member States in connection with meetings within IMO, in particular during the sessions of the IMO Council in June and October 1991 and during the IMO Assembly in October/November 1991.

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 benefited 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 1991.

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.

The IOPC Fund has observer status with IMO. The Secretariat represented the IOPC Fund at meetings of the Assembly, the Council and various Committees of IMO.

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 IOPC Fund has co-operated closely with the P & I Clubs in connection with the settlement of claims for compensation. 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 the speedy settlement of claims. Discussions on matters of common interest are regularly held between the Director and representatives of the P & I Clubs.

The International Tanker Owners Pollution Federation Ltd (ITOPF) is usually called upon by the IOPC Fund to provide technical expertise in respect of oil pollution incidents, as regards both the monitoring of clean-up operations and the assessment of claims for compensation. The support of ITOPF proved especially vital in connection with two major incidents which took place in Italy in April 1991.

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 very important, in view of the link which exists between the system of compensation governed by the international Conventions and the voluntary industry schemes (TOVALOP and CRISTAL).

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 Council (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 1991, 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 on the operations of the IOPC Fund.

The Director took part in the 1991 Oil Spill Conference in San Diego (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 "Future of the International Conventions on Liability and Compensation for Oil Pollution Damage". He also addressed the Council of the Port Management Association of Eastern and Southern Africa in Curepipe (Mauritius) and the sixth African Port Symposium in Accra (Ghana). He participated in a Conference, PANAMA MARITIME 91, in Panama City (Panama), organised by the Government of Panama. He made presentations on the IOPC Fund's activities at a seminar organised by IMO in Panama City for senior staff of maritime administrations in Latin America and at a National Seminar on Casualty Management in Penang (Malaysia). The Director gave lectures on liability and compensation for oil pollution damage to students at the World Maritime University in Malmö (Sweden) and to students at the IMO International Maritime Law Institute in Valletta (Malta). In addition, he gave a presentation on the IOPC Fund to the Panel of External Auditors of the United Nations, the specialised agencies and the International Atomic Energy Agency, at a session held in London.

The Legal Officer gave a presentation at a session of the Council of the Port Management Association of West and Central Africa, held in Brazzaville (Congo). In addition, he took part in a seminar on oil pollution in Seoul (Republic of Korea).

6 ASSEMBLY AND EXECUTIVE COMMITTEE

6.1 Assembly

The Assembly, which is composed of representatives of all Member States, held its 14th session from 8 to 11 October 1991. 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 1990.

(b) The Assembly decided to increase the working capital of the IOPC Fund from £4 million to £6 million. In addition, the Assembly decided to review, at its 1992 session, the question of whether a further increase of the working capital would be required.

(c) The budget appropriations for 1992, with an administrative expenditure totalling £648 100, were adopted by the Assembly.

(d) The Assembly decided to levy 1991 annual contributions in the amount of £5 million for the general fund, £6.7 million for the RIO ORINOCO major claims fund and £15 million for the HAVEN major claims fund, to be paid by 1 February 1992.

(e) The general limit of the Director's authority to make final settlements of claims for compensation without prior approval by the Executive Committee was increased from 25 million (gold) francs (£1.3 million) to 37.5 million (gold) francs (£1.9 million). In addition, the Director was authorised to make final settlements of claims from individuals and small businesses up to an amount of 10 million (gold) francs (£510 000) in respect of any one incident. It was decided that these limits should be reviewed every four years.

(f) The following States were elected members of the Executive Committee to hold office until the end of the next regular session of the Assembly:

Algeria	Japan
France	Kuwait
Germany	Liberia
Ghana	Norway
Greece	Sri Lanka
India	Union of Soviet Socialist Republics (see Section 2)
Indonesia	United Kingdom
Italy	

(g) In view of certain events in the London banking market during the summer of 1991, the Assembly instructed the Director to examine the IOPC Fund's investment policy, in consultation with the External Auditor, and to submit a report on this issue to the Assembly at its session in 1992.

(h) In the light of the experience gained from certain recent incidents of major importance, the Assembly discussed whether it would be useful for the IOPC Fund to carry out its own independent investigations into the cause of incidents so as to enable the Fund to form an opinion at an early stage as to whether an incident was due to the fault or privity of the shipowner, resulting in the owner not being entitled to limit his liability, or whether there were any grounds for the IOPC Fund to take recourse action against third parties. The Assembly instructed the Director to make a study of this matter for consideration by the Assembly at its session in 1992.

(i) The Assembly examined the recommendations of an Intersessional Working Group which had been set up by the Assembly to consider the future development of the inter-governmental oil pollution liability and compensation system based on the Civil Liability Convention and the Fund Convention. The Assembly decided to request the Secretary-General of IMO to convene an International Conference as soon as possible to consider draft protocols modifying these Conventions, which would include the substantive provisions of the 1984 Protocols thereto, but with lower entry into force conditions, so as to ensure the viability of the compensation system in the future; this Conference should also consider whether there should be introduced in the Fund Convention a system setting a cap on contributions payable by oil receivers in any given State (see Section 7 below).

(j) It was decided by the Assembly that the April 1989 Amendments to SOLAS 74 should be included in the list of instruments contained in Article 5.3(a) of the Fund Convention, with effect from 15 April 1992.

(k) Requests for observer status with the IOPC Fund from the Democratic People's Republic of Korea, Jamaica and the Republic of Korea were granted by the Assembly.

6.2 Executive Committee

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

The Executive Committee held five sessions during 1991. The 26th, 27th and 28th sessions were held under the chairmanship of Mr W W Sturms (Netherlands) on 14 March, 18 June and 7-8 October 1991, respectively. The 29th and 30th sessions were held on 11 October and 16-17 December 1991, respectively, under the chairmanship of Dr R Renger (Germany).

The 26th session of the Executive Committee was convened to discuss certain issues relating to the RIO ORINOCO incident. The Committee also considered developments in respect of the AMAZZONE incident and, in particular, endorsed the

measures taken by the Director, on behalf of the IOPC Fund, to bring legal action against the owner of the AMAZZONE as well as against the charterer of the vessel and its P & I insurer, for the purpose of recovering any amount paid by the IOPC Fund to claimants and for the purpose of preventing the owner and the charterer from limiting their liability.

The AGIP ABRUZZO and HAVEN incidents, which occurred in Italy in April 1991, were considered by the Executive Committee at its 27th session. The Committee expressed its profound regret at the tragic loss of life resulting from the collision between the ferry MOBY PRINCE and the tanker AGIP ABRUZZO. The Italian delegation thanked the Director for the IOPC Fund's rapid involvement in the HAVEN case and for the contributions made by the IOPC Fund's experts in respect of various aspects of the operations. The Committee discussed a number of issues relating to these cases, and gave the Director instructions in respect of his handling of the incidents.

At its 28th session, the Executive Committee was informed of the situation in respect of the 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 in respect of the PATMOS, TOLMIROS, AMAZZONE, RIO ORINOCO, PORTFIELD, VISTABELLA, AGIP ABRUZZO and HAVEN incidents. With regard to the RIO ORINOCO incident, the Committee approved claims submitted by the Canadian Government for approximately Can$10 million (£4.6 million) in respect of pollution damage and preventive measures. The Committee noted that the aggregate amount of the claims arising from the HAVEN incident greatly exceeded the total amount of compensation payable under the Civil Liability Convention and the Fund Convention. Several important issues arising out of this incident were considered, in particular, the method of converting the maximum amount payable by the IOPC Fund which is expressed in (gold) francs into national currency, and certain questions relating to claims in respect of non-quantifiable damage to the marine environment.

At its 29th session, the Executive Committee elected Dr R Renger (Germany) as its Chairman.

The admissibility of claims relating to damage to the marine environment in the HAVEN case was discussed in further depth by the Executive Committee at its 30th session on the basis of a study carried out by the Director. The Committee also considered the developments in respect of the TOLMIROS, VOLGONEFT 263, RIO ORINOCO and AGIP ABRUZZO incidents.

7 FUTURE OF REGIME OF COMPENSATION ESTABLISHED BY THE CIVIL LIABILITY CONVENTION AND THE FUND CONVENTION

7.1 The 1984 Protocols

In 1984, a Diplomatic Conference held in London under the auspices of IMO 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, Saint Vincent and the Grenadines and South Africa, whereas only the Federal Republic of Germany and France have so far become Parties to the Protocol to the Fund Convention. In the United Kingdom of Great Britain and Northern Ireland, a bill which would enable the Government to ratify the Protocols has been approved by Parliament. Some States, eg Denmark, Finland, Greece, the Netherlands, Norway and Sweden, have begun preparing legislation enabling them to ratify the Protocols.

In the United States of America, Congress had for some time considered proposals for new comprehensive oil spill legislation. In that context, consideration was also given to ratification of the 1984 Protocols. However, the legislation adopted by Congress which entered into force on 18 August 1990 did not contain provisions implementing the 1984 Protocols. It thus became clear that the United States would not ratify the Protocols.

In view of this development, and taking into account the requirements for their entry into force, it is unlikely that the 1984 Protocols will come into force in the near future.

7.2 Intersessional Working Group

In 1990, the Assembly decided to set up an Intersessional Working Group with the following mandate:

> "To consider the future development of the intergovernmental oil pollution liability and compensation system by:
>
> (a) examining the prospects for the entry into force of the 1984 Protocols to the Civil Liability Convention and the Fund Convention;
>
> (b) considering whether it would be possible to facilitate the entry into force of the content of the 1984 Protocols possibly by amending their entry into force provisions;

(c) considering which substantive provisions in the existing Conventions and the 1984 Protocols appear to form the main obstacles to their continued relevance, including an examination of the present contribution scheme."

The Intersessional Working Group held two meetings, the first on 13 and 14 March 1991, and the second on 17 June 1991, under the chairmanship of Mr A H E Popp (Canada). The Working Group's considerations were based on extensive documentation prepared by the Director. The results of these considerations were discussed by the Assembly in October 1991.

7.3 Discussions at the Assembly

Amendment of the Entry into Force Provisions and Adoption of New Protocols

During the discussions in the Assembly, many delegations expressed their strong support of the system of compensation established by the 1969 Civil Liability Convention and the 1971 Fund Convention, which they considered to be working remarkably well. For this reason, a number of delegations stressed the importance that the 1984 Protocols to these Conventions should enter into force as soon as possible, so as to ensure the viability of this system in the future, and considered that the best way of facilitating the entry into force of the 1984 Protocols would be to amend their entry into force provisions.

On the basis of the Working Group's report and the discussions in the Assembly, the Assembly drew the following conclusions:

(a) The entry into force conditions of the 1984 Protocol to the Civil Liability Convention should be amended so as to reduce the requirement as to the number of States each with not less than one million units of gross tanker tonnage from six to five or four.

(b) The entry into force provisions in the 1984 Protocol to the Fund Convention should be amended so as to reduce the quantity of contributing oil required for the entry into force from 600 million tonnes; most delegations expressed preference for 400 million tonnes.

(c) It would not be appropriate to amend the conditions laid down in Article 6.4 of the 1984 Protocol to the Fund Convention for the increase from 135 million SDR to 200 million SDR of the total amount of compensation payable by the IOPC Fund in respect of any one incident, even if the quantity of contributing oil required for the entry into force of the Protocol were to be reduced.

(d) It would not be appropriate to amend Article 31 of the 1984 Protocol to the Fund Convention governing the denunciation of the 1969 Civil Liability Convention and the 1971 Fund Convention by reducing the quantity of contributing oil prescribed therein, even if the quantity of contributing oil required for the entry into force of that Protocol were to be reduced.

(e) There was no legal impediment to the adoption of new protocols to modify the 1969 Civil Liability Convention and the 1971 Fund Convention which would in practice replace the 1984 Protocols.

The Assembly agreed in general with draft texts elaborated by the Director for new protocols containing entry into force provisions differing from those of the 1984 Protocols.

Contribution System

On the basis of a proposal by the delegation of Japan, the Assembly discussed whether a "cap" on contributions payable by oil receivers in any given State should be introduced in the Fund Convention. The Assembly considered a text, which had been prepared by the Director in consultation with the Japanese delegation, containing provisions introducing such a capping system.

The Japanese delegation stated that it would be difficult for the Japanese Government to ratify the 1984 Protocol to the Fund Convention unless guarantees could be given that the Japanese oil industry, which paid a large part of the total contributions to the IOPC Fund, would not be excessively burdened by a large share of the total contributions levied under the Protocol. In the view of the Japanese delegation, a solution could be to revise the contribution system by introducing a cap on the contributions payable under the 1984 Protocol in respect of a single Member State, as a transitional measure until the aggregate quantity of contributing oil received in all Member States reached a certain level. The Japanese delegation stated that without such a capping system, the Japanese Government might lose the possibility of ratifying the 1984 Protocols at an early stage.

A number of delegations indicated that they were opposed, in principle, to any system setting a cap on contributions payable by oil receivers in a single Member State, as contributions were not levied on Member States but on individual contributors in these States. These delegations pointed out that the present contribution system was based on the idea that every contributor should pay the same amount per tonne of contributing oil received. They expressed the view that a capping system would introduce an element of discrimination, since contributors in Member States benefiting from the capping provisions would pay a lower amount per tonne of contributing oil than oil receivers in other Member States, thus distorting competition between the industries in various Member States. However, it was generally accepted that the question of the introduction of such a system was mainly a political one and that the final decision on this issue would have to be taken by the international conference convened for the purpose of adopting new instruments.

Some delegations stated that the introduction of a capping system was not an alternative to a reduction of the quantity of contributing oil required for the entry into force of the 1984 Protocol to the Fund Convention, but a separate issue.

Adoption of Resolution

The Assembly adopted a resolution containing a request addressed to the Secretary-General of IMO to convene an international conference, to be held if possible before the end of 1992, to consider draft protocols modifying the 1969 Civil

Liability Convention and the 1971 Fund Convention which were attached to the resolution; the conference should also consider whether there should be introduced in the Fund Convention a system of setting a cap on contributions payable by oil receivers in any given State for a transitional period.

7.4 Action Taken by IMO

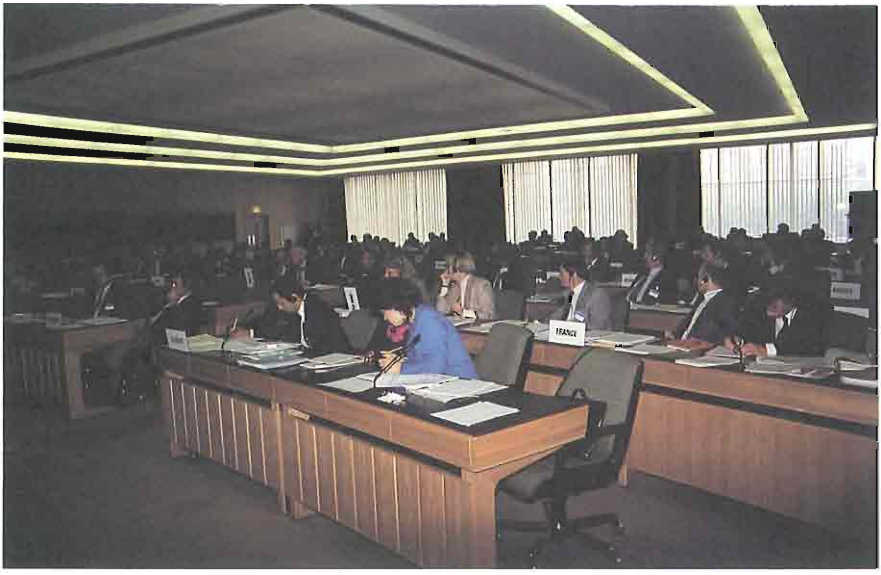
In November 1991, the Assembly of IMO adopted a resolution requesting the Legal Committee of IMO to consider draft protocols modifying the Civil Liability Convention and the Fund Convention and the question of "capping" contributions payable by oil receivers in any given State. The Assembly of IMO also decided that an international conference of one week's duration be held during 1992 to consider the need for a review of the Civil Liability Convention and the Fund Convention. It is envisaged that the conference will be held from 23 to 27 November 1992.

8 SECRETARIAT

The Secretariat administers the IOPC Fund and, in particular, deals with claims for compensation. At the commencement of 1991, the Secretariat had seven staff members.

During 1991, two new posts were established, viz those of Claims Officer and Clerk-Secretary, owing to the increasing workload due mainly to expanding membership and two major incidents which occurred in Italy in April 1991. Mrs Sally Broadley (United Kingdom) was appointed Claims Officer from 11 November 1991.

At the end of 1991, the Secretariat of the IOPC Fund was thus composed of nine staff members: the Director, the Legal Officer, the Finance/Personnel Officer, the Claims Officer, four Secretaries and a Messenger.



The Assembly in session

9 ACCOUNTS OF THE IOPC FUND

The accounts of the IOPC Fund for the financial period 1 January to 31 December 1990 were approved by the Assembly in October 1991. Statements containing a summary of the information given in the IOPC Fund's audited financial statements for this period are given in Annexes II-VII to this Report.

As in previous years, the accounts were audited by the Comptroller and Auditor General of the United Kingdom. The Auditor's report and his opinion on the financial statements for 1990 are reproduced in full as Annexes VIII and IX.

There are separate income and expenditure accounts for the general fund and for each major claims fund.

Regarding the general fund (Annex III), the major part of the income in 1990 consisted of initial and annual contributions (£1 604 482 out of a total income of £2 246 982). A considerable amount (£546 780) was derived from interest on the investment of the IOPC Fund's assets. The administrative expenditure was £437 305, about 10% less than the budgetary appropriations. Expenditure on minor claims was £652 907. An excess of income over expenditure of £1 154 576 was recorded for the financial year 1990, and this amount was added to the accumulated surplus from previous years, bringing the surplus to £6 219 972. This latter amount includes the working capital which, during 1990, was £4 million.

In respect of the BRADY MARIA major claims fund (Annex IV), there was a balance of £64 565 as at 31 December 1990.

With regard to the KASUGA MARU N°1 major claims fund (Annex V), annual contributions were received in 1990 for a total amount of £1 499 995. After allowing for the repayment of a loan of £1 177 484 taken from the general fund, there was a balance on this major claim fund of £275 755 as at 31 December 1990.

As for the THUNTANK 5 major claims fund (Annex VI), annual contributions were received in 1990 for a total amount of £1 700 747. After allowing for the repayment of a loan of £1 610 370 taken from the general fund, there was a balance on this major claim fund of £79 827 as at 31 December 1990.

The balance sheet of the IOPC Fund as at 31 December 1990 is shown in Annex VII to this Report. As at that date, the IOPC Fund's contingent liabilities with respect to pollution incidents were estimated at £17 778 871.

The accounts of the IOPC Fund for the financial period 1 January to 31 December 1991 will be submitted in the spring of 1992 to the External Auditor for an audit opinion, and will be presented to the Assembly for approval at its session in October 1992. These accounts will then be reproduced in the Report on the Activities of the IOPC Fund for the calendar year 1992.

10 CONTRIBUTIONS

The IOPC Fund is financed by contributions paid by any person who has received in the relevant calendar year more than 150 000 tonnes of crude oil or heavy fuel oil (contributing oil) in a Member State after carriage by sea. 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 30 December 1991 corresponded to £0.0024011). 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 September 1990, the Assembly decided to levy 1990 annual contributions for the general fund in the amount of £500 000, to be paid by 1 February 1991. The amount payable per tonne of contributing oil was £0.0005563, based on the quantities of oil received in 1989. Only a small amount of these contributions remains unpaid. There was no levy of 1990 annual contributions for any major claims fund.

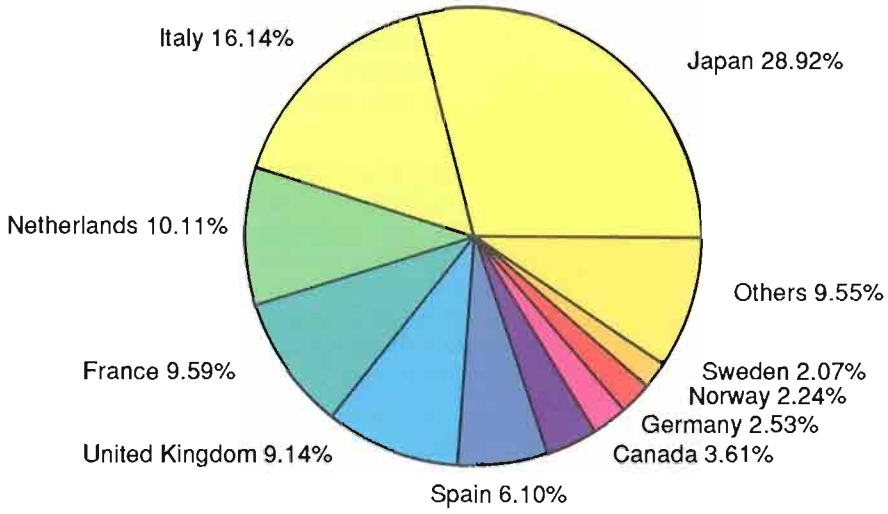
As already mentioned, the Assembly decided in October 1991 to raise 1991 annual contributions in the amount of £5 million for the general fund, £6.7 million for the RIO ORINOCO major claims fund and £15 million for the HAVEN major claims fund, to be paid by 1 February 1992. The amount payable by each contributor per tonne of contributing oil received was £0.0053225 in respect of the general fund, based on the quantities of oil received in 1990, £0.0074113 in respect of the RIO ORINOCO major claims fund, based on the quantities received in 1989 (the year before the incident), and £0.0159675 in respect of the HAVEN major claims fund, based on the quantities received in 1990 (the year before the incident). Only a small part of these contributions had been received by 31 December 1991.

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 1991, only an amount of £23 628 was outstanding. In October 1991, the Assembly again expressed its satisfaction with the situation regarding the payment of contributions.

The quantities of contributing oil received in 1990 in Member States are given in Annex X to this Report.

The shares of the 1991 annual contributions to the general fund in respect of Member States are illustrated by the chart shown overleaf.

1991 General Fund 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 1979-1991.

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
1990	500 000	0	500 000
1991	5 000 000	21 700 000	26 700 000

If contributions for a 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. Repayments were thus made in 1981 (£750 000 of the 1980 levy for the ANTONIO GRAMSCI major claims fund), in 1986 (£700 000 of the 1983 levy for the ONDINA/FUKUTOKU MARU N°8 major claims fund) and in 1989 (£13.9 million of the 1983 levy for the TANIO major claims fund). The high balance on the TANIO major claims fund resulted from the recovery of a very substantial amount in recourse proceedings.

HAVEN incident - Firefighting vessels attending the blazing tanker

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. Pursuant to the Financial Regulations, investments may be made with banks, discount houses and building societies which fulfil certain requirements as to their financial standing.

During 1991, investments were made with several banks, discount houses and building societies in the United Kingdom. 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 10.1875% to 14.125% per annum, with an average of 12.5%. Interest due in 1991 on the investments amounted to £1 240 000, on an average capital of £7 million.

As at 31 December 1991, the IOPC Fund's portfolio of investments totalled £4 487 438. This amount was made up of the assets of the IOPC Fund, the Staff Provident Fund and a credit balance of £719 000 on the contributors' account.

As mentioned above, the Assembly instructed the Director, at its session in October 1991, to examine the IOPC Fund's investment policy in consultation with the External Auditor, in view of certain events in the London banking market during the summer of 1991, and to submit a report to the Assembly at its session in 1992.

12 SETTLEMENT OF CLAIMS

12.1 General Information

Since its establishment in October 1978 the IOPC Fund has, up to 31 December 1991, been involved in the settlement of claims for compensation arising out of 60 incidents. Thirty-two of these incidents occurred in Japan, whereas 19 incidents, leading in general to much larger claims, took place in European waters, one in Indonesia, one in Algeria, one in the Caribbean, four in Canada and two in the Persian 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 £46 million.

During 1991, six incidents occurred that gave rise to claims against the IOPC Fund, namely the VISTABELLA incident which happened in the Caribbean, the HOKUNAN MARU N°12, KAIKO MARU N°86 and KUMI MARU N°12 incidents which took place in Japan, and the AGIP ABRUZZO and HAVEN incidents which occurred in Italy.

The most serious of these cases was the HAVEN incident. The Cypriot tanker HAVEN, carrying 144 000 tonnes of crude oil, exploded and sank off Genoa (Italy) in April 1991. This incident caused serious pollution in Italy, France and Monaco, necessitating extensive clean-up operations at sea and on shore. More than 1 300 claims for compensation were submitted, and the aggregate amount of the claims greatly exceeds the total amount of compensation payable under the Civil Liability Convention and the Fund Convention.

Another serious incident resulting in the loss of life of a great number of people also occurred in Italy in April 1991, when the ferry MOBY PRINCE struck the tanker AGIP ABRUZZO off the port of Livorno. The tanker was carrying some 80 000 tonnes of crude oil, and it is estimated that about 2 000 tonnes of cargo oil and an unknown quantity of bunker oil were spilled, necessitating clean-up operations at sea and on shore. The incident has given rise to significant claims against the IOPC Fund.

As at 31 December 1991, there were seven incidents involving the IOPC Fund which had taken place in previous years and in respect of which final settlements had not yet been reached as regards the third party claims, namely the PATMOS, AKARI, AMAZZONE, VOLGONEFT 263, BONITO, RIO ORINOCO and PORTFIELD incidents.

From April 1991 onwards, the priority for the IOPC Fund was dealing with the various problems arising out of the HAVEN and AGIP ABRUZZO incidents. As regards other cases, the most important developments in 1991 related to the final settlement of all claims arising out the KAZUEI MARU N°10 incident (Japan, 1990), the settlement of the French Government's claim in respect of the AMAZZONE incident (France, 1988) and the IOPC Fund's involvement in the AKARI (United Arab Emirates, 1987), TOLMIROS (Sweden, 1987) and RIO ORINOCO (Canada, 1990) incidents.

The IOPC Fund is involved in complex legal proceedings in Italy concerning certain claims arising out of the PATMOS incident, which occurred in 1985 in the Straits of Messina. 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" 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 58-62, 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 1991 are given in Section 12.2 of this Report. The conversion of foreign currencies into Pounds Sterling is as at 30 December 1991, 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 XI 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 ultimately was not called upon to make any payments.

12.2 Incidents dealt with by the IOPC Fund during 1991

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.

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 Llt 13 263 703 650 (£6.2 million).

The Claims

Claims were lodged against the limitation fund, totalling Llt 76 112 040 216 (£35.0 million). Most of the claims were settled out of court at an early stage, and these settlements were approved by the Court of first instance. Some claimants appealed against the judgement of the Court of first instance. During the appeal proceedings, out-of-court settlements were reached with two claimants, and these settlements were approved by the Court of Appeal.

The aggregate amount of the claims accepted by the courts during the limitation proceedings and in the appeal proceedings is Llt9 418 318 650 (£4.4 million). These claims have been paid by the UK Club.

Outstanding Claims in Appeal Proceedings

A claim of Llt 20 000 million (£9.2 million), later reduced to Llt 5 000 million (£2.3 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 is 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. The shipowner and the UK Club took the same position as the IOPC Fund.

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 of first instance rejected this claim.

The Italian Government appealed against the decision of the Court of first instance. 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.

When discussing the incident, 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 in 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 Court experts submitted their report in March 1990. In the report, the experts held that, except in respect of fishing activities, there was a lack of data to evaluate the economic impact on other activities and that a precise assessment of the damage to such activities was impossible. In the view of the experts, the evaluation should be carried out by the Court. The experts quantified the damage to the fishing activities at not less than Llt 1 000 million (£465 000).

After the publication of the report of the Court experts, the parties exchanged final pleadings. The IOPC Fund, the owner of the PATMOS and the UK Club pointed out that the Court had instructed the surveyors to deal with damage which could not be assessed in monetary terms. They argued that the court surveyors had exceeded their mandate, since the damage allegedly suffered by fishermen and the tourist industry was not damage to the marine resources but economic loss. It was pointed out that, in any event, the surveyors had admitted that the damage to the tourist industry could not be quantified. The owner, the Club and the IOPC Fund referred to the fact that, as regards the damage to the environment properly speaking, the surveyors had used expressions such as "non-existent", "negligible", "modest", "of short duration" and "reversible".

In addition to the Italian Government's claim, there are three claims subject to appeal proceedings, totalling approximately Llt 690 million (£320 000).

The Court of Appeal held a final hearing on 18 June 1991, and it was expected that the Court would render its judgement in October 1991. However, the Court requested clarifications from the experts. It is expected that the judgement will be delivered towards the end of 1992 at the earliest.

Possible Appeal to the Supreme Court

It is possible that, if the Italian Government's claim were to be accepted for the amount claimed or a major part of it, the total amount of the accepted claims would exceed the limitation amount applicable to the PATMOS and would result in the IOPC Fund's being called upon to pay compensation in respect of this incident. In October

1991, the Director was instructed by the Executive Committee to lodge an appeal against a judgement by the Court of Appeal accepting the Italian Government's claim, if the judgement could lead to the IOPC Fund's being called upon to pay compensation.

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. It was estimated that 150-200 tonnes of oil escaped as a result of the incident. The oil affected various areas along a 150 kilometre stretch of coast around Gävle, including a number of small islands. The pollution necessitated extensive clean-up operations which were undertaken by the Swedish Coast Guard and the five municipalities affected by the spill.

A claim by the Swedish Government in respect of the operations carried out by the Coast Guard and the on-shore operations carried out by the municipalities concerned was settled at SKr21 931 232 (£2.1 million) plus interest. In November 1989, the IOPC Fund paid SKr23 168 271 (£2 291 257) to the Swedish Government, representing the accepted amount of the claim plus interest (SKr3 978 785), minus the shipowner's limitation amount of SKr2 741 746.

Claims submitted by seven fishermen and two other private claimants were accepted at an aggregate amount of SKr49 361 (£4 925). These claims were paid during the period of December 1987 - August 1988.

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

The Swedish authorities feared that oil from the THUNTANK 5 which had sunk to the bottom of the sea might resurface and come ashore, necessitating further clean-up operations in subsequent years. In the Settlement Agreement with the IOPC Fund and the shipowner, the Swedish Government reserved its right to claim supplementary compensation in respect of such operations, subject to the provisions on prescription in the Civil Liability Convention and the Fund Convention. In September 1990 and August 1991, there were reports of further pollution on the coast caused by oil from the THUNTANK 5. However, this pollution was very limited. The Swedish Government informed the IOPC Fund that it would not present any claim for compensation in respect of the pollution which occurred in 1990 and 1991.

Any claims for compensation in respect of this incident will become time-barred in December 1992.

AKARI

(United Arab Emirates, 25 August 1987)

The Incident

While outside Dubai (United Arab Emirates), the Panamanian coastal tanker AKARI (1 345 GRT) had a switchboard fire on 24 August 1987 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 on 25 and 26 August 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 is estimated that 30-40 kilometres of the coast were polluted as a result of the incident. Clean-up operations were undertaken at sea and on the shore.

The limitation amount applicable to the AKARI under the Civil Liability Convention is estimated at 121 500 Special Drawing Rights (£92 800).

Negotiations with Shipowner and P & I Insurer

Under Article VII.1 of the Civil Liability Convention, the owner is required to maintain insurance in respect of any ship registered in a Contracting State and carrying more than 2 000 tonnes of oil in bulk as cargo. At the time of the incident the AKARI was carrying only 1 899 tonnes and was therefore not under any obligation to maintain insurance in accordance with the Convention.

The AKARI was entered with the Shipowners' Mutual Protection and Indemnity Association (the Shipowners' Club). The Director held several meetings with those representing the Shipowners' Club and the shipowner to discuss the legal problems involved. It was apparent that the shipowner had no assets and would not, without the Club's support, establish a limitation fund. The Club made it clear that it would not constitute any such fund. The Club consistently refused to confirm that the AKARI was insured with the Club in respect of matters arising from this incident and subsequently stated that the vessel was not insured for such matters. The Club argued that the right of direct action against the insurer under Article VII.8 of the Civil Liability Convention did not apply in this case, since the ship was carrying less than 2 000 tonnes of oil. This argument was not accepted by the Director who maintained that a right of direct action against the Club as the shipowner's liability insurer did exist. Finally, after protracted discussions, the Club offered to make an ex gratia payment of US$160 000 to the IOPC Fund, recognising its potential liabilities to third parties but without any admission on this issue.

In view of the financial situation of the shipowner, the uncertainty surrounding the outcome of any direct action against the Club and the likely high costs of litigation, the Director considered that the best course of action was to accept the Club's offer to make an ex gratia payment of US$160 000 (£85 700), without in any way conceding the validity of the Club's contention that no right of direct action existed. In consideration thereof, he gave an undertaking, on behalf of the IOPC Fund, not to pursue any claims against the owner of the AKARI or against the Club and to hold the owner and the Club harmless for any claim for compensation for pollution damage arising out of this incident. An agreement to this effect was signed by the IOPC Fund and the Club on 20 August 1990.

The Claims

Any claims would become time-barred after the expiry of a period of three years from the date when the damage occurred (ie on or shortly after 25 August 1990), in accordance with Article VIII of the Civil Liability Convention and Article 6.1 of the Fund Convention. For this reason, in June 1990 the IOPC Fund, through its lawyers in Dubai, made contact with the persons whom the Fund had reason to believe had suffered damage as a result of the incident and drew their attention to their right to obtain compensation from the IOPC Fund and the necessity of bringing legal action against the shipowner before 25 August 1990, so as to prevent the claims from being time-barred. The claimants were informed that as soon as such actions had been brought, the Fund would enter into negotiations with them for the purpose of arriving at an out-of-court settlement.

As a result of these contacts, six claimants brought legal actions against the owner of the AKARI in the Court of Dubai for an aggregate amount of £320 000. The claimants notified the IOPC Fund of the actions under Article 7.6 of the Fund Convention.

After negotiations with the claimants, agreements were reached to settle the following claims at the amounts given below. These claims were paid by the IOPC Fund during the period April - December 1991, except for the claim presented by the Dubai Municipality, which will be paid in early 1992.

	Claimed	Agreed	Paid
	Dhs	Dhs	£
Coast Guard of the United Arab Emirates	296 300	296 300	46 023
Dubai Municipality	256 006	153 589	-
Dubai Electricity Company	50 514	50 514	7 846
Dubai Aluminium Company	401 455	363 890	55 983
	1 004 275	864 293	
	US$	US$	
Dubai Petroleum Company	148 740	146 565	83 181
			193 033

The remaining claim was submitted by Smit Tak International for US$176 941 (£94 800), partly covering operations which in the Director's view relate to salvage operations. Discussions are at present being held with this claimant, and the Director hopes that the claim can be settled in the near future.

TOLMIROS

(Sweden, 11 September 1987)

The Incident

On 11 September 1987 a Swedish passenger ferry sighted an oil slick which was two nautical miles long and one mile wide off the Skaw, the northern point of Jutland (Denmark), and reported its observations to the Swedish authorities which immediately commenced air reconnaissance flights. The prevailing winds and currents caused the oil to drift rapidly towards the west coast of Sweden. As the slick spread over a large area of the sea, no effective measures could be taken to prevent the oil from reaching the coast.

The oil started reaching the Swedish coast in the evening of 11 September. It is estimated that 200 tonnes of oil came ashore. Extensive pollution was caused to a long stretch of coast, north of Gothenburg. The affected region consists of numerous small islands and a rocky mainland coast. The area is of great importance to tourism and some fishing activities are carried out there.

The clean-up operations at sea were carried out by the Swedish Coast Guard, whereas the on-shore clean-up was the responsibility of the municipalities concerned. Extensive operations to clean the shoreline were carried out during the period September 1987 - December 1988 and also during the summer of 1989. The Swedish Government has reimbursed the municipalities for the costs incurred by them as a result of the incident.

The Legal Action

In August 1990, the Swedish Government took legal action in the Court of Gothenburg against the owner of the Greek vessel TOLMIROS (48 914 GRT) and his P & I insurer, Assuranceforeningen Gard (the Gard Club), claiming compensation for pollution damage. The Swedish Government's claim totalled SKr100 639 999 (£9.7 million). The IOPC Fund was notified of the action, in accordance with Article 7.6 of the Fund Convention. The Fund availed itself of its right to intervene as a party to the legal proceedings, pursuant to Article 7.4. It should be noted that the claims arising out of this incident would have been time-barred on or shortly after 11 September 1990, ie on the expiry of the three-year periods laid down in the Civil Liability Convention and the Fund Convention.

The limitation amount applicable to the TOLMIROS under the Civil Liability Convention is approximately SKr50 million (£4.8 million).

The Court held a pre-trial hearing in September 1991. The main hearing was scheduled for December 1991 but was postponed at the request of the Swedish Government.

Position Taken by the Swedish Government

The Swedish Government alleged that the oil causing the pollution emanated from the TOLMIROS and that the TOLMIROS at the time of the incident was carrying oil in bulk as cargo. The Swedish Government's pleadings in support of its claim can be summarised as follows:

> The oil which polluted the coast was a Venezuelan crude oil with high asphalt content and special characteristics. The Swedish authorities investigated which ships, during the relevant period, had transported oil of the type in question in northern European waters. This investigation showed that only two vessels could have been involved, viz the French tanker CHRISTINA and the Greek tanker TOLMIROS. With regard to the CHRISTINA, an investigation was made of her journey, the quantities of oil in her tanks on departure from the previous port and the quantities remaining on arrival at the next port. The results of this investigation showed that the CHRISTINA could not have been the source of the spill. Samples of the oil taken from the cargo discharged by the TOLMIROS

in Gothenburg were compared with samples of the oil which had polluted the coast, and this comparison showed that the samples corresponded very closely. When the TOLMIROS was discharging her cargo in Gothenburg, certain problems arose as the storage tank in the port became full. For this reason, it was not possible to discharge the entire cargo. In addition, it was not possible to dispose of the cargo oil remaining in the vessel's pump and pipe system and in the lines ashore by the method normally used (so-called "blowing"). The exact quantity of the cargo oil remaining in the TOLMIROS on leaving Gothenburg cannot be determined, but the quantity which had not been discharged was substantial.

The Swedish Government took the position that "oil carried as cargo" was intended to be distinguished from oil as bunkers or lubricating oil and that oil taken on board as cargo, ie taken into the tanks and the loading/discharging systems of the vessel, remained "cargo" under the Conventions until removed from the ship.

As a subsidiary ground for its action, the Swedish Government based its claim on the Swedish legislation relating to oil pollution damage caused by ships not covered by the Civil Liability Convention, should it be considered that the TOLMIROS was not carrying oil in bulk as cargo. It should be noted that such liability would not result in the IOPC Fund being called upon to pay any supplementary compensation.

Position Taken by the Shipowner and the Gard Club

In their pleadings to the Court, the owner of the TOLMIROS and the Gard Club rejected any liability for the damage caused by this oil spill, and took the position that the oil which polluted the coast did not come from the TOLMIROS. They pointed out that a thorough investigation undertaken by the Greek authorities at the request of the Swedish Government had acquitted the TOLMIROS of the allegation of having caused the spill. The master and the chief engineer were prosecuted in Greece for pollution offences but were acquitted by the Court of first instance in September 1991. The owner and the Gard Club did not take any position as to whether the vessel was carrying oil in bulk as cargo during her voyage from Gothenburg.

Position of the IOPC Fund

In the opinion of the Director, the documentation presented by the Swedish Government did not exclude sources other than the TOLMIROS. In the Court proceedings the IOPC Fund took the position that the oil did not emanate from the TOLMIROS.

Under Article 4.2(b) of the Fund Convention, the IOPC Fund shall incur no obligation to pay compensation for pollution damage if the claimant cannot prove that the damage resulted from an incident involving one or more ships. A "ship" is defined in the Civil Liability Convention and the Fund Convention as "any sea-going vessel and any seaborne craft of any type whatsoever, actually carrying oil in bulk as cargo". The IOPC Fund took the position that the TOLMIROS was not actually carrying oil in bulk as cargo and that therefore the Conventions would not apply even if it were proved that the oil which polluted the coast came from the TOLMIROS. Consequently the IOPC Fund rejected any liability to pay compensation.

The IOPC Fund engaged an English barrister with a wealth of experience in maritime matters to study the question of whether the TOLMIROS should be considered as having "actually carried oil in bulk as cargo". In an extensive reasoned opinion the barrister concluded that residual oil (slops) not intended to be discharged to the owner/receiver was neither "cargo" nor "carried as cargo" in the ordinary sense of the words or as these words should be construed in the Conventions.

Withdrawal of Legal Action

In December 1991, the Swedish Government withdrew its action against the shipowner and his P & I insurer. As a reason for the withdrawal, the Swedish Government stated that further investigations into the winds and currents at the time of the spill had shown that it was not possible to prove that the oil which polluted the coast actually emanated from the TOLMIROS. Consequently, the IOPC Fund will not be called upon to pay any compensation in respect of this incident.

AMAZZONE

(France, 31 January 1988)

The Incident

During the night of 30 - 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 openings (access points for tank washing) of two cargo tanks and, as a result, approximately 2 000 tonnes of the cargo escaped, displaced by seawater 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-d'Armor, 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 on shore, the French national oil spill contingency plan, "PLAN POLMAR", was activated in Finistère, in Côtes-d'Armor 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 the local fire brigades, the Army, the Civil Defence and the Ministry of Public Works supported by the local authorities.

As for the island of Guernsey, five to ten kilometres of coast were contaminated. In Jersey approximately 15 kilometres of coast were contaminated with seaweed mixed with oil.

Constitution of Limitation Fund

The limitation amount of the shipowner's liability was fixed by the Court in Brest at FFr13 860 369 (£1.4 million).

In the Italian registration document the vessel was registered in the name of two persons, indicated as "proprietario" and "armatore". The limitation fund was therefore constituted on behalf of these two persons. 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".

The Claims

In 1990, the French Government submitted a claim in an aggregate amount of FFr22 255 375 (£2.3 million), covering the operations carried out by the Ministries concerned. The claimed amount was later reduced to FFr20 960 056 (£2.2 million).

The Government's claim gave rise to several questions of principle, viz, the reasonableness of certain operations, the tariffs applied in respect of certain vessels used for oil combatting operations owned by public authorities and the rates of personnel of Government agencies used for such operations. After negotiations, an agreement was reached in May 1991 between the French Government, on the one side, and the IOPC Fund, the Standard Club and the shipowner, on the other side, to settle the Government's claim at FFr17 150 000 (£1.8 million) plus interest from 1 January 1991. In November 1991 the Standard Club paid FFr18 755 325 (£1.9 million) to the French Government covering principal and interest.

A claim submitted by the Department of Côtes-d'Armor for an amount of FFr141 326 (£14 180) plus interest was accepted in full. In addition, claims presented by 25 communes in Côtes-d'Armor were settled at an aggregate amount of FFr814 964 (£81 780) plus interest. The claims of the Department and the communes were paid by the IOPC Fund.

The Department of Calvados claimed compensation in respect of clean-up operations, in the amount of FFr74 250 (£7 700). Fifteen communes in Calvados presented claims relating to clean-up costs, totalling FFr146 138 (£15 000). Most of these claims were settled by December 1991, and it is expected that the remaining ones will be settled in early 1992.

Claims for clean-up costs were submitted by the authorities in Jersey and in Guernsey in the amounts of £11 380 and £13 396, respectively. These claims were accepted in full and were paid by the IOPC Fund in 1990.

Claims submitted by five French fishermen for a total amount of FFr249 102 (£25 700) were settled at an aggregate amount of FFr145 850 (£15 000). A claim in the amount of FFr50 949 (£5 300) relating to the cost of cleaning oiled sea-birds, which was submitted by a private organisation, was accepted in full. These claims were paid by the Standard Club.

Legal Action against Shipowner, Charterer and P & I Insurer

As mentioned above, the AMAZZONE was equipped with deck openings which made it possible to clean the cargo tanks by using pressurised water (the so-called "Butterworth" system). Many tankers had this system before it was gradually replaced, from the 1980s, by cleaning facilities integrated in the tanks themselves which use the

cargo as a cleaning fluid (crude oil washing). During the storm on 30 and 31 January, probably on the evening of 31 January, the Butterworth deck covers on several tanks became unfastened, perhaps as a result of shocks caused by broken power cables, and fell into the sea. Heavy waves washing the deck then penetrated the tanks through the Butterworth openings and ejected the oil.

Investigations into the cause of the incident were carried out on behalf of the Commercial Court in Antwerp and an investigating judge ("juge d'instruction") in Paris. The French Government and the IOPC Fund employed their own experts for the same purpose. After having examined the results of these investigations, the French Government and the Director came to the following conclusions. The AMAZZONE was not seaworthy at the time of the incident, as a result of inadequate maintenance of the Butterworth system. The shipowner and the charterer had not taken any measures to examine the condition of the Butterworth holes, neither when the ship was acquired in 1987 nor thereafter, not even by taking samples of the thickness of the steel plates. Immediately after the incident, during the night in the port of Antwerp, the charterer of the AMAZZONE cut the edges of certain Butterworth openings, disregarding the most elementary safety rules. He then replaced the system for tightening the deck covers which had vanished in the storm with covers tightened by a conventional mechanism, ie using nuts for tightening. The experts interpreted this act as a clumsy attempt to "eliminate the trace of the most flagrant corrosion". The action taken by the charterer shows that he must have been aware of the bad condition of the ship in this regard. In addition, the shipowner and the charterer had not given their personnel the necessary training and proper instructions so as to ensure that the Butterworth deck covers remained fastened in bad weather. The shipowner was responsible for the proper maintenance of the vessel and the training of the crew, and he could not escape this responsibility by chartering out the vessel.

In view of these considerations, the Director, on behalf of the IOPC Fund, and the French Government decided to take legal action in the Court of Cherbourg (France) against the owner of the AMAZZONE and the charterer of the vessel, as well as against the Standard Club, in its capacity as third party liability insurer of the charterer. In March 1991 the Executive Committee endorsed the Director's decision.

In respect of the action against the shipowner, the French Government and the IOPC Fund invoked the strict liability laid down in the Civil Liability Convention and maintained that the owner was not entitled to limit his liability, since the incident had occurred as a result of the actual fault or privity of the owner. The action against the charterer was based on his fault as regards the lack of maintenance of the Butterworth system, and it was argued that his lack of care would deprive him of the right to limit his liability under the 1976 Convention on Limitation of Liability for Maritime Claims.

As the French Government's claim for compensation against the shipowner and the IOPC Fund had not been settled when the action was brought, the French Government claimed compensation from the three defendants for pollution damage for a total amount of FFr20 960 056 (£2.2 million) plus interest. The IOPC Fund claimed to be indemnified in respect of any amounts already paid or to be paid by it to claimants as a result of the incident. As the French Government's claim was paid in November 1991, the Government will withdraw its action.

CZANTORIA

(Canada, 8 May 1988)

The Canadian tanker CZANTORIA (81 197 GRT) struck a berth in St Romuald, Quebec (Canada). As a result of the incident, some of the oil cargo was spilled into the St Lawrence River. It has been alleged that the spilt oil caused some pollution damage.

The owners of the cargo of the CZANTORIA and the charterers of the vessel brought legal action in the Federal Court of Canada against the owner of the CZANTORIA claiming compensation for any loss they had suffered as a result of the incident, estimated at Can$1.8 million (£830 000), including costs for pollution damage. The IOPC Fund was notified of the legal action in May 1990.

The Director informed the plaintiffs that as the Fund Convention only entered into force for Canada on 24 April 1989, ie after the incident, the IOPC Fund was not liable to pay any compensation in respect of this incident. In response, the plaintiffs stated that the transitional provisions of the 1989 amendments to the Canada Shipping Act provided that the new legislation applied in respect of damage incurred after the coming into force of the amendments, regardless of the time of the occurrence that gave rise to the damage. The plaintiffs alleged that in the CZANTORIA case some damage was caused after 24 April 1989 and maintained that the new legislation applied to such damage.

The question of the interpretation of the Conventions on this point was considered by the Executive Committee in 1990. The Committee took the position that the Civil Liability Convention and the Fund Convention did not apply to damage sustained in a given State after the entry into force of the respective Conventions for that State resulting from an incident which occurred before the entry into force; consequently, there was no right of compensation from the IOPC Fund in this case.

The plaintiffs were informed of the position taken by the Executive Committee. As no response was received, the IOPC Fund instructed a lawyer in Canada to represent the Fund in the court proceedings. In July 1991, the plaintiffs gave an undertaking not to pursue any claims against the IOPC Fund.

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.

All claims for compensation presented so far were settled at a total amount of ¥442 380 207 (£1.9 million). The claims were paid during the period October - December 1989. The IOPC Fund paid ¥425 365 167 (£1 887 819), representing the aggregate amount of the agreed claims minus the shipowner's liability of ¥17 015 040. Indemnification of the shipowner, ¥4 253 760 (£16 813), was paid by the IOPC Fund in March 1991.

There is no reliable estimate of the quantity of oil remaining in the sunken vessel. In the Settlement Agreements concluded with the claimants, they reserved their right to claim further compensation in respect of pollution damage caused by further leakage of oil after the date of the respective agreement. For this reason, further claims against the IOPC Fund cannot be ruled out, although it is very unlikely that such claims will be presented.

NESTUCCA

(Canada, 23 December 1988)

While manoeuvring to reconnect a broken line, a tug struck the barge NESTUCCA (1 612 GRT) off Grays Harbour on the Pacific coast of the State of Washington (United States of America). The barge was fully-laden with heavy fuel oil, and a tank containing about 800 tonnes was holed as a result of the impact. In order to minimise the pollution, the barge was towed out to sea until a temporary patch could be fitted. Initially, the shoreline immediately north of Grays Harbour was oiled. Early in 1989 there were reports of scattered patches of oil coming ashore along the Pacific coast of Vancouver Island in British Columbia (Canada).

In 1990, claims totalling Can$10 475 (£4 800) were submitted to the IOPC Fund by twelve voluntary workers who participated in the clean-up of the shore of Vancouver Island. As this incident took place before the entry into force of the Fund Convention in respect of Canada, the IOPC Fund rejected these claims, in accordance with the position taken by the Executive Committee in the CZANTORIA case. These claims have not been pursued.

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 the inlet to a cargo hold instead of into the inlet to a bunker tank. As a result of this mistake about seven tonnes of oil polluted some 140 tonnes of fish which had been loaded as cargo. 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 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 should also be considered as being covered by the definition of "pollution damage".

Claims were submitted totalling ¥33 349 310 (£142 000) for damage to the fish cargo and for the cost of cleaning the cargo hold of the fishing vessel. The claims were settled at ¥22 131 425 (£94 300). In May 1990, the IOPC Fund paid ¥19 159 905 (£74 134), representing the amount of the agreed claims minus the shipowner's limitation amount, ¥2 971 520. Indemnification of the shipowner, amounting to ¥742 880 (£3 121), was paid by the IOPC Fund in May 1991.

DAINICHI MARU N°5

(Japan, 28 October 1989)

During a transfer of heavy fuel oil from the Japanese tanker DAINICHI MARU N°5 (174 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.

In this case the question arose of whether the cost of cleaning the cargo hold should be considered as being covered by the definition of "pollution damage" laid down in the Civil Liability Convention. In view of the position taken in respect of the TSUBAME MARU N°58 incident, the IOPC Fund accepted that also the damage caused to the cargo in the DAINICHI MARU N°5 case should be considered as falling within that definition.

This incident resulted in claims totalling ¥7 444 722 (£31 700). The IOPC Fund approved the claims for a total of ¥6 360 290 (£27 000), out of which ¥5 255 028 related to loss of earnings for the owner of the fishing boat and ¥1 105 262 related to compensation for damage to that boat. In June 1990, the IOPC Fund paid ¥2 160 610 (£8 123), representing the total amount of the accepted claim minus the shipowner's limitation amount, ¥4 199 680 (£15 790). Indemnification of the shipowner, amounting to ¥1 049 920 (£4 625), was paid by the IOPC Fund in July 1991.

KAZUEI MARU N°10

(Japan, 11 April 1990)

While the Japanese tanker KAZUEI MARU N°10 (121 GRT) was supplying heavy fuel oil to a ferry in the port of Osaka (Japan), it collided with a cargo vessel, the SUMRYU MARU. As a result of the collision, a cargo tank of the KAZUEI MARU N°10 was damaged, and some 30 tonnes of the cargo oil escaped into the sea. The spilt oil spread over the port area, and some oil drifted outside the port. The clean-up operations lasted five days.

Claims totalling ¥61 181 038 (£261 000) were submitted in December 1990 in respect of the clean-up operations. In addition, a fishery association presented a claim for ¥691 364 (£2 950) relating to contamination of fishing nets and loss of earnings. The claims were approved for a total amount of ¥52 919 786 (£225 000).

In February 1991, the IOPC Fund paid ¥49 443 626 (£191 724), representing the total amount of the agreed claims, minus the shipowner's liability, ¥3 476 160 (£13 470). Indemnification of the shipowner, amounting to ¥869 040 (£3 730), was paid in September 1991.

In the view of the IOPC Fund's lawyer in Japan, the incident was entirely due to negligent navigation on the part of the SUMRYU MARU. The IOPC Fund has taken the necessary steps to initiate a recourse action against the owner of that vessel. The SUMRYU MARU will be entitled to limit her liability under the 1976 Convention on Limitation of Liability for Maritime Claims. The limitation amount applicable to that vessel is approximately ¥61 200 000 (£261 000). The IOPC Fund will compete with other claimants, mainly the hull underwriters, for the distribution of that amount.

FUJI MARU N°3

(Japan, 12 April 1990)

Heavy fuel oil was being supplied by the Japanese tanker FUJI MARU N°3 (199 GRT) to an unladen tanker (the KAIEI MARU N°3) in the port of Yokohama (Japan), when a small quantity of oil escaped into the sea due to oversupply. The spilt oil spread rapidly in the port area. The clean-up operations lasted three days.

Claims for clean-up costs, totalling ¥6 567 037 (£28 000), were submitted by private contractors. The claims were settled in December 1990 at ¥5 448 431 (£23 200).

The shipowner's P & I insurer requested that the IOPC Fund should, in this case, waive the requirement to establish the limitation fund, as the legal costs that would be incurred in establishing the limitation fund would be disproportionately high (approximately ¥1 850 000), compared with the total of ¥1 434 431 which the shipowner would receive from the IOPC Fund in respect of compensation and indemnification.

In March 1991 the Executive Committee noted that, although the limitation amount in the FUJI MARU N°3 case was not particularly low, the legal costs which would be incurred in establishing the limitation fund in this case would be disproportionately high compared with the amount payable by the IOPC Fund in compensation and indemnification; in fact, the legal costs would exceed that amount. For this reason, and in view of the Executive Committee's decisions in respect of other requests to the same effect, the Committee agreed that the requirement to establish the limitation fund should be waived in the FUJI MARU N°3 case, so that the IOPC Fund could, as an exception, pay compensation and indemnification without the limitation fund being established.

In March 1991, the IOPC Fund paid ¥96 431 (£393), representing the total amount of the agreed claims minus the shipowner's liability (¥5 352 000), as well as indemnification of the shipowner, ¥1 338 000 (£5 450).

An investigation into the cause of the incident showed that both vessels were to blame but that the main responsibility for the spill fell on the FUJI MARU N°3. An agreement was reached between the KAIEI MARU N°3 interests and the FUJI MARU N°3 interests, including the IOPC Fund, on an apportionment of liability of 30:70 in favour of the KAIEI MARU N°3. The FUJI MARU N°3 interests therefore recovered ¥1 634 529 from the owner of the KAIEI MARU N°3, of which the IOPC Fund received ¥430 329 (£1 753).

VOLGONEFT 263

(Sweden, 14 May 1990)

The USSR tanker VOLGONEFT 263 (3 566 GRT) collided in thick fog with the general cargo vessel BETTY (499 GRT), registered in the Federal Republic of Germany, 22 kilometres off the Swedish east coast, south of Karlskrona. The VOLGONEFT 263, which was carrying 4 546 tonnes of waste oil, suffered damage to two cargo tanks and it is estimated that 800 tonnes of oil escaped into the sea.

The coastal region north of where the collision occurred is an archipelago consisting of numerous small islands, inlets and very shallow water. Extensive fishing activities are carried out in the region. The spilt oil spread rapidly over a large area of the sea. The Swedish Coast Guard took extensive measures to combat the oil at sea. As the conditions for off-shore recovery were ideal, the Swedish authorities decided to request assistance from the neighbouring countries in accordance with the Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki Convention). In response Denmark, Finland, the Federal Republic of Germany and the USSR each sent a combatting vessel, and these units arrived at the site of the spill during the second and third day after the collision. Nine recovery vessels and fifteen support craft participated in the operations. Aircraft and helicopters were used to locate floating oil. As the threat of extensive shore pollution subsided the operations were gradually reduced and were terminated on 27 May 1990. The impact on the coast and islands was very limited, as only small quantities of oil reached the shore.

A local fisherman suffered considerable damage, as 400 of his salmon nets became polluted and the deck of his fishing boat was damaged by the oil. The fisherman's claim for SKr530 239 (£49 157), which was accepted in full, was paid in stages during the period June - September 1990. The IOPC Fund also approved and paid a claim for SKr6 250 (£573) relating to the cleaning of a polluted pier in a local fishing port.

In October 1991, the Swedish Government submitted a claim for compensation in the amount of SKr17 668 153 (£1.7 million). This claim, which includes costs in respect of oil combatting vessels from neighbouring countries, is being examined by the IOPC Fund Secretariat.

The VOLGONEFT 263 was owned by a USSR company. The vessel did not have any P & I insurance but was covered by a State guarantee, in accordance with Article VII.12 of the Civil Liability Convention.

The Swedish Government has taken legal action against the owner of the VOLGONEFT 263 in the Court of Kalmar, claiming compensation for oil pollution damage. The shipowner has made a request to the Court for the constitution of a limitation fund in the amount of SKr3 123 585 (£301 000). So far, the shipowner has not established the limitation fund. The IOPC Fund has been notified of the court action pursuant to Article 7.6 of the Fund Convention. The Court has been informed that the IOPC Fund intends to intervene in the proceedings pursuant to Article 7.4 of the Convention.

HATO MARU N°2

(Japan, 27 July 1990)

The Japanese tanker HATO MARU N°2 (31 GRT) was supplying heavy fuel oil to a dry cargo vessel in the port of Kobe (Japan) when, due to the mishandling of a hose, the oil spread over the deck and on to the cargo of acrylic fibre in the hold of the cargo vessel. The cargo was contaminated. However, no oil escaped into the sea as a result of the incident.

In this case the question arose of whether the damage caused to the cargo should be considered as being covered by the definition of "pollution damage" laid down in the Civil Liability Convention. In view of the position taken by the IOPC Fund in respect of the TSUBAME MARU N°58 incident, the damage caused to the cargo of the HATO MARU N°2 was also considered as falling within that definition.

In view of the disproportionately high legal costs that would have been incurred in establishing the limitation fund compared with the low limitation amount under the Civil Liability Convention, the Executive Committee decided, as an exception, to waive the requirement to establish the limitation fund in this case.

A claim for ¥1 890 900 (£8 100) was submitted by the owner of the cargo vessel in respect of damage to the cargo. The IOPC Fund accepted this claim in full. In March 1991, the IOPC Fund paid ¥1 087 700 (£4 299), representing the amount of the agreed claim minus the shipowner's liability (¥803 200), as well as indemnification of the shipowner, ¥200 800 (£794).

BONITO

(United Kingdom, 12 October 1990)

The Swedish registered tanker BONITO - previously the THUNTANK 5 - (2 866 GRT) spilled about 20 tonnes of heavy fuel oil into the River Thames whilst loading at the Mobil terminal at Coryton (United Kingdom). Most of the oil was confined within the Coryton industrial area where it adhered to the sea walls. Some sheens and scattered tar balls extended into the Thames Estuary. Bulk oil held against the sea walls was collected using vacuum tankers where access was possible. Clean-up of the sea walls themselves was undertaken manually. It was not necessary to achieve a high level of clean-up of these walls, as they were already treated with bitumen, a product which looks and behaves rather like heavy fuel oil, to protect them from sea erosion.

Claims totalling approximately £260 000 have been submitted to the shipowner. In the IOPC Fund's view, however, a considerable part of this amount relates to operations which do not fall within the definition of "pollution damage" laid down in the Civil Liability Convention. Some claims relating to oiled boats have been settled at £1 969. Further claims may be submitted.

The limitation amount applicable to the BONITO is approximately £241 000. After allowing for indemnification of the shipowner (£60 250), the IOPC Fund would be called upon to make payments if the aggregate amount of the accepted claims were to exceed around £181 000. It appears unlikely that the IOPC Fund will be called upon

to pay compensation or indemnification as a result of this incident, although this possibility cannot be ruled out.

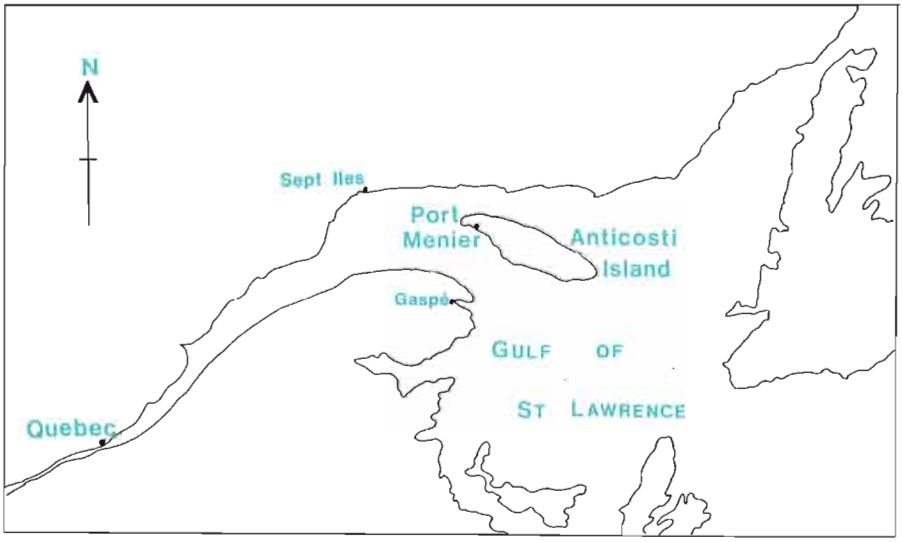
RIO ORINOCO

(Canada, 16 October 1990)

The Incident

The asphalt carrier RIO ORINOCO (5 999 GRT), registered in the Cayman Islands, experienced problems with her main engine whilst en route from Curacao to Montreal with about 9 000 tonnes of heated asphalt cargo and about 300 tonnes of intermediate fuel oil and heavy diesel oil on board. When effecting repairs in the Gulf of St Lawrence, the ship dragged anchor in bad weather and grounded on the south coast of Anticosti Island on 16 October 1990. An estimated 185 tonnes of the intermediate fuel oil was spilled and came ashore east of the grounding position. About ten kilometres of the coastline were heavily polluted, and small patches were spread over a further 30 kilometres. No asphalt cargo was spilled. Over subsequent weeks the cargo cooled and a significant part became solid.

A salvage team arrived at the site of the incident on 16 October. Tugs and equipment were mobilised and a salvage contract based on the principle "no cure, no pay" (Lloyds Open Form 90) was signed on 18 October. The weather then deteriorated and the grounded ship moved again, finally coming to rest wedged between two rock shelves. The salvage master cancelled the salvage contract on 22 October. Three attempts were made by the shipowner between 1 and 5 November to pull the ship free,



but without success. Renewed attempts to refloat the vessel were made by the Canadian Coast Guard in December 1990, but these attempts also failed. After extensive preparations, the ship was finally refloated on 7 August 1991 and taken to a safe haven at Sept Iles.

The RIO ORINOCO was entered with Sveriges Ångfartygs Assurans Förening (the "Swedish Club") in respect of both hull and P & I insurance.

The RIO ORINOCO was declared a constructive total loss by the hull insurer on 18 November 1990, and the Canadian Coast Guard then assumed control of the ship. On 23 November, the shipowner informed the Coast Guard that he was financially incapable of removing the ship and her cargo.

The limitation amount applicable to the RIO ORINOCO was fixed by the Canadian Court at Can$1 182 617 (£546 000). The limitation fund was constituted by the P & I insurer by means of letter of guarantee.

Clean-up Operations

The Canadian Coast Guard made attempts to collect oil at sea but with little success in the difficult sea conditions.

Anticosti Island is a nature reserve supporting large numbers of deer and seabirds. The shores are also used for hunting and fishing.

On-shore clean-up operations on the island were carried out during the period up to 10 November 1990, by contractors on behalf of the shipowner. The operations were terminated for the winter on 10 November, due to deteriorating weather conditions. By that time most of the beaches had been cleaned, and the environmental impact is believed to have been minimal.

A joint inspection of the affected coast was carried out in June 1991 by the Canadian authorities and experts representing the Swedish Club and the IOPC Fund. The inspection showed that the natural weathering processes during the winter had resulted in considerable improvements in all previously oiled areas, and no new areas of oiling were observed. Although remaining oily residues constituted little or no threat to wildlife, rising temperatures were softening thicker accumulations, and some further cleaning was justified in view of the use of the shores by hunters, fishermen, hikers and residents. This cleaning was carried out in July 1991.

Waste Disposal

During the clean-up operations carried out in the autumn of 1990, about 300 tonnes of oily waste were recovered. Various possibilities of treating the waste were investigated. It proved impossible to obtain permission from the local authorities for disposal within the Province of Quebec. After the disposal operations had been put out to tender, the waste was exported to disposal facilities in the United States in October 1991.

Oily waste recovered during the clean-up in July 1991 was transported by helicopter to Port Menier, where disposal was effected during experiments with a burning system developed by the Coast Guard.

Removal of the RIO ORINOCO, her Bunker Oil and her Cargo

Under Canadian law, the Government may take the necessary measures to minimise or prevent pollution from a ship, including the removal and destruction of the ship. The Coast Guard maintained that the RIO ORINOCO, her asphalt cargo and remaining bunker oil represented a threat of pollution, as there was a serious risk that the ship would break if left over the winter. Once in the water, the solid but brittle asphalt could break into pieces which would contaminate the shoreline the following summer. In view of the approaching winter, the Coast Guard considered that all options to prevent the ship from losing her cargo should be explored.

The IOPC Fund engaged an independent expert to follow closely the operations taken for the purpose of removing the RIO ORINOCO and her cargo. This expert was present at the site of the wreck during a large part of the operations and took part in numerous discussions with the Canadian authorities concerning the various options available. Discussions were also held on these issues between the Canadian Government and the Director.

It was decided by the Coast Guard that the remaining bunker oil (some 115 tonnes) should be removed, to the extent possible. The major part of this oil was removed in December 1990 by contractors on behalf of the shipowner, and only unpumpable residues remained on board the RIO ORINOCO.

After the attempts made by the shipowner in November 1990 to pull the ship free of the ground had failed, the various options for removing the ship were discussed between the Coast Guard, the Swedish Club and the IOPC Fund. The RIO ORINOCO had been damaged to such an extent that there was insufficient residual buoyancy for the ship to refloat. It was not possible to remove the cargo by pumping because it had become solid. The Coast Guard decided to try to refloat the vessel by using two barges, one connected to each side of the RIO ORINOCO, to provide additional buoyancy. The preparations for the operation were completed in early December, however, due to unusually bad weather, it was decided on 21 December 1990 to call off any attempt to remove the vessel until the following spring. The Coast Guard then retained a contractor to maintain the ship over the winter period.

The Coast Guard, in consultation with the IOPC Fund, gave further consideration to the various options for removing the vessel and her cargo. After the task had been put out to tender, a contract was concluded between the Canadian Government and a Canadian contractor (Groupe Desgagnés). Under the contract, Groupe Desgagnés should, against a lump sum, remove the RIO ORINOCO from her grounded position and take her to a place of safety in Gaspé or Sept Iles. The method to be used would consist of removing part of the asphalt cargo so as to facilitate the refloating of the vessel. The contract was based on a "no cure, no pay" formula.

Preparations for the operations were made in July 1991. The asphalt cargo had to be reliquified before it could be pumped. Coils were gradually lowered into the cargo. Between 23 July and 5 August, some 2 300 tonnes of asphalt were removed. The RIO ORINOCO was refloated and pulled free on 7 August. The ship was then towed to Sept Iles without any complications arising. No spill of bunker oil or asphalt occurred during the refloating or during the towing operation.

The Canadian authorities arranged for a judicial sale of the RIO ORINOCO. The vessel and her cargo were acquired by the Groupe Desgagnés, the only bidder, for an amount of Can$100 000 (£46 200). The RIO ORINOCO was then towed to the port of Quebec, where the remaining asphalt cargo (about 6 000 tonnes) was removed.

Swedish Club's Claims

The Swedish Club presented a claim in the amount of Can$1 383 571 (£639 000) in subrogation in respect of the on-shore clean-up operations which were carried out during the period up to 10 November 1990. The Club also submitted a claim amounting to Can$257 462 (£119 000) relating to the operations to remove the remaining bunker oil.

In March 1991, the Executive Committee considered whether the operations to remove the remaining bunker oil fell within the definition of "preventive measures" laid down in the Civil Liability Convention. The Committee was of the opinion that these operations fell within that definition, as there was a considerable risk that the bunker oil would escape and cause further pollution to the coast around the grounding site. The Committee considered, therefore, that the expenses incurred on behalf of the shipowner were admissible under Article V.8 of the Civil Liability Convention and Article 4.1 of the Fund Convention.

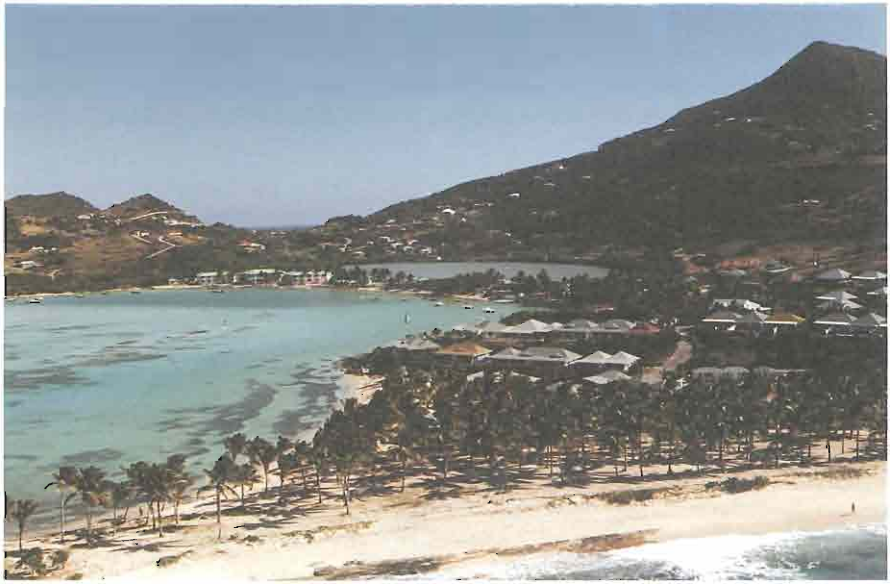
The claims submitted by the Swedish Club referred to above were settled by the Director in June 1991 at an aggregate amount of Can$1 641 034 (£758 000), on the basis of authorisation given by the Executive Committee. In September 1991 the IOPC Fund paid to the Swedish Club Can$458 417 (£232 817), representing the total amount of these claims minus the shipowner's limitation amount.

In September 1991, the Swedish Club presented a claim for Can$470 404 (£217 000) in subrogation in respect of the clean-up operations carried out during the summer of 1991 and the disposal of waste collected during these operations. The Executive Committee authorised the Director to settle this claim and it is expected that a settlement will be reached in the beginning of 1992.

Canadian Government's Claims

In August 1991 the Canadian Government submitted a claim for a total amount of Can$7 261 546 (£3.4 million) in respect of the operations carried out by or on behalf of the Canadian Coast Guard up to 31 January 1991 in connection with attempts to remove the ship from its grounded position. This claim related to the operations carried out by various private companies under contract with the Coast Guard, eg inspection of the vessel by divers, inspection and repair of the ship's boilers, services of a naval architect and a salvage master, hire of two barges, services connected with the attempts to remove the ship, supervision of the ship during the winter and the cost of the Coast Guard's monitoring of these operations. The claim gave rise to some important questions, in particular the reasonableness of certain operations, the relationship between salvage and preventive measures, the rates charged for certain vessels and aircraft owned by the public authorities and used during the operations, and the costs claimed for Government employees.

RIO ORINOCO Incident - The icebound tanker



VISTABELLA Incident - The affected coast

In March 1991, the Executive Committee decided that the attempts made in November and December 1990 to remove the RIO ORINOCO and her cargo fell in principle within the definitions of "pollution damage" and "preventive measures" laid down in Articles I.6 and I.7 of the Civil Liability Convention, since the primary purpose of these operations had been to prevent pollution. When examining the claim relating to these operations, the Director found that they had a dual purpose during certain periods, viz both to prevent and minimise pollution and to salve the vessel and the cargo. It was necessary, therefore, to consider how the costs for these operations should be distributed between salvage and pollution prevention. In presenting its claim, the Canadian Government had already made such a distribution. The rationale of this distribution was discussed between the IOPC Fund's experts and the Canadian Government. As a result of these discussions, the Director accepted the distribution made by the Government.

After negotiations, agreement was reached between the Canadian Government and the Director to settle the claim relating to the operations undertaken by or on behalf of the Coast Guard up to 31 January 1991 at an aggregate amount of Can$6 950 000 (£3.2 million).

In September 1991, the Canadian Government presented a claim relating to the operations carried out by Groupe Desgagnés to remove the RIO ORINOCO from her grounded position and to take her to a place of safety. This claim amounted to Can$3 497 667 (£1.6 million). The Director was of the opinion that the primary purpose of these operations was to prevent or minimise pollution and that the operations fell within the definition of "preventive measures". Agreement was reached between the Canadian Government and the Director to settle this claim at Can$3 268 848 (£1.5 million).

In October 1991, the Executive Committee approved the two claims presented by the Canadian Government at an aggregate amount of Can$10 218 848 (£4.7 million), as proposed by the Director.

The IOPC Fund paid Can$6 million (£2 962 232) to the Canadian Government on 20 November 1991, and the remaining amount of Can$4 218 848 will be paid on 10 February 1992. Payment had to be made in two instalments as the IOPC Fund's working capital was insufficient to cover such a significant payment in respect of an incident which had not been taken into account in the assessment of the 1990 annual contributions. The second payment will be made after the 1991 annual contributions have been received.

Further Claims

A further claim will be presented by the Canadian Government in respect of the operations carried out by the Coast Guard after 31 January 1991 and in respect of certain operations carried out by the Ministry of Environment and the Ministry of Fisheries and Oceans. The total amount of this claim is estimated at Can$2.5-3.0 million (£1.2-1.4 million).

The Swedish Club will submit a claim relating to the disposal of the oily waste collected on the beaches during the autumn of 1990. This claim is estimated at Can$400 000 (£185 000).

PORTFIELD

(United Kingdom, 5 November 1990)

The British tanker PORTFIELD (481 GRT) sank at her berth in Pembroke Dock, Wales (United Kingdom) with a cargo of 80 tonnes of diesel oil and 220 tonnes of medium fuel oil. It is estimated that approximately 110 tonnes of the medium fuel oil was spilt as a result of the sinking. Due to a favourable wind most of the spilt oil could be contained in the berth by booms deployed by the port authority. This oil was recovered with skimmers and vacuum suction trucks over a period of a week and disposed of at a local refinery. A relatively small proportion of the spilt oil escaped from the confines of the berth on the first day and affected numerous pleasure craft moored in the Milford Haven estuary. After the cargo tanks had been emptied, the ship was refloated on 11 November 1990 and the main clean-up operations were terminated soon thereafter.

The local authorities carried out shoreline cleaning on a small scale at a few key locations. A nearby fish farming facility was also contaminated by oil, but fortunately no fish were being cultivated at the time.

The shipowner submitted a claim totalling £99 160 relating to clean-up operations, salvage and preventive measures. In respect of this claim the question arose as to whether certain operations connected with the salvage of the vessel fell within the definition of "pollution damage" as laid down in the Civil Liability Convention, ie whether such operations could be considered as "preventive measures" as defined in the Convention.

The shipowner maintained that the primary purpose of the operations was to prevent oil pollution. If the operations had been carried out in order to salve the vessel, they would, in his view, have been completed within hours and at a much lower cost. After discussions, the IOPC Fund accepted that the salvage operations were carried out partly for the purpose of salving the vessel and partly for the purpose of preventing oil pollution, and that the risk of pollution had made the shipowner carry out the operations in a more expensive way than would have been necessary in order to salve the vessel. Agreement was reached to apportion the cost of these operations, with 2/3 for preventive measures and 1/3 for salvage. The shipowner's claim in respect of preventive measures was settled at £63 000. This claim was paid by the IOPC Fund in July 1991.

The Milford Haven Standing Conference on Anti Oil Pollution claimed compensation in the amount of £242 317, mainly for the deployment of booms, skimmers and other vessels. This claims was settled at £123 000.

A claim for £68 000 submitted by Gulf Oil Refining Ltd in respect of the replacement of damaged oil booms was settled at £13 804. Another claim of the same kind for £5 992 was settled at £1 500.

A claim for £16 479 submitted by Texaco Ltd in respect of clean-up operations was settled at £13 630. Three local councils claimed compensation for clean-up operations for a total amount of £10 088, and these claims were settled at £9 192.

A claim presented by the Department of Transport (Marine Pollution Control Unit) for £22 727 relating mainly to the use of dispersants was accepted in full.

Some 70 claims relating to the pollution of small craft and fishing equipment, totalling £57 492, were settled and paid during 1991 for an aggregate amount of £56 584.

A claim in the amount of £19 063 submitted by the Ministry of Defence for costs incurred in connection with this incident is being discussed with the claimant. A claim for £188 268 presented by the owner of the above-mentioned fish farming facility is also pending.

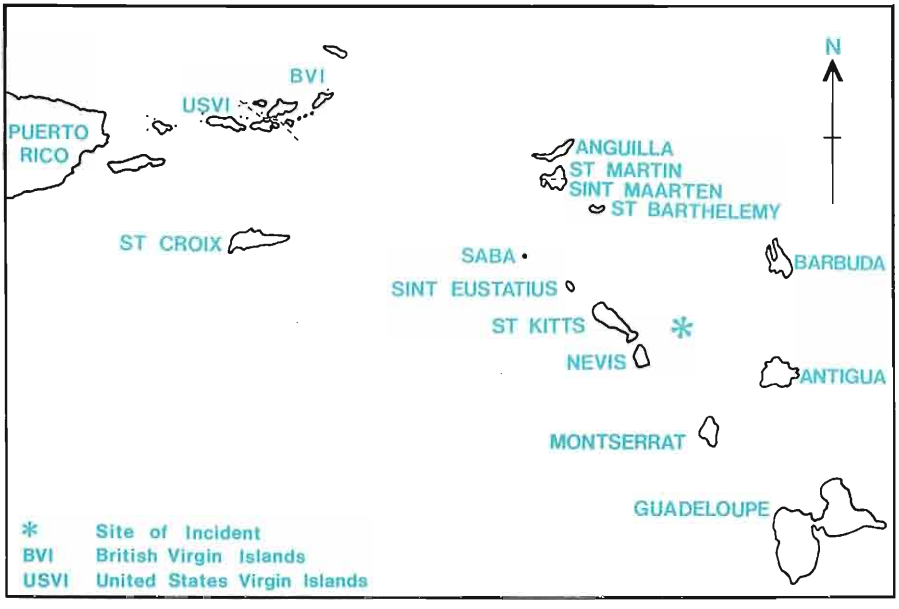
The limitation amount applicable to the PORTFIELD is estimated at £39 970.

VISTABELLA

(Caribbean, 7 March 1991)

The sea-going barge VISTABELLA (1 090 GRT), registered in Trinidad and Tobago and carrying approximately 2 000 tonnes of heavy fuel oil, was being towed by a tug on a voyage from a storage facility in the Netherlands Antilles to Antigua. The tow line parted and the barge sank to a depth of over 600 metres, 15 miles south-east of Nevis. An unknown quantity of oil was spilled as a result of the incident, and the quantity remaining in the barge is not known.

Under the influence of the current, the spilt oil spread northwards and some oil came ashore on St Barthélemy (Department of Guadeloupe, France), where a number of yachts and fishing boats were polluted. Off-shore clean-up operations were carried



out by the French Navy, applying dispersants in the sea area between the sinking site and St Barthélemy. This activity was terminated after a few days when it was confirmed that the dispersant treatment was having little effect because of the high viscosity of the spilt oil. Manual clean-up of the oiled shoreline was also carried out by French army personnel on St Barthélemy.

Oil continued to seep from the wreck, and as a result of easterly winds the windward shores of Saint Kitts, Nevis, Saba and Sint Maarten were also polluted. The two former islands form the independent State of Saint Kitts and Nevis, whilst Saba and Sint Maarten are part of the Netherlands Antilles.

On 22 March, oil started coming ashore in the British Virgin Islands and the out United States Virgin Islands. Within a week oil was also reported to have reached Puerto Rico (United States). Analysis of oil samples and studies of the prevailing winds and currents indicated that the oil which polluted the British Virgin Islands emanated from the VISTABELLA. Some limited manual cleaning on beaches was carried out by public authorities.

Under the joint initiative of the United States Coast Guard and the Saint Kitts and Nevis Coast Guard, attempts were made in early April by a United States contractor to collect oil at the point off Nevis where it was surfacing from the wreck. The operation was unsuccessful, mainly because of high seas, and the attempts were abandoned after about ten days. In the opinion of the surveyor engaged by the IOPC Fund, no benefit from this initiative for the Department of Guadeloupe or British Virgin Islands could be identified, either before or after the operation was carried out.

In total, five jurisdictions were affected as a result of this incident. However, only the pollution damage in the French Department of Guadeloupe and in the British Virgin Islands qualifies for compensation from the IOPC Fund. Neither the independent State of Saint Kitts and Nevis nor Puerto Rico and the United States Virgin Islands are covered by the Fund Convention. Likewise, the Fund Convention does not cover damage in the Netherlands Antilles since the Kingdom of the Netherlands has not extended the application of the Convention to that area.

The VISTABELLA was not entered in any P & I Club. It appears that the vessel was covered by a third party liability insurance, but the IOPC Fund has so far been unable to establish the extent of this cover. The limitation amount applicable to the ship is not known. Attempts have been made to contact the shipowner and his insurer in order to get their co-operation in the settlement procedure. So far, these attempts have been without any results. The financial position of the shipowner is being investigated. In the Director's view it is unlikely that the shipowner would be able to meet his obligations under the Civil Liability Convention unless there is an effective insurance cover.

The French Government brought legal action against the owner of the VISTABELLA in the Court in Basse-Terre (Guadeloupe), claiming compensation for clean-up operations carried out by the French Navy in an amount provisionally set at FFr7 million (£722 000).

Claims totalling FFr189 202 (£19 500) were submitted by some 30 owners of yachts and fishing vessels in St Barthélemy. In July and August 1991, the IOPC Fund settled and paid these claims for an aggregate amount of FFr110 010 (£11 040).

It is expected that the clean-up operations in the British Virgin Islands will give rise to some claims in relatively small amounts.

HOKUNAN MARU N°12

(Japan, 5 April 1991)

The Japanese tanker HOKUNAN MARU N°12 (209 GRT), laden with 230 tonnes of heavy fuel oil, ran aground near Okushiri Island in Hokkaido prefecture (Japan). As a result of the incident, a small quantity of the cargo escaped into the sea. The tanker was safely refloated later the same day. Clean-up operations were immediately undertaken and were completed on 6 April.

The area around the grounding site is of great importance for the cultivation of seaweed, abalone and sea urchin.

Claims relating to clean-up operations and loss of income suffered by fishermen have been submitted in the amounts of ¥2 932 899 (£12 500) and ¥33 117 397 (£141 000) respectively. These claims are being examined by the IOPC Fund's surveyors.

The limitation amount applicable to the HOKUNAN MARU N°12 is ¥3 523 520 (£15 000).

AGIP ABRUZZO

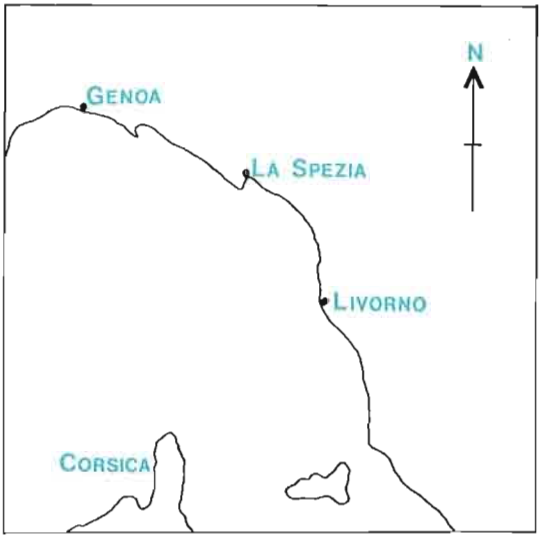
(Italy, 10 April 1991)

The Incident

Whilst lying at anchor two miles off the port of Livorno (Italy) on 10 April 1991, the Italian tanker AGIP ABRUZZO (98 544 GRT) was struck at night by the Italian ro-ro ferry MOBY PRINCE. Both vessels caught fire. All passengers and all crew members but one on board the ferry (143 persons in all) died, and the ferry was totally burned out. There were no fatalities on board the tanker, although some crew members were injured. As a result of the incident, a state of local emergency was declared on 10 April, and it was lifted on 18 May 1991.

The AGIP ABRUZZO was carrying about 80 000 tonnes of Iranian light crude oil. As a result of the collision, the after end cargo tank on the starboard side was damaged and about 2 000 tonnes of cargo oil were lost, part of which was consumed by fire. The fire on board the tanker lasted seven days and destroyed the accommodation area and engine room. Explosions in the starboard bunker tank three days after the incident caused extensive structural damage to the ship and a subsequent loss of an unknown quantity of bunker fuel oil.

The Italian authorities are carrying out investigations into the cause of the incident. The IOPC Fund is following these investigations so as to establish whether the Fund should bring recourse action against the owner of the MOBY PRINCE or take any other legal action.



Clean-up Operations and Salvage

Initially it was envisaged that the water from the flooded engine room and other spaces of the AGIP ABRUZZO would be pumped so as to reduce her draught sufficiently to make it possible to bring her into the port of Livorno to discharge the remainder of her cargo. However, due to difficulties that arose in preventing the engine room from flooding again, it was decided to conduct a ship-to-ship transfer of the cargo at the anchorage. The cargo transfer was carried out from 12 to 17 May, with several interruptions due to bad weather and operating difficulties. The AGIP ABRUZZO remained at the anchorage until 23 October 1991 when she was towed away, having been sold for scrap.

As a result of bad weather and the operations on board, further small releases of oil occurred some two weeks after the initial incident. The Italian Government then insisted that the number of vessels available for containment of oil at sea and recovery of floating oil be increased, and that these vessels should remain in place while the transfer of the cargo was being carried out.

Attempts to recover the oil at sea were partially successful, but difficulties were experienced due to the high viscosity of the burnt oil residue and because the spilt fuel oil was distributed over a wide area. The spilt oil eventually stranded over some 130 kilometres of shoreline, mostly north of Livorno, although the pollution was intermittent and for the most part consisted of a light scattering of tar balls.

Shoreline cleaning in the Livorno area was undertaken by local contractors. While most of these operations were completed by early June, before the beginning of the main tourist season, two areas required work to be continued through the summer. In addition, some localised re-oiling occurred, apparently as a result of heavy weather in June and again in August.

Limitation Proceedings

The owner of the AGIP ABRUZZO (SNAM, a company belonging to the State-owned ENI group) has not yet initiated limitation proceedings. It is estimated that the limitation amount applicable to the AGIP ABRUZZO under the Civil Liability Convention is approximately Llt 16 600 million (£7.7 million).

Claims for Compensation

Labromare Claim

An Italian contractor, Labromare, presented a claim for Llt 6 825 861 365 (£3.2 million), mainly for shoreline clean-up and the storage and treatment of collected waste. This contractor also provided some small oil recovery craft and carried out work on board the AGIP ABRUZZO to prevent oil leaking from the area of damage.

The IOPC Fund maintained that certain tariffs applied by the claimant in respect of equipment and manpower were unreasonable. In addition, the Director considered that certain operations did not have the prevention of pollution as their primary purpose and should therefore not be compensated under the Civil Liability Convention and the Fund Convention.

In November 1991, agreement was reached that the operations relating to clean-up and preventive measures should be settled at an aggregate amount of Llt 4 799 million (£2.2 million), inclusive of interest, and that the operations falling outside the scope of the Civil Liability Convention should be compensated by the shipowner in the amount of Llt 351 million (£163 000), inclusive of interest. The settlement was approved by the Executive Committee in December 1991.

Neri Claim

Another contractor, Fratelli Neri, supplied tugs and other craft that provided a range of services to the AGIP ABRUZZO, including fire fighting, pollution prevention, pumping of the engine room and disposal of solid and liquid waste. The claim submitted by Neri totalled Llt 13 446 833 500 (£6.2 million). Of this amount, Llt 5 160 171 500 (£2.4 million) related to pollution prevention, Llt 3 286 662 000 (£1.5 million) to services rendered to the shipowner and Llt 5 000 million (£2.3 million) to costs of salvage operations and salvage reward. The services rendered to the shipowner included the provision of standby tugs, the supply of equipment used for the pumping of the engine room and the supply of barges for the transportation of personnel and equipment to the ship. Some of these services contained elements which related to pollution prevention activities.

This claim gave rise to the question of the relationship between "preventive measures" and salvage operations including other activities not related to pollution prevention. This relationship has been considered within the IOPC Fund in connection with several previous incidents. The Executive Committee has taken the position that only operations which have as their primary purpose to prevent or minimise pollution fall within the definitions of "pollution damage" and "preventive measures" laid down in the Civil Liability Convention; if the operations have primarily another purpose, eg that of salving ship and cargo, the operations fall outside the scope of these definitions even if they have as a result the prevention of pollution.

AGIP ABRUZZO Incident - Manual clean-up operations

AGIP ABRUZZO Incident - The holed tanker

When examining this claim, the Director found that certain operations covered by the claim had a dual purpose, and it was not possible to establish with any certainty which was the primary purpose of such operations. It was therefore necessary to consider how the costs for these operations should be distributed between pollution prevention and other activities. In so doing, the Director took note of the fact that the vessel was at anchor in an open anchorage and without power, and that the ship was not able to enter the port of Livorno because the engine room was flooded, resulting in an excessive draught. He also took into account the fact that the structure of the vessel was severely weakened, that several cracks had appeared in the shell plating, and that the forepeak had to be ballasted so as to raise the damaged area to reduce the flow of bunker oil from the ship. In view of these factors, the Director was of the opinion that there was a significant element of pollution prevention in the operations carried out by Neri and that a proportion of the cost of these operations should be considered as falling within the definition of "preventive measures".

In November 1991, agreement was reached to settle the claim in respect of the activities which were considered as falling within the definitions of "pollution damage" and "preventive measures" at Llt 2 500 million (£1.2 million), inclusive of interest. This agreement was approved by the Executive Committee in December 1991. The Committee agreed with the Director that the costs of "dual purpose operations" should be apportioned between pollution prevention and other activities, taking into account the particular circumstances of the incident.

A settlement was reached between Neri, SNAM and the hull and cargo underwriter concerning the costs of the salvage operations and the other activities which were not related to the prevention of pollution and concerning the assessment of the salvage reward. The amounts agreed were Llt 2 500 million (£1.2 million) and Llt 3 100 million (£1.4 million), respectively.

Other Claims

Castalia, an Italian contractor, carried out clean-up operations at sea and provided supply vessels, booms and skimmers in response to the requirements laid down by the Livorno harbour master. The total amount of the Castalia claim is Llt 11 352 883 984 (£5.3 million). A meeting to discuss Castalia's claim was held in November 1991. However, the documents submitted in support of this claim were not sufficient to enable the IOPC Fund's experts to complete their examination. A new meeting will be held early in 1992.

At the above-mentioned meeting, Castalia maintained that a delay in settlement of its claim would cause serious financial difficulties to the company and requested a substantial advance payment. For this reason, the owner of the AGIP ABRUZZO agreed, after consultation with the Director, to make an advance payment to Castalia of Llt 2 500 million (£1.2 million).

The owner of the AGIP ABRUZZO has presented a claim in respect of services rendered in connection with this incident for an amount of Llt 3 757 727 086 (£1.7 million). These services were partly rendered by the owner, and partly by a number of subcontractors. The IOPC Fund has not yet received sufficient documentation in support of this claim.

A claim relating to clean-up operations has been submitted by the Commune of Livorno in the amount of Llt 230 359 720 (£107 000).

The Italian Government has informed the IOPC Fund that it will submit a claim in respect of the operations of the various Government agencies involved in this incident. It is estimated that these costs will be in the region of Llt 2 000 million (£930 000). The Fund has not yet been able to establish whether a claim relating to damage to the marine environment will be submitted by the Italian Government in respect of the AGIP ABRUZZO incident.

Labromare will present an additional claim in respect of the costs for disposal of collected oily waste. These costs are estimated at approximately Llt 257 500 000 (£120 000).

In December 1991, the Executive Committee authorised the Director to settle the claims submitted by Castalia, the owner of the AGIP ABRUZZO and the Commune of Livorno, as well as the additional claim which would be presented by Labromare.

So far, no claims have been presented by individuals or small businesses.

Notification by the Spanish Government

In June 1991, the Spanish Government informed the IOPC Fund that small quantities of tar balls and oil patches had been discovered on the coasts of the Balearic Islands and Catalonia in Spain. The Government stated that these substances might originate from the HAVEN or AGIP ABRUZZO incidents and that it could not be ruled out that considerable quantities would reach the Spanish coasts. The Spanish authorities took samples of the tar balls for analysis, but the result of the analysis is not yet known. So far no claims have been presented in respect of pollution damage in Spain.

HAVEN

(Italy, 11 April 1991)

The Incident

After partial discharge of her cargo of Iranian heavy crude oil at Genoa (Italy), the Cypriot tanker HAVEN (109 977 GRT) caught fire and sustained a series of explosions on 11 April 1991 whilst at anchor seven miles off Genoa. The tanker, which carried approximately 144 000 tonnes of crude oil at the time, broke into three parts. A large section of deck became separated from the main structure as a result of an explosion and sank to a depth of about 80 metres. The vessel began to drift to the south west. In a position about seven miles south of Arenzano, the bow section became detached and sank to a depth of about 500 metres. The remaining main part of the ship was towed into shallower water where, after a further series of explosions, it sank on 14 April, some 1.5 miles off the coast at Arenzano to a depth of 90 metres.

As a result of the incident, the Italian Government on 14 April declared a state of national emergency, which is still in force.

Clean-up Operations and Related Issues

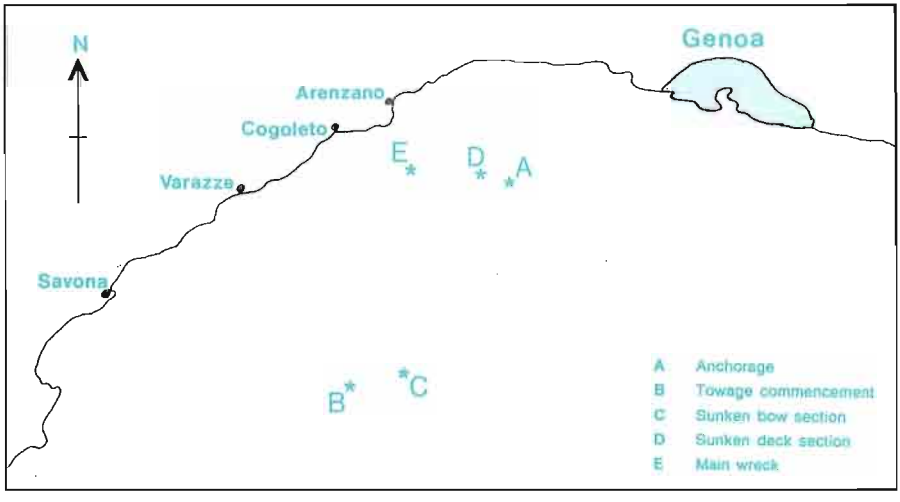
Operations in Italy

The quantity of oil consumed by the fire has not been established, but it is estimated that over 10 000 tonnes of fresh and partially burnt oil were spilled into the sea prior to the sinking. After the sinking, oil continued to seep from the wreck at a slow rate and small quantities of oil appeared on the surface. Divers were able to reduce and finally stop the main leakage within about ten days of the incident. Since then, there has been minor seepage from the wreck.

Comprehensive underwater surveys of the main section of the wreck were conducted using a remotely operated vehicle, including a survey of the interior of those tanks that were readily accessible. The surveys showed the wreck to be in a severely damaged condition with quantities of burnt oil residue lying on deck. The cargo tanks which had contained oil were found to be virtually free of liquid cargo. Only small quantities of burnt residue remained, clinging to the structure. The deck area was cleared of burnt residue using a vacuum lift. The residue was brought to the surface and placed in barges for eventual disposal.

Since most of the oil spilt initially consisted of burnt residue, which was highly viscous at ambient temperatures, collection of this oil at sea proved very difficult. The authorities concentrated on deploying booms to protect sensitive areas along the coast, primarily amenity beaches. These measures were quite successful when weather conditions were favourable, but gale force winds soon carried both oil and booms ashore.

On 17 April, a significant quantity of floating oil came ashore between Genoa and Savona, and emulsified oil was left stranded on the beaches at Arenzano, Cogoleto and Varazze, especially around the many artificial headlands. West of

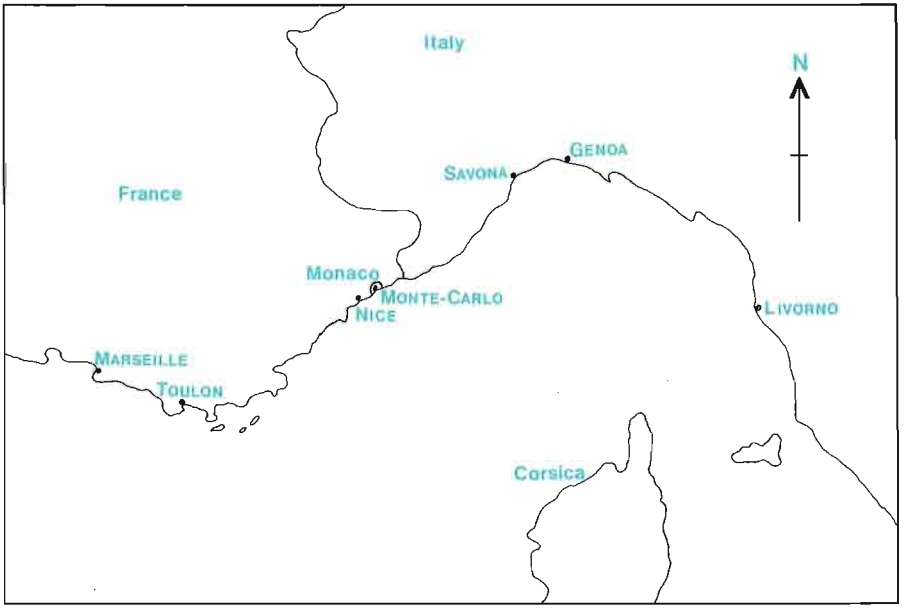


Varazze pollution was very light and consisted mainly of tar balls and patches of burnt residue. The clean-up on shore was initially conducted by local authorities, using the Army as well as local volunteers in some areas. The work mainly consisted of manual and mechanical removal of stranded oil and contaminated beach sediment.

Around 40 tonnes of oil entered a marina in Arenzano, resulting in the oiling of moorings, harbour walls and about 130 yachts and fishing boats. Smaller quantities of oil entered a marina at Varazze and approximately 200 boats became polluted. The contaminated yachts and fishing boats in Arenzano and Varazze marinas have been cleaned.

On 24 May 1991, a contract on pollution monitoring and clean-up was concluded between the Italian Government and a consortium of contractors known as ATI. The beach clean-up activities as outlined in the contract were completed by the end of August. However, increased water temperatures and wave action resulted in droplets of sunken oil floating to the surface causing limited but regular re-contamination of some beaches. Attempts were made by divers to chart the extent of the problem and to recover sunken oil in shallow water off the coast from Arenzano to Varazze by using a hydraulic lift. A survey was conducted of the sea bed under the presumed track of the tanker during the three days prior to the sinking, and some oiled areas were identified and mapped. Attempts have also been made to trace oil on the sea bed by using trawling nets.

Approximately 25 000m^3 of collected oily waste is awaiting disposal. In addition, some 20 000 metres of contaminated booms have been collected, awaiting cleaning or disposal.



The Italian authorities are continuing to monitor the water surface and water column. Investigations into alleged environmental damage are also being carried out.

From the day of the incident, the Director and the experts employed by the IOPC Fund, the shipowner and his P & I insurer have continually held discussions with the Italian authorities responsible for the operations. The Director attended meetings with the interministerial committee in Rome which has overall responsibility for the operations. The technical experts engaged by the IOPC Fund, the shipowner and the P & I insurer have worked closely with the Genoa Port authority which was charged with monitoring and controlling the clean-up activities.

Operations in France

Some oil spread as far west as Hyères near Toulon in France, affecting also the coast of Monaco. The French Government decided on 15 April to activate the national contingency plan with regard to operations at sea (PLAN POLMAR-MER). The application of this plan was suspended on 29 April. The plan relating to on-shore operations (PLAN POLMAR-TERRE) was not activated since the pollution on shore in France was comparatively limited.

Four French departments were affected, of which Bouches-du-Rhone and Corsica only lightly. Sixteen communes were involved in Alpes Maritimes and 21 in Var. The clean-up operations involved mechanical and manual collection of tar balls on amenity beaches. Most of this activity was completed by the end of June. However, small quantities of tar balls continued to arrive on beaches, necessitating some clean-up activity during the summer months.

On 27 September 1991, the IOPC Fund was informed by the French Government that French territorial waters and the French coastline had been affected by oil which was suspected to have originated from the HAVEN. PLAN POLMAR-MER was reactivated on 26 September and suspended on 3 October. Some oil was reported to have affected communes in the Department of Var, west of Nice.

Operations in Monaco

The authorities in Monaco carried out operations to collect oil at sea and to clean some beaches which had become polluted. The operations were limited in scope.

Legal Proceedings

After legal action had been taken against the shipowner, the Court of first instance in Genoa opened limitation proceedings in May 1991 and fixed the limitation amount at Llt 23 950 220 000 (£11.1 million), which corresponds to 14 million SDR, ie the maximum amount under the Civil Liability Convention. The limitation fund was established by the P & I insurer, the United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Ltd (the "UK Club"), by means of a letter of guarantee. The IOPC Fund has intervened in the limitation proceedings, pursuant to Article 7.4 of the Fund Convention.

The IOPC Fund has lodged an opposition against the Court's decision to open the limitation proceedings, reserving its right to challenge the shipowner's right of limitation. Corresponding oppositions have been lodged by the Italian Government and some other claimants.

The IOPC Fund is following the investigation into the cause of the incident which is being carried out by the Italian authorities, and has appointed technical experts for this purpose.

In addition, the IOPC Fund has lodged an opposition against the acceptance by the Court of a bank guarantee to constitute the limitation fund. The reason for the opposition is that no interest accrues on a bank guarantee, whereas if the limitation amount had been paid in cash, it would have been invested by the Court and would have earned interest to the benefit of third parties and the IOPC Fund. For this reason, the IOPC Fund has asked the Court either to declare that the guarantee was insufficient and that no limitation fund had been validly established, or to order that the guarantee should be increased to Llt 42 003 500 000, so as to cover interest for a period of five years before the end of which no final judgement could be expected.

In September 1991, the Court of first instance in Genoa started to hold hearings to consider the claims arising out this incident. Hearings have taken place regularly and will continue to be held until all the claims have been dealt with. It is estimated that the Court will not be able to establish the list of accepted claims ("stato passivo") until the summer of 1992.

Claims for Compensation

Some 1 300 Italian claimants have presented claims to the Court within the prescribed time limit. However, many claims do not indicate any figures, and a number of claims state that the amount indicated is provisional. The total amount of those claims which indicate figures is Llt 1 541 488 793 305 (£717 million). A number of claims are duplications.

The largest claim has been presented by the Italian Government, whose claim totals Llt 242 899 669 151 (£113 million). This claim includes items relating to initial clean-up costs incurred by contractors instructed by several government authorities, reimbursement of the value of oil booms lost or destroyed, expenses incurred by various ministries and public bodies, and costs associated with the execution of the ATI contract on clean-up and monitoring.

The Italian Government's claim also includes an item relating to presumed damage to the marine environment in the amount of Llt 100 000 million (£47 million). The claim documents do not indicate the kind of "environmental damage" which has allegedly been sustained, nor do they give any indication as to the method used to calculate the amount claimed. The Italian Government has informed the Director that it has not been possible to describe the environmental damage because the study of the effects of the incident on the marine environment has not yet been completed. It is expected that the results of this study will be available in the autumn of 1992. The Government has also stated that the figure given in the claim is only provisional.

The Region of Liguria has requested that the figure in the Italian Government's claim relating to environmental damage, Llt 100 000 million, be increased to Llt 200 000 million (£93 million). The Region has maintained that the amount should be apportioned between the various territorial entities which have directly suffered or are suffering ecological damage. Two provinces and 14 communes have included items relating to

environmental damage in their respective claims. None of these claims contains any description of the alleged damage and the claims setting out an amount do not explain how the amounts have been calculated.

The owners of 33 yachts and 150 fishing boats have claimed compensation for contamination of their boats in the amounts of Llt 168 143 771 (£78 200) and Llt 1 264 303 328 (£588 000), respectively. Claims for loss of income have been presented by some 700 hotel owners for Llt 80 284 601 128 (£37.3 million) and by 150 fishermen for Llt 3 549 496 500 (£1.7 million).

The French Government has brought legal action in the Court of Genoa claiming compensation for the cost of operations at sea and beach clean-up in France for a total amount of FFr16 284 592 (£1.7 million). The French Government has reserved its right to claim compensation in respect of costs incurred for restoration of the marine environment, referring to the Resolution concerning damage to the environment adopted by the IOPC Fund Assembly in 1980.

Claims totalling about FFr12 million (£1.2 million) have been presented to the Court in Genoa by 22 French communes and two other public bodies. These claims relate almost exclusively to shoreline clean-up activity. The claimants have reserved the right to submit evidence of additional expenditure. One of the public bodies (Parc National de Port-Cros) has claimed compensation for damage to the marine environment.

The IOPC Fund has been notified of some small claims from private individuals in France.

No claim has so far been presented by the Government of Monaco. The costs incurred for the operations in the Principality have been indicated at FFr324 000 (£33 400).

The owner of the HAVEN, the UK Club and the IOPC Fund are setting up a database system in order to facilitate the examination of the claims. Their experts have commenced examining the documentation presented by the claimants.

Notification by the Spanish Government

The notification which the IOPC Fund received from the Spanish Government concerning oil pollution in Spain, which is referred to above in respect of the AGIP ABRUZZO incident, covered also the HAVEN incident. So far no claims have been presented in respect of pollution damage in Spain.

Method of Conversion of (gold) francs

The amounts in the Civil Liability Convention, as well as those in the Fund Convention, are expressed in (gold) francs (Poincaré francs). Under the Fund Convention, the maximum amount payable pursuant to the Civil Liability Convention and the Fund Convention is 450 million (gold) francs. This amount was increased by the IOPC Fund Assembly in stages to 900 million (gold) francs. At the first Court hearing the question was raised as to the method of conversion to be applied for calculating the maximum amount payable under the Fund Convention in Italian Lira.

The relevant provisions are Article V.9 of the Civil Liability Convention and Article 1.4 of the Fund Convention which read as follows:

Article V.9 of the Civil Liability Convention:

> The franc mentioned in this Article shall be a unit consisting of sixty-five and a half milligrams of gold of millesimal fineness nine hundred. The amount mentioned in paragraph 1 of this Article shall be converted into the national currency of the State in which the fund is being constituted on the basis of the official value of that currency by reference to the unit defined above on the date of the constitution of the fund.

Article 1.4 of the Fund Convention:

> "Franc" means the unit referred to in Article V, paragraph 9 of the Liability Convention.

In 1976, Protocols were adopted to amend the Conventions. Under the Protocols, the (gold) franc was replaced as the monetary unit by the Special Drawing Right (SDR) of the International Monetary Fund. One SDR was then considered equal to 15 (gold) francs. The value in SDR is to be converted into national currency by referring to its market exchange value. The 1976 Protocol to the Civil Liability Convention entered into force in 1981, whereas the 1976 Protocol to the Fund Convention has not yet come into force.

In 1978, the IOPC Fund Assembly adopted an interpretation of the provisions in the Fund Convention dealing with (gold) francs under which the amount expressed in francs shall be converted into SDRs on the basis that 15 francs are equal to one SDR. The number of SDRs thus found shall be converted into national currency in accordance with the method of evaluation applied by the International Monetary Fund (IOPC Fund Resolution N°1).

At the first court hearing in Genoa, it was maintained by some claimants that the conversion should be made by using the free market price of gold, since the 1976 Protocol to the Fund Convention was not in force.

The method of conversion was discussed by the Executive Committee in October 1991. The Committee took the position that the conversion should be made in accordance with the method set out in the above-mentioned Resolution and opposed the use of the free market price of gold. The reasons for this position can be summarised as follows:

> The IOPC Fund has two inter-related purposes: firstly, to pay compensation to victims of pollution damage who are unable to obtain full compensation under the Civil Liability Convention and, secondly, to indemnify the shipowner for a specified portion of his liability to victims under that Convention. To achieve these objectives it is necessary to use the same unit of account and the same method of converting the unit into national currencies in the application of both the Civil Liability Convention and the Fund Convention.

The original unit of account (the (gold) franc) in the Civil Liability Convention, which was also adopted for the Fund Convention, was to be converted into national currencies on the basis of the "official value" of gold by reference to the national currencies in question. Since the adoption of that unit, the official value of gold has disappeared from the international monetary system, and it is therefore no longer possible to convert the (gold) franc on the basis laid down in the text of the Civil Liability Convention.

The inclusion of the word "official" in the text of 1969 Civil Liability Convention was made deliberately by the Diplomatic Conference which adopted the Convention in order to ensure stability in the system and was clearly meant to rule out the application of the free market price of gold.

The "market price" of gold is particularly inappropriate as a basis for converting the IOPC Fund's limits into national currencies. In the first place, the market price is very volatile and continuously changes in value. Using such a changeable unit as a basis cannot produce the uniformity which was one of the main reasons for the adoption of a common unit of account for use in all Contracting States. In the second place, using the market price of gold would create absurd results in practice. For example, it would mean that the amount of indemnification to be paid to the shipowner by the IOPC Fund would be calculated on a basis different from that used for calculating the shipowner's liability to the victims under the Civil Liability Convention. The indemnification to be paid by the Fund to the shipowner constitutes a portion of the shipowner's liability under the Civil Liability Convention. Using different units and different methods of conversion for the two Conventions would create complications and could result in the shipowner receiving more or less than the portion which the 1971 Fund Convention provides.

These considerations demonstrate that the only appropriate method for converting the unit of account in the 1971 Fund Convention is to use the SDR method, as provided for in the 1976 Protocol to the Fund Convention and in IOPC Fund Resolution N°1.

The State of Italy, as a Member of the IOPC Fund, is bound by the decisions taken by the Assembly of the Fund in which it is stated that the SDR method should be used for converting the limits of the Fund's obligations, pending the entry into force of the 1976 Protocol to the Fund Convention. Furthermore, Italy has ratified the Protocol to the Fund Convention which provides for the SDR method. Although that Protocol is not yet in force, Italy as a Contracting State to the Protocol is under an obligation not to take any action which would defeat the object and purpose of the Protocol, which is to use the SDR method for determining the limits of the Fund's obligations (Article 18.1 of the Vienna Convention on the Law of Treaties).

HAVEN Incident - The blazing tanker

HAVEN Incident - Emulsified oil ashore at Arenzano

In its pleadings to the Court, the French Government has supported the IOPC Fund's position. The Italian Government has not yet taken any position as to the method of conversion.

Damage to the Marine Environment

In October and December 1991, the Executive Committee discussed the admissibility of claims relating to damage to the marine environment. In particular, the Committee addressed a question which had been raised at the first hearing in the Court in Genoa in respect of claims relating to damage to the marine environment which, in the view of the IOPC Fund, were not admissible under the Civil Liability Convention and the Fund Convention. The query was whether such claims could be pursued against the shipowner outside the Conventions, on the basis of national law.

At the request of the Executive Committee, the Director had prepared a study of this issue. The results of this study can be summarised as follows:

> The Civil Liability Convention and the Fund Convention have been implemented into Italian legislation by the Act of 27 May 1978 (N°506) and thus form part of Italian law. If a conflict arises between the Conventions and any other Italian statute, the Conventions would prevail, since they are "special laws". The Italian legislation relating to protection of the marine environment is mainly contained in the Act of 31 December 1982 (N°979) which contains provisions for the protection of the sea (the "1982 Act") and the Act of 8 July 1986 (N°349) which established the Ministry of the Environment (the "1986 Act").
>
> Certain elements of damage to the marine environment are non-quantifiable. The IOPC Fund has consistently taken the position that claims relating to non-quantifiable elements of damage to the environment cannot be admitted. In its interpretation of the Civil Liability Convention and the Fund Convention, the IOPC Fund Assembly has excluded the assessment of compensation for damage to the marine environment on the basis of an abstract quantification of damage calculated in accordance with theoretical models (Resolution N°3 adopted by the Assembly in 1980). The Intersessional Working Group set up by the Assembly in 1980 to examine whether and, if so, to what extent claims for environmental damage were admissible under the Conventions, used similar language, viz that compensation could only be granted if a claimant had suffered quantifiable economic loss. The conclusions of the Working Group were endorsed by the Assembly.
>
> The Civil Liability Convention and the Fund Convention are Conventions in the field of civil law adopted for the purpose of providing compensation to victims of pollution damage. For this reason, claims which do not relate to compensation do not fall within the scope of the Conventions, for example, damages awarded under the 1986 Act relating to non-quantifiable elements of damage to the environment which are of a punitive character. Since claims of this kind do not relate to compensation,

such claims can be pursued outside the Conventions on the basis of national law. It could not have been the intention of the drafters of the Fund Convention that the IOPC Fund should pay damages of a punitive character, calculated on the basis of the seriousness of the fault of the wrong-doer or the profit earned by the wrong-doer. If such damages were to fall within the scope of the Conventions, the results would be unacceptable.

During the discussions in the Executive Committee, the Italian delegation stated that it did not agree with the basis of the Director's analysis of the problem nor with his conclusions. This delegation noted that Italy had ratified the Civil Liability Convention and the Fund Convention and that these Conventions were part of the Italian legal system constituting special laws. However, in the view of this delegation, the Conventions did not contain any provisions excluding or limiting the right of compensation for environmental damage. It was pointed out that pollution damage was defined in the Civil Liability Convention as any "loss or damage ..... caused by contamination resulting from the escape or discharge of oil". The Italian delegation agreed with the Director that the Conventions did not exclude the admissibility of claims for damage to the marine environment but it could not agree with the Director's interpretation of the Conventions under which only quantifiable elements of such damage were admissible. In the view of the Italian delegation, compensation was mainly governed by the 1982 Act which envisaged the possibility of compensation for damage to the marine environment both for quantifiable and unquantifiable elements; this Act explicitly mentioned compensation for damage to marine resources, and compensation under that Act should be quantified without reference to the seriousness of the fault of the wrong-doer. The Italian delegation did not accept that compensation under the 1986 Act should be considered as a sanction.

The International Group of P & I Clubs was of the view that it could not be correct that some claims for damage to the environment fell outside the scope of the Conventions or the definition of "pollution damage". In the view of the Group the question of admissibility should be linked to the issues of compensation payable under the Conventions and the quantification of damage to the marine environment. The Group maintained that some methods of assessing compensation were not acceptable, such as an abstract quantification of damage based on theoretical methods. It agreed with the Director that another unacceptable method would be the assessment of compensation based on "equitable" quantification of damage or by reference to the seriousness of the fault of the wrongdoer. It was accepted by the Group that penalties or fines could be imposed on shipowners by individual States based on the seriousness of the fault of the shipowner and the degree of the resulting damage, but in the Group's view this issue was independent of the issue of compensation. The International Group pointed out the serious implications for shipowners if claims for compensation for environmental damage were not admissible under the Civil Liability Convention because the method of quantification included the concept of punishment, whilst the same claims could be brought against the shipowner under national law because that national law provided for the concept of punishment being included in the method of quantification of the damage.

The Executive Committee agreed in general with the Director's analysis of the problem and instructed the Director to submit pleadings on behalf of the IOPC Fund to the Court in Genoa along the lines set out in the above-mentioned study. The Committee noted that since the claimants had not yet given any details as to the basis of their claims, the content of the IOPC Fund's pleadings could only be decided when the claimants had presented their arguments.

KAIKO MARU N°86

(Japan, 12 April 1991)

The Japanese tanker KAIKO MARU N°86 (499 GRT), laden with 1 000 tonnes of heavy fuel oil, collided in dense fog with two coastal barges off Nomazaki in Aichi prefecture (Japan). As a result of the collision, approximately 25 tonnes of cargo oil escaped into the sea.

Clean-up operations were immediately undertaken. The operations at sea were completed on 14 April. Due to strong winds, part of the oil reached some small islands. The clean-up operations on shore lasted until 19 April. The area is of great importance for fishing and the cultivation of seaweed.

The following claims have been submitted in respect of clean-up operations and fishery damage, and these claims are being examined by the IOPC Fund's surveyors:

	Claimed
	¥
Maritime Safety Agency	25 066 624
Japan Maritime Disaster Prevention Centre	34 159 205
Oil Company Group	18 702 164
Fishery Cooperative Associations	62 680 286
Total	140 608 279
	(£599 000)

The limitation amount applicable to the KAIKO MARU N°86 is ¥14 660 480 (£62 500).

KUMI MARU N°12

(Japan, 27 December 1991)

The Japanese tanker KUMI MARU N°12 (113 GRT) collided with a container ship in Tokyo Bay (Japan). As a result of the collision, the KUMI MARU N°12 sustained damage to her starboard shell plating and N°4 tank, allowing five tonnes of heavy oil to spill into the sea. The cause of the incident is under investigation.

Clean-up operations were begun immediately by the Maritime Disaster Prevention Centre and were completed the following day. Clean-up costs are estimated to be in the region of ¥5 million (£21 300). It is believed that local fisheries were not affected by the incident.

The limitation amount applicable to the KUMI MARU N°12 is not yet known.

KAIKO MARU N°86 Incident - The holed tanker

KAIKO MARU N°86 Incident - Clean-up operations

13 CONCLUDING REMARKS

Unfortunately, two major oil pollution incidents have occurred in IOPC Fund Member States during 1991, namely the AGIP ABRUZZO and HAVEN incidents. In addition, several serious incidents took place in non-Member States, eg the sinking in May 1991 off the coast of Angola of the ABT SUMMER with its cargo of 260 000 tonnes of crude oil and the KIRKI incident off the west coast of Australia in July 1991 which resulted in the escape of 19 000 tonnes of crude oil.

The worldwide public debate concerning problems relating to oil pollution from ships which resulted from the EXXON VALDEZ incident in Alaska in March 1989 has continued. Although much of this debate focused on the need to enhance the safety of navigation, to study tanker design and construction, to improve contingency plans and to develop better equipment and materials for oil spill clean-up, questions of liability and compensation have been addressed. This debate has resulted in an increased awareness in all States, including States not Members of the IOPC Fund, of the importance of an effective system for compensating victims of oil pollution damage.

During the last five years, the number of IOPC Fund Member States has grown from 36 to 47, and there are reasons to believe that a number of States will join the IOPC Fund in the near future. This continuing expansion of membership demonstrates that the international community has found the system of compensation created by the Civil Liability Convention and the Fund Convention a viable one, providing rapid compensation to victims of oil pollution damage.

As previously mentioned, the assumption of an early entry into force of the 1984 Protocols to the Conventions will not be fulfilled. Therefore, although the system of compensation established by the Conventions is functioning well, the IOPC Fund considered, during 1991, the future development of this system. During the discussions in the Assembly, many Member States expressed their strong support of the system. A number of States stressed the importance that the 1984 Protocols to these Conventions should enter into force as soon as possible. In the view of these States, the best way of facilitating the entry into force of the 1984 Protocols to these Conventions would be to amend their entry into force provisions. As a result of the work carried out within the IOPC Fund on this matter, a Diplomatic Conference will be held in November 1992 to consider draft Protocols to modify the 1969 Civil Liability Convention and the 1971 Fund Convention. The purpose of the new Protocols is to ensure the viability of this system in the future.

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

26th - 28th session

Chairman:	Mr W W Sturms (Netherlands)
Vice-Chairman:	Mr B Diarra (Côte d'Ivoire)
Canada	Italy
Côte d'Ivoire	Netherlands
Cyprus	Poland
Fiji	Spain
Finland	Sri Lanka
France	Tunisia
Greece	United Kingdom
Indonesia	

29th - 30th session

Chairman:	Dr R Renger (Germany)
Vice-Chairman:	Mr E H Benabouba (Algeria)
Algeria	Japan
France	Kuwait
Germany	Liberia
Ghana	Norway
Greece	Sri Lanka
India	Union of Soviet Socialist Republics
Indonesia	
Italy	United Kingdom

IOPC FUND SECRETARIAT

Officers

Mr M Jacobsson	Director
Mr R Sonoda	Legal Officer
Mr S O Nte	Finance/Personnel Officer
Mrs S Broadley	Claims Officer

AUDITORS

Comptroller and Auditor General
United Kingdom

ANNEX II

Note on Published Financial Statements

The financial statements reproduced in Annexes III to VII are a summary of information contained in the audited financial statements of the International Oil Pollution Compensation Fund for the year ended 31 December 1990, approved by the Assembly at its 14th session.

EXTERNAL AUDITOR'S STATEMENT

The summary financial statements set out in Annexes III to VII are consistent with the audited Financial Statements of the International Oil Pollution Compensation Fund for the year ended 31 December 1990.

National Audit Office
for the Comptroller and Auditor General
United Kingdom

January 1992

ANNEX III

General Fund

INCOME AND EXPENDITURE ACCOUNT FOR THE FINANCIAL PERIOD 1 JANUARY - 31 DECEMBER 1990

	1990		*1989*	
INCOME	£	£	£	£
Contributions				
Initial Contributions		5 983		*78 683*
Annual Contributions		1 594 491		*2 912 783*
Add adjustment to Prior Years' Assessments		4 208		*723*
		1 604 682		*2 992 189*
Miscellaneous				
Transfer from MCF <1> Tanio	-		*68 692*	
Transfer from MCF Jan	-		*7 830*	
Miscellaneous Income	43 962		*3 735*	
Interest on loan to MCF Kasuga Maru N°1	13 821		*23 102*	
Interest on loan to MCF Thuntank 5	20 912		*36 891*	
Interest on Overdue Contributions	16 825		*4 901*	
Interest on Investments	546 780		*754 648*	
	642 300	642 300	*899 799*	*899 799*
		2 246 982		*3 891 988*
EXPENDITURE				
Secretariat Expenses				
Obligations incurred	437 305		*361 066*	
Claims				
General Claims	652 907		*1 911 324*	
	1 090 212	1 090 212	*2 272 390*	*2 272 390*
		1 156 770		*1 619 598*
Exchange Adjustment		2 194		*4 366*
Excess of Income over Expenditure		1 154 576		*1 623 964*

<1> MCF: Major Claims Fund

ANNEX IV

Major Claims Fund - Brady Maria

INCOME AND EXPENDITURE ACCOUNT FOR THE PERIOD ENDED 31 DECEMBER 1990

	1990		*1989*	
INCOME	£	£	£	£
Interest on Overdue Contributions	295		*376*	
Interest on Investments	5 347		*6 865*	
	5 642	5 642	*7 241*	*7 241*
EXPENDITURE				
Fees		-		*2 358*
Excess of Income over Expenditure		5 642		*4 883*
Balance b/f: 1 January		58 923		*54 040*
Balance as at 31 December		64 565		*58 923*

ANNEX V

Major Claims Fund - Kasuga Maru N°1

INCOME AND EXPENDITURE ACCOUNT FOR THE PERIOD ENDED 31 DECEMBER 1990

	1990	
INCOME	£	£
Contributions		
Annual Contributions		1 499 995
Miscellaneous		
Interest on Overdue Contributions	4 609	
Interest on Investments	21 500	
	26 109	26 109
		1 526 104
EXPENDITURE		
Fees	59 030	
Interest on Loans	13 821	
Miscellaneous	14	
	72 865	72 865
		1 453 239
Less Amount due to General Fund		1 177 484
Excess of Income over Expenditure		275 755

ANNEX VI

Major Claims Fund - Thuntank 5

INCOME AND EXPENDITURE ACCOUNT FOR THE PERIOD ENDED 31 DECEMBER 1990

	1990	
INCOME	£	£
Contributions		
Annual Contributions		1 700 747
Miscellaneous		
Interest on Overdue Contributions	5 009	
Interest on Investments	5 389	
	10 398	10 398
		1 711 145
EXPENDITURE		
Interest on Loans	20 912	
Miscellaneous	36	
	20 948	20 948
		1 690 197
Less Amount due to General Fund		1 610 370
Excess of Income over Expenditure		79 827

ANNEX VII

Balance Sheet of the IOPC Fund as at 31 December 1990

	1990		*1989*	
	£	£	£	£
ASSETS				
Cash at Banks and in Hand		7 702 410		*3 743 463*
Contributions Outstanding		122 218		*67 373*
Due from MCF Kasuga Maru N°1		-		*1 177 484*
Due from MCF Thuntank 5		-		*1 610 370*
VAT Recoverable		5 288		*8 749*
Miscellaneous Receivable		8 172		*8 148*
Interest on Overdue Contributions		3 440		*1 137*
		7 841 528		*6 616 724*
LESS				
LIABILITIES				
Staff Provident Fund	239 259		*197 958*	
Accounts Payable	6 618		*11 004*	
Unliquidated Obligations	19 225		*35 615*	
Prepaid Contributions	59 052		*51 447*	
Contributors' Account	877 255		*1 196 381*	
Due to MCF Brady Maria	64 565		*58 923*	
Due to MCF Kasuga Maru N°1	275 755		-	
Due to MCF Thuntank 5	79 827		-	
	1 621 556	1 621 556	*1 551 328*	*1 551 328*
NET ASSETS		6 219 972		*5 065 396*
REPRESENTED BY				
Accumulated Surplus		2 219 972		*1 065 396*
Working Capital		4 000 000		*4 000 000*
		6 219 972		*5 065 396*

Note (a) There are contingent liabilities in respect of incidents which are estimated to amount to £17 778 871. Those liabilities which mature will, under the Fund Convention, be met from contributions assessed by the Assembly.

Note (b) In addition to the assets shown in this statement, investment in equipment, furniture, office machines, supplies and library books as at 31 December 1990 amounted at cost price to £70 380 net of VAT.

ANNEX VIII

REPORT OF THE EXTERNAL AUDITOR ON THE FINANCIAL STATEMENTS OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND FOR THE FINANCIAL PERIOD 1 JANUARY TO 31 DECEMBER 1990

GENERAL

Scope of the Audit

1 I have audited the financial statements of the International Oil Pollution Compensation Fund ("the Fund") for the twelfth financial period ended 31 December 1990. My examination was carried out with due regard to the provisions of the Fund Convention and Financial Regulation 10 of the Fund. The scope of my examination of claims and contributions has been restricted for the reasons explained in paragraphs 3 and 4 below.

2 My audit included a general review of the accounting procedures and an examination of the accounting records and supporting evidence sufficient to enable me to form an opinion on the financial statements.

Claims

3 Payments were made in 1990 in respect of claims for damage suffered and to meet associated expenses resulting from pollution incidents involving various vessels. In the case of claims for damage, the Fund and the tanker owners' insurers had joint surveys made by marine surveyors who also examined and reported on the reasonableness of the claims presented. These reports were examined by the Fund's staff and settlements were negotiated. As in previous years, my examination of these settlements was limited to seeing that satisfactory procedures were followed by the Fund and that properly stated accounts were drawn up for each incident.

Contributions

4 Contributions to the General and Major Claims Funds were assessed on the basis of reports from the Contracting States of oil tonnages received in their territories. As in previous years, I have accepted these reports for the purposes of my audit and have not sought access to local records nor confirmation from National Audit Offices of the countries concerned, which the External Auditor may do under Regulation 10.7 of the Fund's Financial Regulations. Accordingly, my examination was restricted to establishing that appropriate checks were made by the Fund to verify all tonnage reports received; and to ensuring that the financial statements of the Fund state fairly contributions received.

Reporting

5 During the audit my staff sought such explanations from the Fund Secretariat as they considered necessary in the circumstances on matters arising from their examination of the internal controls, accounting records and financial statements. All matters raised with the Fund Secretariat were satisfactorily cleared.

ACCOUNTING MATTERS

Format of the Financial Statements

6 The format of the financial statements for the year ended 31 December 1990 has changed following a decision by the Director made in consultation with my staff. The change in format is designed to improve the disclosure of important matters, thereby assisting Member States in their interpretation of the financial statements. The new format also reflects current best practice in the presentation of financial information. I fully support the changes made by the Fund.

Contingent Liabilities

7 Details of all contingent liabilities are disclosed in Schedule III to the Financial Statements. As at 31 December 1990, total contingent liabilities were estimated at £17,778,871 relating to 15 incidents (1989 : £4,076,025). Those liabilities which mature will, under the Fund Convention, be met from contributions assessed by the Assembly.

OTHER MATTERS

Supplies and Equipment Records

8 My staff carried out a test examination of the Fund's records of office machines, equipment and library stocks. As a result of this examination, I am satisfied that the inventory records as at 31 December 1990 properly reflect the assets held by the Fund. No inventory losses were reported by the Fund during the year.

Amounts Written Off and Fraud

9 The Fund told me that there were no amounts written off or cases of fraud or presumptive fraud during the financial period.

ACKNOWLEDGEMENT

10 I wish to record my appreciation of the willing co-operation and assistance extended by the Director and his staff during the audit.

SIR JOHN BOURN KCB
Comptroller and Auditor General, United Kingdom
External Auditor

ANNEX IX

INTERNATIONAL OIL POLLUTION COMPENSATION FUND

OPINION OF THE EXTERNAL AUDITOR

To: the Assembly of the International Oil Pollution Compensation Fund

I have examined the appended financial statements, comprising Statements I to VII, Schedules I to III and Notes, of the International Oil Pollution Compensation Fund for the year ended 31 December 1990, in accordance with the Common Auditing Standards of the Panel of External Auditors of the United Nations, the Specialized Agencies and the International Atomic Energy Agency. My examination included a general review of the accounting procedures and such tests of the accounting records and other supporting evidence as I considered necessary in the circumstances.

Subject to the scope restrictions referred to in paragraphs 3 and 4 of my Report, as a result of my examination, I am of the opinion that the financial statements present fairly the financial position as at 31 December 1990 and the results of the operations for the year then ended; that they were prepared in accordance with the Fund's stated accounting policies which were applied on a basis consistent with that of the preceding financial year; and that the transactions were in accordance with the Financial Regulations and legislative authority.

SIR JOHN BOURN KCB

Comptroller and Auditor General, United Kingdom

External Auditor

ANNEX X

Contributing Oil Received in the Territories of Member States in the Calendar Year 1990

As reported by 31 December 1991

Member State	Contributing Oil (tonnes)	% of Total
Japan	258 092 934	28.92
Italy	144 098 821	16.14
Netherlands	90 202 605	10.11
France	85 595 016	9.59
United Kingdom	81 611 860	9.14
Spain	54 425 927	6.10
Canada	32 240 629	3.61
Germany	22 568 703	2.53
Norway	20 018 986	2.24
Sweden	18 460 909	2.07
Portugal	15 027 918	1.68
Finland	11 713 226	1.31
Bahamas	9 995 941	1.12
Indonesia	9 713 606	1.09
Union of Soviet Socialist Republics	9 168 500	1.03
Yugoslavia	9 025 469	1.01
Denmark	7 267 654	0.82
Côte d'Ivoire	3 312 218	0.37
Tunisia	2 956 613	0.33
Poland	2 258 000	0.25
Sri Lanka	1 791 287	0.20
Cyprus	1 184 020	0.13
Cameroon	1 049 375	0.12
Ghana	818 813	0.09
Benin	0	0.00
Djibouti	0	0.00
Fiji	0	0.00
Iceland	0	0.00
Kuwait	0	0.00
Liberia	0	0.00
Monaco	0	0.00
Oman	0	0.00
Papua New Guinea	0	0.00
Qatar	0	0.00
Seychelles	0	0.00
	892 599 030	100.00

<Note> No report from Algeria, Gabon, Greece, India, Maldives, Malta, Nigeria, Syrian Arab Republic, Tuvalu, United Arab Emirates and Vanuatu

ANNEX XI
Summary of Incidents

(31 December 1991)

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 Interest Total	SKr89 057 717 6 649 440 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 Fishery damage Indemnification Total	¥108 589 104 31 521 478 9 427 585 ¥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 Nature Conservancy Council Local authorities Owner's clean-up costs Total	£175 000 1 400 7 150 180 000 £363 550	paid paid paid paid	
MEBARUZAKI MARU N°5 (Japan)	19 GRT ¥845 480	8.12.79 Mebaru Port, Japan	Sinking (10)	Clean-up costs Fishery damage Indemnification Total	¥7 477 481 2 710 854 211 370 ¥10 399 705	paid paid paid	
SHOWA MARU (Japan)	199 GRT ¥8 123 140	9.1.80 Naruto Strait, Japan	Collision (100)	Clean-up costs Fishery damage Indemnification Total	¥10 408 369 92 696 505 2 030 785 ¥105 135 659	paid paid paid	¥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 compen-sation 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. Owner's 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 Indemnification 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 Indemnification 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 Indemnification 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 Indemnification 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 Total	¥26 124 589 474 080 ¥26 598 669	paid paid	¥8 866 222 recovered by way of recourse
PATMOS (Greece)	51 627 GRT Llt13 263 703 650	21.3.85 Straits of Messina, Italy	Collision (700)	Preventive measures} and clean-up costs } Llt9 418 318 650 (including salvage)} 735 268 884 Damage to marine environment 5 000 000 000 Total Llt15 153 587 534		agreed claimed claimed	Most claims settled; Llt9 418 318 650 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	claimed	Claim against IOPC Fund 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	paid paid	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 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	Further claims possible if sunken oil resurfaces
ANTONIO GRAMSCI (USSR)	27 706 GRT Rbls2 431 854	6.2.87 Borgå, Finland	Grounding (600-700)	Finnish authorities USSR claimants	FM1 849 924 Rbls1 417 448	paid agreed	USSR not Member of IOPC Fund at time of incident; USSR claims paid by shipowner

SOUTHERN EAGLE (Panama)	4 461 GRT ¥93 874 528	15.6.87 Sada Misaki, Japan	Collision (15)	Clean-up costs Fishery damage Total	¥35 346 679 51 521 183 ¥86 867 862	agreed agreed	Total damage less than owner's liability. Indemnification not payable.
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 £92 800 (estimate)	25.8.87 Dubai, UAE	Fire (1 000)	Clean-up costs Clean-up costs Total	Dhs710 704 153 589 Dhs864 293	paid agreed	US$160 000 will be refunded by P & I insurer
				Clean-up costs Clean-up costs Total	US$146 565 176 941 US$323 506	paid claimed	
TOLMIROS (Greece)	48 914 GRT SKr50 000 000 (estimate)	11.9.87 West coast of Sweden	Unknown (200)	Swedish Government	SKr100 639 999	claimed	Legal action against shipowner and IOPC Fund withdrawn. The Fund will not be called upon to pay compensation.
HINODE MARU N°1 (Japan)	19 GRT ¥608 000	18.12.87 Yawatahama, Japan	Mishandling of cargo (25)	Clean-up costs Indemnification 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 local authorities French private claimants Sub-total	FFr18 755 325 1 227 718 161 431 196 799 FFr20 341 273	paid paid claimed paid	FFr18 755 325 and FFr196 799 paid by P & I insurer to French Government and private claimants. IOPC Fund has taken legal action against shipowner and charterer.
				Channel Islands authorities	£24 776	paid	

Vessel (Flag State)	Gross Tonnage (CLC Liability)	Date & Place of Incident	Cause of Incident & Quantity of Oil Spilled (tonnes)	Claims: Compensation & Indemnification			Remarks
TAIYO MARU N°13 (Japan)	86 GRT ¥2 476 800	12.3.88 Port of Yokohama, Japan	Discharge (6)	Clean-up costs Indemnification Total	¥6 134 885 619 200 ¥6 754 085	paid paid	
CZANTORIA (Canada)	81 197 GRT (unknown)	8.5.88 St Romuald, Canada	Collision with berth (unknown)	Clean-up costs	Can$1 787 771	claimed	Fund Convention not applicable, as incident occurred before entry into force of Fund Convention for Canada; claim not pursued.
KASUGA MARU N°1 (Japan)	480 GRT ¥17 015 040	10.12.88 Kyoga Misaki, Japan	Sinking (1 100)	Clean-up costs Fishery damage Indemnification Total	¥371 865 167 53 500 000 4 253 760 ¥429 618 927	paid paid paid	Further claims may be submitted
NESTUCCA (United States of America	1 612 GRT (unknown)	23.12.88 Vancouver Island, Canada	Collision (unknown)	Private claimants	Can$10 475	claimed	Fund Convention not applicable, as incident occurred before entry into force of Fund Convention for Canada
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 Total	¥492 635 549 600 ¥1 042 235	paid paid	
TSUBAME MARU N°58 (Japan)	74 GRT ¥2 971 520	18.5.89 Shiogama, Japan	Mishandling of oil transfer (7)	Damage to fish cargo Indemnification Total	¥19 159 905 742 880 ¥19 902 785	paid paid	

TSUBAME MARU N°16 (Japan)	56 GRT ¥1 613 120	15.6.89 Kushiro, Japan	Discharge (unknown)	Damage to fish cargo	¥273 580	paid	
				Indemnification	403 280	paid	
				Total	¥676 860		
KIFUKU MARU N°103 (Japan)	59 GRT ¥1 727 040	28.6.89 Port of Otsuji, Japan	Mishandling of cargo (unknown)	Clean-up costs	¥8 285 960	paid	
				Indemnification	431 760	paid	
				Total	¥8 717 720		
NANCY ORR GAUCHER (Liberia)	2 829 GRT Can$473 766	25.7.89 Hamilton, Canada	Overflow during discharge (250)	Clean-up costs	Can$292 110	agreed	Total damage less than owner's liability. Original claim Can$648 743.
DAINICHI MARU N°5 (Japan)	174 GRT ¥4 199 680	28.10.89 Yaizu, Japan	Mishandling of cargo (0.2)	Loss of earnings	¥1 792 100	paid	
				Clean-up costs	368 510	paid	
				Indemnification	1 049 920	paid	
				Total	¥3 210 530		
DAITO MARU N°3 (Japan)	93 GRT ¥2 495 360	5.4.90 Yokohama, Japan	Mishandling of cargo (3)	Clean-up costs	¥5 490 570	paid	
				Indemnification	623 840	paid	
				Total	¥6 114 410		
KAZUEI MARU N°10 (Japan)	121 GRT ¥3 476 160	11.4.90 Osaka, Japan	Collision (30)	Clean-up costs	¥48 883 038	paid	Recourse action undertaken against colliding vessel
				Fishery damage	560 588	paid	
				Indemnification	869 040	paid	
				Total	¥50 312 666		
FUJI MARU N°3 (Japan)	199 GRT ¥5 352 000	12.4.90 Yokohama, Japan	Overflow during supply operation (unknown)	Clean-up costs	¥96 431	paid	¥430 329 recovered by way of recourse
				Indemnification	1 338 000	paid	
				Total	¥1 434 431		
VOLGONEFT 263 (USSR)	3 566 GRT SKr3 123 585 (estimate)	14.5.90 Karlskrona, Sweden	Collision (800)	Swedish Government	SKr17 668 153	claimed	
				Fishery damage	530 239	paid	
				Pollution damage	6 250	paid	
				Total	Skr18 204 642		
				Indemnification	SKr780 896	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
HATO MARU N°2 (Japan)	31 GRT ¥803 200	27.7.90 Kobe, Japan	Mishandling of cargo (unknown)	Damage to cargo	¥1 087 700	paid	
				Indemnification	200 800	paid	
				Total	¥1 288 500		
BONITO (Sweden)	2 866 GRT £241 000 (estimate)	12.10.90 River Thames, United Kingdom	Mishandling of cargo (20)	Clean-up costs	£1 969	paid	£1 969 paid by P & I insurer; unlikely that shipowner's limit will be exceeded.
				Clean-up costs	259 011	claimed	
				Total	£260 980		
RIO ORINOCO (Cayman Islands)	5 999 GRT Can$1 182 167	16.10.90 Anticosti Island, Canada	Grounding (185)	P & I Club	Can$458 417	paid	Further claims will be submitted
				Canadian Government	6 000 000	paid	
				Canadian Government	4 218 848	agreed	
				P & I Club	470 404	claimed	
				Total	Can$11 147 669		
PORTFIELD (United Kingdom)	481 GRT £39 970 (estimate)	5.11.90 Pembroke Dock, Wales, United Kingdom	Sinking (110 tonnes)	Clean-up costs	£303 437	paid	£39 472 paid by P & I insurer
				Clean-up costs	19 063	claimed	
				Fishery damage	188 268	claimed	
				Total	£510 768		
				Indemnification	£9 993	not yet paid	
VISTABELLA (Trinidad & Tobago)	1 090 GRT US$100 000 (estimate)	7.3.91 (Caribbean)	Sinking (unknown)	Private claimants	FFr110 010	paid	Further claims will be submitted
				French Government	7 000 000	claimed	
				Total	FFr7 110 010		
HOKUNAN MARU N°12 (Japan)	209 GRT ¥3 523 520	5.4.91 Okushiri Island, Japan	Grounding (small quantity)	Clean-up costs	¥2 932 899	claimed	
				Fishery damage	33 117 397	claimed	
				Total	¥36 050 296		
				Indemnification	¥813 880	not yet paid	

AGIP ABRUZZO (Italy)	98 544 GRT Llt16 600 million (estimate)	10.4.91 Livorno, Italy	Collision (2 000)	Clean-up costs Clean-up costs Italian local authority Total	Llt7 299 000 000 15 110 611 070 230 359 720 Llt22 639 970 790	agreed claimed claimed	Further claims will be submitted
HAVEN (Cyprus)	109 977 GRT Llt23 950 220 000	11.4.91 Genoa, Italy	Fire and explosion (unknown)	Italian Government Italian local authorities & private claimants Total French Government French local authorities Total	Llt242 899 669 151 1 298 589 124 154 Lit1 541 488 793 305 FFr16 284 592 12 000 000 FFr28 284 592	claimed claimed claimed claimed	No amounts yet indicated for some claims; further claims may be submitted.
KAIKO MARU N°86 (Japan)	499 GRT ¥14 660 480	12.4.91 Nomazaki, Japan	Collision (25)	Clean-up costs Fishery damage Total	¥77 927 993 62 680 286 ¥140 608 279	claimed claimed	
KUMI MARU N°12 (Japan)	113 GRT (unknown)	27.12.91 Tokyo Bay, Japan	Collision (5)	Clean-up costs	¥5 000 000	estimated	

Notes

1 Amounts are given in national currencies; the relevant conversion rates as at 30 December 1991 are as follows:

£ = Din	39.512	£ = FM	7.735	£ = Llt	2149.75	£ = Dhs	6.8731
Can$	2.1645	FFr	9.6900	¥	234.75	US $	1.8670
DKr	11.0525	DM	2.8375	SKr	10.3700	Rbls	1.0290

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).