

Annual
Report
2013



**International Oil Pollution
Compensation Funds**





International Oil Pollution Compensation Funds

ANNUAL REPORT 2013

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Opposite: Small-scale fisheries activities, Mumbai, India

Cover: Pollution response deployment exercise organised by the Maritime and Port Authority of Singapore

Foreword

As Chairman of the 1992 Fund Assembly, I have the pleasure of introducing the 2013 Annual Report of the IOPC Funds. The Report presents the specific achievements and output of the Organisation over the past year as well as a transparent insight into the daily work of the Secretariat.

At the October 2013 meetings, the very important decision was taken to wind up the 1971 Fund in the coming year. As we enter 2014, there is a clear focus on the future of the Organisation and on the risks of maritime transport. The 1992 Fund has continued to support the International Maritime Organization (IMO) in its preparations for the entry into force of the 2010 HNS Convention. The participation of 1992 Fund Member States in the workshop which took place during the IOPC Funds' meeting week confirms the general support and desire, following the success of the IOPC Funds, for the establishment of an HNS Fund.

The efforts of the Secretariat in regularly reviewing and improving their procedures to ensure best practice in all areas of their work has certainly paid off. The web-based claims management system, a bespoke system originally introduced to handle the vast quantities of claims submitted following the *Hebei Spirit* incident, has undergone further development in 2013 and is expected to be ready for use for any major spills occurring from 2014.

One of the key new tools introduced by the Secretariat in 2013 was the online oil reporting system for States and contributors. This tool, which has been trialled by a small number of States over the past two years, has been worked on continuously to ensure it is both secure and efficient and, since its formal adoption in 2013, will undoubtedly make an enormous difference to both Member States and the Secretariat in the processing of receipts of contributing oil in 2014 and for years to come. The Secretariat has also continued to work closely with Member States on the issue of non-submission of oil reports and it is pleasing to note that the number of outstanding oil reports has continued to significantly decrease over the past year.

Two sessions of the IOPC Funds' governing bodies took place during 2013 and the decisions taken and engagement of Member States during those meetings demonstrate both the continued commitment of States and the importance still placed by States on the role of the International Oil Pollution Compensation Funds in the international maritime community. The 1992 Fund seventh intersessional Working Group met again in 2013 to continue discussions on the definition of 'ship' under the 1992 Civil Liability Convention and whilst there remains a divergence of opinion within the Group, there is nevertheless a clear determination from both sides to find a compromise and to agree possible guidance to assist States with the problems they experience as a result of the uncertainty surrounding the definition.

On behalf of all the Chairmen of the governing bodies, I would like to take this opportunity to congratulate the Director, the Secretariat and the Member States of the IOPC Funds for a successful year improving the practices, systems and cooperation between the various stakeholders to ensure that the Organisation is as efficient as possible in carrying out its mission of compensating victims of oil pollution damage promptly and equitably.



Gaute Sivertsen
Chairman of the 1992 Fund Assembly

Director's Review

It is with great pride that, through this Annual Report, I reflect on a very productive year for the Organisation, a year which also marked the 35th anniversary of the establishment of the first International Oil Pollution Compensation Fund (the 1971 Fund). Since the entry into force of the 1971 Fund Convention in 1978, the IOPC Funds has always strived to establish good practice, uniform application of the Conventions and ultimately to ensure victims of oil pollution damage are compensated fully for their losses. The year 2013 was no exception as the governing bodies considered the adoption of a number of new policies and practices to ensure that the current IOPC Fund (the 1992 Fund) fulfils its functions as intended. The sixth intersessional Working Group, established to consider ways to improve the 1992 Fund's process for assessing large numbers of small claims lacking evidence of earnings, contributed significantly to the improvements made in 2013. Notably, following the recommendations of the Group, a new Claims Manual was adopted and guidelines were developed on the role that Member States can play in preparing for and reacting to an oil spill. Guidelines were also developed to assist claimants in the tourism sector in their presentation of claims and the 1992 Fund Administrative Council approved the development of further guidelines for claimants in other sectors in the coming year.

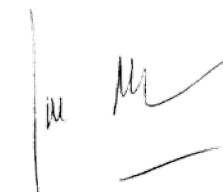
Looking back at 2013, I am pleased to note that the adoption of a reduced budget for 2013 was successful and has not hindered the output of the Secretariat over the year. In addressing the uniform application of the Conventions and other issues, the Secretariat participated in a number of outreach activities, running various regional workshops, taking part in seminars and giving lectures to maintain and improve engagement with both Member and non-Member States. The benefits of such activities are considerable.

The Organisation has unfortunately seen several major incidents over its 35 years of existence and it is comforting to see the *Erika* incident and a number of other smaller but longstanding incidents nearing their closure. The six-year time bar of the *Hebei Spirit* incident elapsed in December 2013 and I am hopeful that significant progress will now be made in the settlement of claims lodged against the 1992 Fund in the coming year.

The Secretariat was notified of one new incident that took place in June 2013, the *Nesa R3* in Oman. The cooperation with the Omani Government has been excellent and the claims assessment process is underway.

The risk of incidents remains very much present and we must be prepared for the next big spill. 2013 has focussed on that preparatory work and in 2014 every effort will be made to ensure that the Secretariat, Member States and claimants have all the tools available to them to deal with any incident.

The decision taken in October 2013 to wind up the 1971 Fund as soon as possible is a major step forward that will require considerable effort from the Secretariat, in particular in the resolution of the five remaining incidents involving the 1971 Fund. This decision will allow the 1971 Fund Administrative Council in 2014 to decide on the dissolution of the 1971 Fund.



José Maura
Director



“
The engagement of Member States during meetings demonstrates the importance still placed by States on the role of the IOPC Funds
”

40%
Percentage by which the number of States with outstanding oil reports has reduced over the past 5 years



“
The decision taken in October 2013 to wind up the 1971 Fund as soon as possible is a major step forward
”

35
Number of years since the establishment of the first IOPC Fund (the 1971 Fund) in 1978

Funds Overview

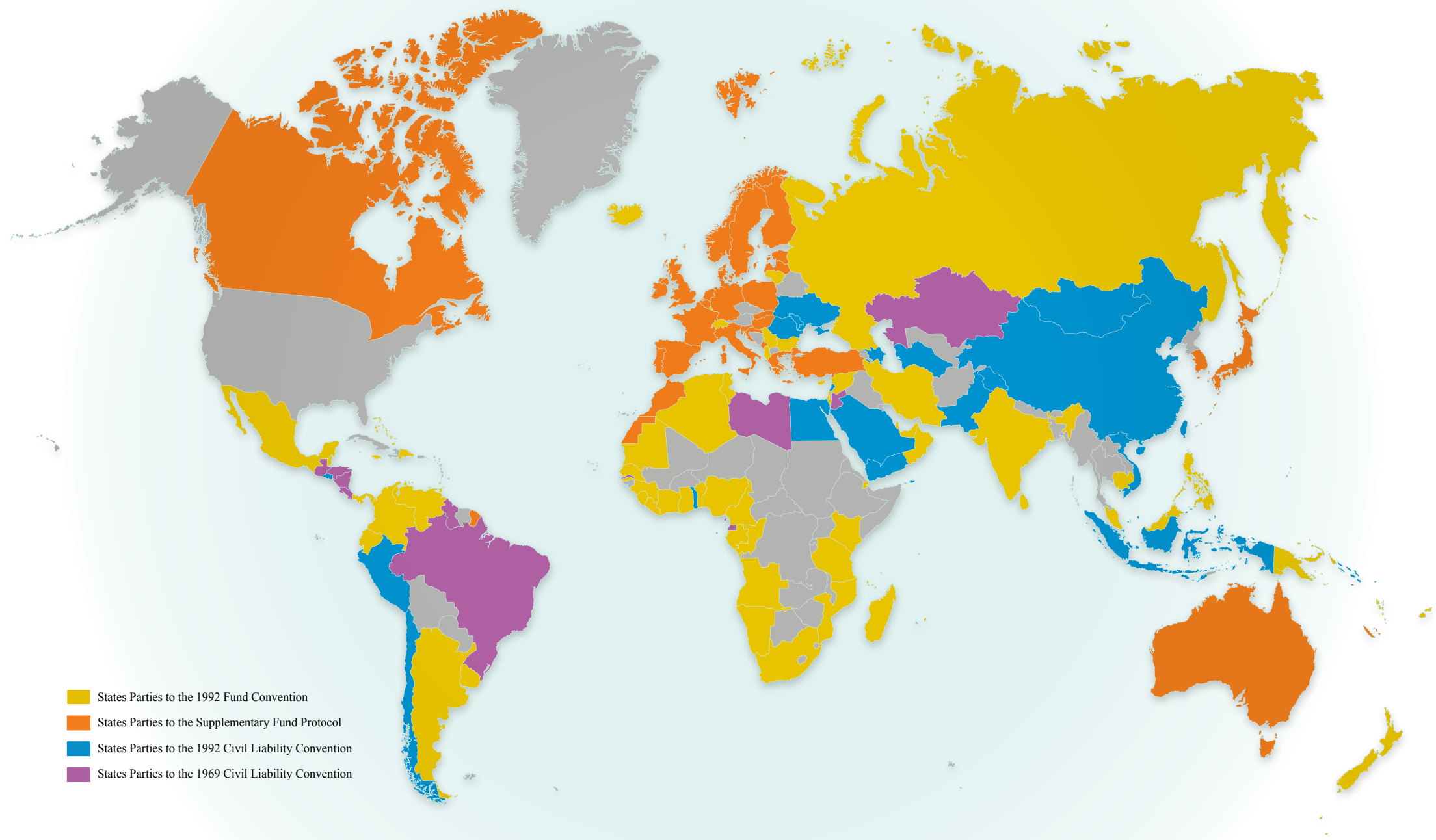
The International Oil Pollution Compensation Funds (IOPC Funds) provide financial compensation for oil pollution damage that occurs in Member States, resulting from spills of persistent oil from tankers.

The history of the IOPC Funds began with the oil spill from the *Torrey Canyon*, which ran aground near the Scilly Isles in 1967, losing its entire cargo of approximately 119 000 tonnes of crude oil, fouling UK and French coastlines. This incident exposed a number of serious shortcomings, in particular the absence of an international agreement on liability and compensation in the event of such a spill. It led the international community to establish, under the auspices of the International Maritime Organization (IMO), a regime for compensation for victims of oil pollution.

The framework for the regime was the 1969 International Convention on Civil Liability for Oil Pollution Damage (1969 Civil Liability Convention) and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution (1971 Fund Convention). Over time, it became clear that the amount of compensation available for major incidents needed to be increased, and the scope of the regime widened. This resulted in two further instruments, known as the 1992 Civil Liability Convention and the 1992 Fund Convention. Following the *Erika* and *Prestige* incidents, a third instrument, the Supplementary Fund Protocol, was adopted in 2003, providing additional compensation over and above that available under the 1992 Fund Convention for pollution damage in the States that become Parties to the Protocol.

The IOPC Funds are financed by contributions paid by entities that receive certain types of oil after sea transport. These contributions are based on the amount of oil received in the relevant calendar year, and cover expected claims, together with the costs of administering the Funds.

Since their establishment, the 1992 Fund and the preceding 1971 Fund have been involved in 147 incidents of varying sizes all over the world. In the great majority of cases, all claims have been settled out of court. No incidents have occurred so far which have involved or are likely to involve the Supplementary Fund.



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

113 Member States of the 1992 Fund (29 States which are also Members of the Supplementary Fund are marked in bold)							
Albania	Bulgaria	Denmark	Greece	Liberia	Namibia	Russian Federation	Sweden
Algeria	Cambodia	Djibouti	Grenada	Lithuania	Netherlands	Saint Kitts and Nevis	Switzerland
Angola	Cameroon	Dominica	Guinea	Luxembourg	New Zealand	Saint Lucia	Syrian Arab Republic
Antigua and Barbuda	Canada	Dominican Republic	Hungary	Madagascar	Nigeria	Saint Vincent and the Grenadines	Tonga
Argentina	Cape Verde	Ecuador	Iceland	Malaysia	Niue	Samoa	Trinidad and Tobago
Australia	China<1>	Estonia	India	Maldives	Norway	Senegal	Tunisia
Bahamas	Colombia	Fiji	Ireland	Malta	Oman	Serbia	Turkey
Bahrain	Comoros	Finland	Islamic Republic of Iran	Marshall Islands	Palau	Seychelles	Tuvalu
Barbados	Congo	France	Israel	Mauritania	Panama	Sierra Leone	United Arab Emirates
Belgium	Cook Islands	Gabon	Italy	Mauritius	Papua New Guinea	Singapore	United Kingdom
Belize	Côte d'Ivoire (from 8/07/14)	Georgia	Japan	Mexico	Philippines	Slovakia (from 8/07/14)	United Republic of Tanzania
Benin	Croatia	Germany	Kenya	Monaco	Poland	Slovenia	Uruguay
Brunei Darussalam	Cyprus	Ghana	Kiribati	Montenegro	Portugal	South Africa	Vanuatu
			Latvia	Morocco	Qatar	Spain	Venezuela (Bolivarian Republic of)
				Mozambique	Republic of Korea	Sri Lanka	

<1> The 1992 Fund Convention applies to the Hong Kong Special Administrative Region only.

Legal Framework

The international compensation regime is currently based on the International Convention on Civil Liability for Oil Pollution Damage, 1992 (1992 Civil Liability Convention) and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (1992 Fund Convention), together with the Protocol of 2003 to the 1992 Fund Convention (Supplementary Fund Protocol). The texts of the 1992 Conventions and the Supplementary Fund Protocol may be obtained from the Publications page of the Funds’ website: www.iopcfunds.org.

The 1992 Civil Liability Convention, the 1992 Fund Convention and the Supplementary Fund Protocol all apply to pollution damage caused by spills of persistent oil from tankers in the territory (including the territorial sea) or the exclusive economic zone (EEZ) or equivalent area of a State Party to the respective treaty instrument.

The 1992 Civil Liability Convention

The 1992 Civil Liability Convention (1992 CLC) governs the liability of shipowners for oil pollution damage. Under this Convention, the registered shipowner has strict liability for pollution damage caused by the escape or discharge of persistent oil from his ship. This means that he is liable even in the absence of fault on his part. He is exempt from liability only if he proves that:

- the damage resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character, or
- the damage was wholly caused by an act or omission done with the intent to cause damage by a third party, or
- the damage was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids, in the exercise of that function.

The shipowner is normally entitled to limit his liability to an amount determined by the size of the ship, as set out in the following table.

Ship’s tonnage	CLC limit
Ship not exceeding 5 000 units of gross tonnage	4 510 000 SDR <->
Ship between 5 000 and 140 000 units of gross tonnage	4 510 000 SDR plus 631 SDR for each additional unit of tonnage
Ship of 140 000 units of gross tonnage or over	89 770 000 SDR

For ships carrying more than 2 000 tonnes of oil as cargo in bulk, the shipowner is obliged to maintain insurance to cover his liability under the 1992 CLC, and claimants have a right of direct action against the insurer. Any claims for pollution damage under the 1992 CLC can be made only against the registered owner of the ship concerned. This does not, in principle, preclude victims from claiming compensation outside the Conventions from persons other than the shipowner.

However, the 1992 CLC prohibits claims against the servants or agents of the shipowner, the members of the crew, the pilot, the charterer (including a bareboat charterer), manager or operator of the ship, or any person carrying out salvage operations or taking preventive measures, unless the pollution damage resulted from the personal act or omission of the person concerned, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

The 1992 Fund Convention

The 1992 Fund Convention, which is supplementary to the 1992 CLC, establishes a regime for compensating victims when compensation under the 1992 CLC is not available or is inadequate. The International Oil Pollution Compensation Fund, 1992 (1992 Fund) was set up under the 1992 Fund Convention.

The 1992 Fund pays compensation when:

- the damage exceeds the limit of the shipowner’s liability under the 1992 CLC, or

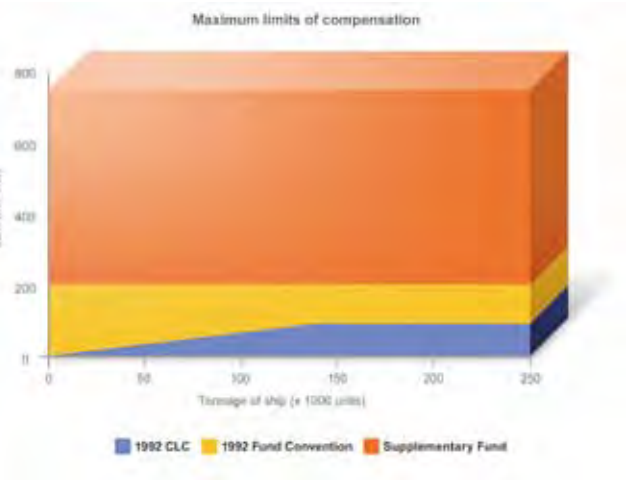
- the shipowner is exempt from liability under the 1992 CLC, or
- the shipowner is financially incapable of meeting his obligations in full under the 1992 CLC and the insurance is insufficient to pay valid compensation claims.

The maximum compensation payable by the 1992 Fund is 203 million SDR for incidents occurring on or after 1 November 2003, irrespective of the size of the ship. For incidents occurring before that date, the maximum amount payable is 135 million SDR. These maximum amounts include the sums actually paid by the shipowner under the 1992 CLC.

The 1992 Fund is financed by contributions levied on any person who has received in one calendar year more than 150 000 tonnes of crude oil and/or heavy fuel oil (contributing oil) in a Member State of the 1992 Fund.

The Supplementary Fund Protocol

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



Annual contributions to the Supplementary Fund are made on the same basis as contributions to the 1992 Fund. However, the contribution system for the Supplementary Fund differs from that of the 1992 Fund in that, for the purpose of paying contributions, at least 1 million tonnes of contributing oil are deemed to have been received each year in each Member State.

STOPIA 2006 and TOPIA 2006

STOPIA 2006 and TOPIA 2006 are two voluntary agreements which were set up to indemnify the 1992 Fund and Supplementary Fund, respectively, for compensation paid above the shipowner’s limit of liability under the 1992 CLC, up to certain amounts. The 1992 Fund and Supplementary Fund are not parties to these agreements, which nevertheless confer legally enforceable rights on the Funds to indemnification from the shipowner in States for which the 1992 Fund Convention or Supplementary Fund Protocol is in force.

The Small Tanker Oil Pollution Indemnification Agreement 2006 (STOPIA 2006) is a voluntary agreement between owners of small tankers (i.e. 29 548 GT or less) and their insurers, under which the maximum amount of compensation payable by owners of small tankers is increased to 20 million SDR. It applies to all small tankers entered in a P&I Club that is a member of the International Group, and reinsured through the pooling arrangements of the Group. The first and only incident so far in respect of which indemnification has been paid to the 1992 Fund under STOPIA 2006 was the *Solar 1* spill that occurred in the Philippines in 2006.

The Tanker Oil Pollution Indemnification Agreement 2006 (TOPIA 2006) is another voluntary agreement, which applies to all tankers entered in P&I Clubs that are members of the International Group and reinsured through the pooling arrangements of the Group. Under TOPIA 2006, the Supplementary Fund is indemnified for 50% of any amounts paid in compensation in respect of incidents involving tankers entered in the agreement.

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

Major Events in the History of the IOPC Funds	1970s	1980s	1990s	2000s	2010s
1960s 1967 <i>Torrey Canyon</i> incident 1969 1969 Civil Liability Convention adopted	1971 1971 Fund Convention adopted 1975 1969 Civil Liability Convention entered into force 1978 1971 Fund Convention entered into force 1978 1971 Fund established with 14 Member States 1978 1971 Fund limit set at 30 million SDR 1979 1971 Fund limit increased to 45 million SDR	1980 <i>Tanio</i> incident 1986 1971 Fund limit increased to 52.5 million SDR 1987 1971 Fund limit increased to 60 million SDR	1991 <i>Haven</i> incident 1992 1992 Protocols adopted 1993 <i>Braer</i> incident 1996 HNS Convention adopted 1996 <i>Sea Empress</i> incident 1996 1992 Civil Liability Convention entered into force 1996 1992 Fund Convention entered into force 1997 <i>Nakhodka</i> incident 1999 <i>Erika</i> incident	2002 1971 Fund Convention ceased to be in force 2002 <i>Prestige</i> incident 2003 Supplementary Fund Protocol adopted 2003 1992 Fund limit increased to 203 million SDR 2005 Supplementary Fund Protocol entered into force with 8 Member States 2007 <i>Hebei Spirit</i> incident 2008 Membership of the 1992 Fund exceeds 100 Member States	2010 HNS Protocol adopted 2011 Global settlement reached in respect of the <i>Erika</i> incident 2013 Decision taken to wind up the 1971 Fund as soon as possible

The Old Regime: the 1969 Civil Liability Convention and the 1971 Fund Convention

The international compensation regime for oil pollution was originally set up some four decades ago by the 1969 Civil Liability Convention (1969 CLC) and the 1971 Fund Convention. The 1969 CLC entered into force in 1975. The main features of the Convention are the same as those of the 1992 CLC, but there are differences on specific points. Most importantly, under the 1969 CLC, the limit of the shipowner’s liability is much lower than under the 1992 CLC (up to a maximum of 14 million SDR). As at 31 December 2013, 22 States were Parties to the 1969 CLC and also Parties to the 1992 CLC. In such cases, States are advised to denounce the 1969 CLC as it can lead to confusion in national law. The Secretariat is available to assist Member States on this matter if required.

The International Oil Pollution Compensation Fund, 1971 (1971 Fund) was set up under the 1971 Fund Convention, when the latter entered into force in 1978. The 1971 Fund Convention ceased to be in force on 24 May 2002 and consequently does not apply to incidents occurring after that date. The maximum amount of compensation payable by the 1971 Fund per incident was 60 million SDR, including the amount paid under the 1969 CLC. The Administrative Council of the 1971 Fund has been given a mandate to perform functions as are allocated to the Assembly under the 1971 Fund and also take all appropriate measures to complete the winding up of the 1971 Fund. The process of the winding up of the 1971 Fund began in 2002 and at its October 2013 session, the 1971 Fund Administrative Council decided that the 1971 Fund should now be wound up as soon as possible. To this end, it instructed the Director to study the legal and procedural arrangements that would have to be put in place and to resolve as many of the outstanding 1971 Fund incidents as possible to enable the Council to decide to dissolve the 1971 Fund at its October 2014 session.

The 2010 HNS Convention

The International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 2010 (2010 HNS Convention) aims to ensure adequate, prompt and effective compensation for personal injury, damage to property, costs of clean up and reinstatement measures and economic losses resulting from the maritime transport of hazardous and noxious substances (HNS). Pollution damage caused by persistent oils already covered by the Civil Liability and Fund Conventions is excluded, as is damage caused by radioactive materials. The Convention is largely modeled on the 1992 Civil Liability and Fund Conventions.

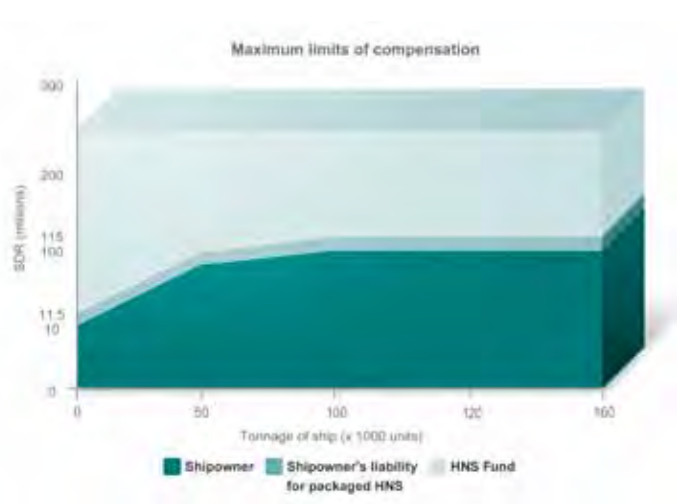
The HNS Convention was first adopted at an international conference held by IMO in May 1996, but did not enter into force. A second international conference, held in April 2010, adopted a Protocol to the HNS Convention (2010 HNS Protocol), designed to address practical problems that had prevented States from ratifying the original Convention. At the request of both Conferences, the 1992 Fund Secretariat was given the assignment to carry out administrative tasks necessary to set up the HNS Fund. This was decided on the basis that all expenses incurred would be repaid, with interest, to the 1992 Fund by the HNS Fund once the Convention enters into force.

HNS represent a wide array of chemical substances of varying properties and hazards, which include both bulk cargoes and packaged goods. Bulk cargoes can be solids, liquids (including both persistent and non-persistent oils) and liquefied gases, such as liquefied natural gas (LNG) or liquefied petroleum gas (LPG). The definition of HNS set out in the HNS Convention is based on lists of individual substances identified in a number of IMO Conventions and Codes, designed to ensure maritime safety and prevention of pollution. For instance, the International Maritime Dangerous Goods Code (IMDG Code) lists hundreds of substances which can be dangerous when shipped in packaged form. Low hazard substances, such as coal and iron, are generally excluded from the HNS Convention.

Unlike the 1992 Civil Liability and Fund Conventions’ three-tier system (with the Supplementary Fund where applicable), the 2010 HNS Convention offers a two-tier system in one single treaty, in which the shipowner is strictly liable to pay the first tier of compensation, while a Fund (the HNS Fund) generated from levies on cargo receivers in all Member States provides the second-tier of compensation.

The shipowner’s liability varies for bulk HNS and packaged HNS. For bulk HNS it ranges from 10 million SDR for ships up to 2 000 GT to a maximum of 100 million SDR for ships of 100 000 GT and above. For damage caused by packaged HNS it ranges from 11.5 million SDR to a maximum of 115 million SDR. It is compulsory for all ships to have insurance to cover their liability and claimants have a right of direct action against the insurer^{<3>}.

The HNS Fund will provide the second tier of compensation up to a total of 250 million SDR, including the amount payable by the shipowner under the first tier, irrespective of ship size, and will comprise a general account covering bulk solids and other HNS substances as well as three separate accounts for oil, LPG and LNG. Each separate account will meet claims attributable to the



respective cargo and will be funded in proportion to total receipts of relevant cargoes in Member States, which means that there will be no cross-subsidisation between accounts.

Contributions by individual receivers will be based on the thresholds shown in the table below.

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

Since the 2010 HNS Protocol was adopted, the 1992 Fund Secretariat has carried out numerous tasks necessary to set up the HNS Fund. Throughout 2013, the Secretariat continued to provide assistance to IMO and States in order to support the Protocol’s early entry into force.

At its 100th session in March 2013, IMO’s Legal Committee endorsed the HNS contributing cargo reporting guidelines and accompanying model reporting forms submitted by Canada.

These guidelines which had been developed by the 1992 Fund Secretariat, were adopted at a workshop organised by IMO in November 2012 and are designed to facilitate States’ submission of contributing cargo at the time of ratification or accession to the 2010 HNS Convention. This endorsement was an important milestone that clarified a critical requirement of the entry into force process.

In November 2013, IMO published the consolidated text of the 2010 HNS Convention, Protocol and reporting guidelines in English, French and Spanish.

The Secretariat has continued to update the online list of HNS covered by the Convention and made more features available. This web-based database, the HNS Finder, includes a search function which enables users to look up substances and determine whether a substance is contributing cargo that must be reported, and whether it qualifies for compensation under the Convention. In particular, the Secretariat has implemented three updates to reflect the dynamic and indicative nature of the HNS list and it has also enhanced its reporting function by making available an option to download search results including all synonyms to facilitate data comparison.

Throughout 2013, the Secretariat took advantage of every opportunity to assist States in deepening their understanding of the implementation of the Protocol. Following suggestions made by a number of States, it has also created an online platform accessible through the HNS Convention website to facilitate information exchange among States working towards early implementation of the Convention.

The following eight States have signed the 2010 HNS Protocol but no ratification has taken place yet.

Canada	Greece
Denmark	Netherlands
France	Norway
Germany	Turkey

<3> Ships below 200 GT can be excluded from the Convention by the State Party.

Account	General		Oil		LNG	LPG
Threshold for establishment of account	40 million tonnes*		350 million tonnes		20 million tonnes	15 million tonnes
Threshold for contributions to account/sector	Bulk	20 000 tonnes	Persistent oil	150 000 tonnes	No minimum quantity	20 000 tonnes
	Other	20 000 tonnes	Non-Persistent oil	20 000 tonnes		

* Condition for entry into force of the 2010 HNS Protocol



Participants of the 2013 IOPC Funds’ Short Course

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In this section

In this section, the administration and organisational structure of the IOPC Funds during 2013 are described.

The Secretariat, headed by the Director, has 34 established posts and is based in London, United Kingdom (pages 12-13). The relationship between the Host State and the IOPC Funds is governed by a Headquarters Agreement between the United Kingdom Government and the IOPC Funds. The Agreement sets out the privileges and immunities of the IOPC Funds, of delegates to meetings and of staff members.

In addition to the Secretariat, the Director is supported by the joint Audit Body and the joint Investment Advisory Body. Details of their role in the management of the IOPC Funds as well as key information regarding the running costs of the Secretariat are provided under Administration (pages 14-16). The contributions levied by the various Funds and a summary of the total quantities of contributing oil received by Member States is reported under Contributions, together with an outline of how the annual levies are calculated (pages 17-19).

The Funds engage in a variety of outreach activities. These include maintaining a website in the three official languages (English, French and Spanish), which provides up-to-date information about the Organisations and includes the Document Services website where users can download all documents for past and forthcoming meetings. The activities undertaken by the IOPC Funds during 2013 to increase awareness of the Funds’ role in the international oil pollution compensation regime, such as presentations at conferences, the organisation of workshops and meetings with interested parties, are set out under External Relations, which also includes lists of States and organisations that hold observer status with the Funds (pages 20-23).

Finally in this section, a summary is given of the incidents currently being dealt with by the Funds as well as an overview of the claims handling process (pages 24-25).

In 2013, the Secretariat processed oil reporting data from over 450 contributors in 111 Member States

Secretariat

The 1992 Fund, the Supplementary Fund and the 1971 Fund share a joint Secretariat, based in London. As at 31 December 2013, the Secretariat had 34 established posts. The Director is the chief administrative officer and is responsible for the overall management of the Funds, including maintaining a sound system of internal control that supports the achievement of the Funds' policies, aims and objectives and safeguards its assets. The system of internal control is based on procedures designed to ensure conformity with the Funds' Financial Regulations, Internal Regulations and decisions of the respective governing bodies.

For the strategic running of the Secretariat, the Director is assisted by a Management Team, comprising the Deputy

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

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

IOPC Funds' Secretariat as of March 2014

Director's Office



José Maura
Director

José Maura has worked for the IOPC Funds since 1996 and prior to joining the Funds, practised law and worked for a Protection and Indemnity Club. He joined the IOPC Funds as a Claims Manager and became the Head of the Claims Department in January 2002. Mr Maura was appointed Acting Director of the IOPC Funds on 21 September 2010 and on 26 October 2011 was elected Director for a term of five years.



Akiko Yoshida
Legal Counsel



Jill Martinez
Administrative Officer



Astrid Richardson
Administrative/Claims Assistant

Claims Department



Liliana Monsalve
Head of Department



Chiara Della Mea
Claims Manager



Mark Homan
Claims Manager



Ana Cuesta
Claims Administrator



Chrystelle Collier
Claims Administrator

Finance & Administration Department



Ranjit Pillai
Deputy Director/Head of Department



Robert Owen
IT Manager



Latha Srinivasan
Finance Manager



Miriam Blugh
Human Resources Manager



Modesto Zotti
Office Manager



Stuart Colman
IT Administrator



Elisabeth Galobardes
Finance Assistant



Kathy McBride
Finance Assistant



Paul Davis
Administrative Assistant

1 Vacant Post of Finance Assistant.

External Relations & Conference Department



Thomas Liebert
Head of Department



Katrin Park
External Relations Officer



Victoria Turner
Information Officer



Emer Padden
External Relations & Conference Coordinator



Christine Galvin
External Relations Administrator



Ellen Leishman
Administrative Assistant



Natalia Ormrod
Translation Coordinator



María Alonso Romero
Translation Administrator (Spanish)



Sylvie Legidos
Translation Administrator (French)



Melina Jeannotat
Translation Administrator (French)

Administration

Audit Body

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

Investment Advisory Body

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

Risk management

The Secretariat has a full risk management system in place, which was fully reviewed in 2013 in close consultation with the Audit Body and the External Auditor. Under the revised

risk management framework, risks are categorised either as operational risks or institutional issues. Operational risks have five further subcategories, namely: finance/contributions, governance/management, compensation, safety/security and communication/publications (including website). These identified risks, institutional issues and any corresponding mitigation measures which are put in place are continuously monitored to ensure a robust risk management system is maintained.

Financial administration

The General Funds cover the administration expenses of the respective Funds, including the costs of running the joint Secretariat and, in respect of the 1971 Fund and 1992 Fund, for compensation payments and claims-related expenditure, up to a maximum amount defined by the sterling equivalent of 1 million SDR (1971 Fund) and 4 million SDR (1992 Fund) per incident. Separate Major Claims Funds are established for incidents for which the total amounts payable exceed those amounts. A Claims Fund is established for any incident for which the Supplementary Fund has to pay compensation. Since there have been no incidents involving the Supplementary Fund, no Claims Funds have been established.

Joint Secretariat expenses

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

Joint Secretariat expenditure	2013 unaudited	2012 audited	2011 audited
Expenditure	3 790 400	3 768 342	4 015 160
Budget	4 339 660	4 607 510	4 162 520
Expenditure as % of budget	87%	82%	96%
External Auditor’s fees			
1992 Fund	48 500	48 500	48 500
1971 Fund	10 300	10 300	10 300
Supplementary Fund	3 600	3 600	3 600
Management fees received by 1992 Fund from Supplementary Fund and 1971 Fund	280 500	314 500	296 000

**Joint Audit Body
(from October 2011 to October 2014)**
Vice-Admiral Giancarlo Olimbo (Italy)
Mr Thomas Kaevergaard (Sweden)
Mr Emile Di Sanza (Canada) (Chairman)
Professor Seiichi Ochiai (Japan)
Mr John Gillies (Australia)
Mr Michael Knight (External expert)



Commentary on the joint Secretariat expenditure is provided in Annex I of the 1992 Fund’s Financial Statements for the financial periods 2012 and 2011, which are available on the Funds’ website: www.iopcfunds.org.

Financial information

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

1992 Fund Financial Information for 2012 (audited)

Contributions of some £3.5 million, £8.5 million, £31.5 million were levied in 2011 for payment in 2012 in relation to the General Fund, *Prestige* Major Claims Fund and *Hebei Spirit* Major Claims Fund respectively. Reimbursement of £25 million was made to contributors to the *Erika* Major Claims Fund. Prior years’ contributions were levied for payment during the year due to late receipt or adjustments to oil reports received. Interest on investments amounted to some £3.1 million. Claims and claims-related expenditure during the period was some £5.3 million. The payments related mainly to the *Prestige* and *Hebei Spirit* incidents.

Financial Information for 2013 (unaudited)

Contributions of some £5 million were levied in 2012 for payment in 2013 in respect of the General Fund. Interest on investments amounted to some £2.2 million. Claims and claims-related expenditure during the period was some £4.8 million. The payments related mainly to the *Volgoneft 139*, *Prestige* and *Hebei Spirit* incidents.

Supplementary Fund Financial Information for 2012 (audited)

No contributions were due during 2012. Interest on investments amounted to some £12 700. Total obligations incurred by the Supplementary Fund amounted to £63 100, of which £59 500 was in respect of the management fee payable to the 1992 Fund.

Financial Information for 2013 (unaudited)

No contributions were levied for payment in 2013. Interest on investments amounted to some £8 520. Total obligations incurred by the Supplementary Fund amounted to £36 600, of which £33 000 was in respect of the management fee payable to the 1992 Fund.

1971 Fund Financial Information for 2012 (audited)

Since the 1971 Fund Convention ceased to be in force it is no longer possible to levy contributions to the General Fund. No contributions were levied for payment in 2012 in relation to the two remaining Major Claims Funds. Interest on investments amounted to some £59 000. Total obligations incurred by the 1971 Fund in respect of administrative expenses amounted to some £282 826, of which £255 000 was in respect of the management fee payable to the 1992 Fund. Claims and claims-related expenditure amounted to some £176 000, mainly in respect of the *Plate Princess* incident.

Financial Information for 2013 (unaudited)

No contributions were levied for payment in 2013. Interest on investments amounted to £24 700. Total obligations incurred by the 1971 Fund in respect of administrative expenses amounted to £276 800, of which £247 500 was in respect of the management fee payable to the 1992 Fund. Claims and claims-related expenditure amounted to some £163 000.

Joint Investment Advisory Body
Mr Brian Turner, Mr Simon Whitney-Long
and Mr Alan Moore presenting their report
to the governing bodies in October 2013



Net Assets of the respective IOPC Funds

£	2013 unaudited	2012 audited	2011 audited
1992 Fund	157 500 000	193 442 370	151 939 347
Supplementary Fund	971 500	999 542	1 049 951
1971 Fund	4 685 000	5 098 734	5 490 080

FREQUENTLY ASKED QUESTIONS

FINANCE

Q: How are the IOPC Funds financed?

A: This is explained in full detail under the Contributions section on page 17, but in general the receivers of contributing oil (persistent oil) in a Member State are liable to pay contributions to the IOPC Funds, if they have received in excess of 150 000 tonnes in a calendar year or if they receive less, but are associated with another oil receiver.

Q: Does that mean that Member States do not pay?

A: Normally, Member States do not pay any contributions. However, a State can choose to pay the contributions instead of the individual receivers if it wishes, but only a few States have chosen to do this. Under the Supplementary Fund Protocol a minimum of 1 million tonnes of contributing oil is deemed to be received by each Member State. When the aggregate quantity of contributing oil received in a Member State is less than 1 million, the State must assume the obligation for the difference.

Q: Do oil exporters pay contributions?

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

Q: Does a company that receives oil temporarily in a storage facility for others have to pay?

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

Q: If nobody in a Member State receives oil, what happens?

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

Q: How much does it cost to be a Member of the 1992 Fund or the Supplementary Fund?

A: The level of contributions varies each year, depending on the amounts of compensation which the 1992 Fund or the Supplementary Fund has to pay. That depends on the incidents which occur and the amounts to be paid in compensation for each of them and the amount of claims-related expenditure required. There are no fixed premiums to pay and the annual administrative budget of the Secretariat is relatively small (see page 14).

The price per tonne of contributing oil is dependent on the amount required and the total amount of oil receipts received for the relevant calendar year.

Contributions

The IOPC Funds are financed by contributions levied on any entity that has received in the relevant calendar year more than 150 000 tonnes of contributing oil (i.e. crude and/or heavy fuel oil) in ports or terminal installations in a Member State, after carriage by sea. Contributions are paid by the individual contributors directly to the Funds (see Financial Review).

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

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

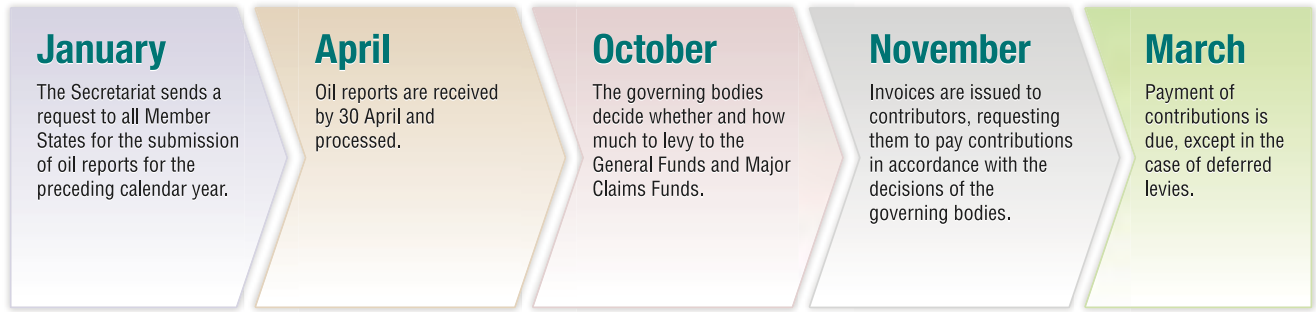
1992 Fund

At the October 2013 meetings of the governing bodies, the 1992 Fund Administrative Council decided to levy 2013 contributions to the General Fund of £3.3 million, based on oil received in the calendar year 2012 payable by 1 March 2014.

The total quantity of oil received consisted of the amount reported as well as the amount estimated to have been received by contributors whose reports were pending at the time of invoicing. Since the total amount, both reported and estimated, added up to 1 565 662 159 tonnes of oil received, contributions of £0.0021077 per tonne were levied. The ten largest contributing Member States to the 1992 Fund are shown at the bottom of page 18.

The 1992 Fund Administrative Council decided to close the *Erika* Major Claims Fund and reimburse £26.2 million to contributors to the *Erika* Major Claims Fund repayable on 1 March 2014. The Council also decided to levy £2.5 million in respect of the *Prestige* Major Claims Fund and £7.5 million in respect of the *Volgoneft 139* Major Claims Fund, both payable by 1 March 2014. The levy of contributions to these Major Claims Funds will be based on the oil reported for the calendar year 2001 in respect of the *Prestige* and 2006 in respect of the *Volgoneft 139*.

Contributing oil received in the calendar year 2012 in the territories of 55 States which were Members of the 1992 Fund on 31 December 2012 is listed overleaf (as reported by 25 November 2013).



£569 million

Total amount paid in compensation by the IOPC Funds since 1978 (£330 million by the 1971 Fund, £239 million by the 1992 Fund).

Calculation of contributions

Total contributions levied \div total quantity of contributing oil received in all Member States = amount per tonne of oil received.

Quantity of oil received by each contributor \times the amount per tonne = amount to be paid by that contributor in Pounds sterling.

99.5%

Percentage of contributions levied to the 1992 Fund over the years (£523.9 million) which have been received (as at 31 December 2013)

100%

Percentage of the only levy of contributions (£1.4 million) to the Supplementary Fund which have been received (as at 31 December 2013)

99.92%

Percentage of contributions levied to the 1971 Fund over the years (£386 million) which have been received (as at 31 December 2013)

Member State	Contributing oil reported in 2012 (tonnes)	% of Total
Japan	235 511 154	16.10%
India	191 840 940	13.12%
Republic of Korea	130 332 216	8.91%
Netherlands	119 146 474	8.15%
Italy	106 098 093	7.25%
Singapore	97 705 408	6.68%
France	68 707 170	4.70%
Spain	67 982 052	4.65%
Canada	56 256 505	3.85%
United Kingdom	55 755 554	3.81%
Germany	30 871 800	2.11%
Australia	28 863 821	1.97%
Sweden	25 121 440	1.72%
Greece	24 728 207	1.69%
Turkey	20 509 369	1.40%
Argentina	16 116 482	1.10%
Bahamas	14 765 781	1.01%
Iran (Islamic Republic of)	13 510 803	0.92%
Malaysia	13 050 984	0.89%
Israel	12 859 206	0.88%
Finland	12 266 480	0.84%
Portugal	12 023 683	0.82%
Norway	11 958 026	0.82%
Philippines	9 200 003	0.63%
Lithuania	8 519 256	0.58%
Mexico	6 690 254	0.46%
Bulgaria	6 372 378	0.44%
New Zealand	5 607 934	0.38%
Poland	5 457 223	0.37%
Morocco	5 405 644	0.37%

Member State	Contributing oil reported in 2012 (tonnes)	% of Total
Denmark	5 156 635	0.35%
China ^{<4>}	3 693 502	0.25%
Malta	3 195 454	0.22%
Trinidad and Tobago	3 036 034	0.21%
Ireland	2 976 519	0.20%
Estonia	2 873 697	0.20%
Ecuador	2 639 626	0.18%
Belgium	2 386 321	0.16%
Uruguay	2 363 198	0.16%
Panama	2 314 378	0.16%
Croatia	2 304 169	0.16%
Nigeria	2 263 242	0.15%
Sri Lanka	2 157 785	0.15%
Jamaica	2 058 790	0.14%
Angola	2 036 809	0.14%
Cameroon	1 745 676	0.12%
Russian Federation	1 552 379	0.11%
Papua New Guinea	1 007 642	0.07%
Ghana	978 064	0.07%
Cyprus	929 296	0.06%
Mauritius	636 752	0.04%
Algeria	383 589	0.03%
Colombia	332 541	0.02%
Kenya	263 635	0.02%
Barbados	237 759	0.02%
Total	1 462 757 832	100.00%

No contributing oil was received during 2012 in the following 41 Member States:
Albania, Antigua and Barbuda, Bahrain, Belize, Benin, Brunei Darussalam, Cambodia, Cape Verde, Congo, Cook Islands,

Dominica, Fiji, Georgia, Grenada, Hungary, Iceland, Latvia, Liberia, Luxembourg, Madagascar, Maldives, Marshall Islands, Mauritania, Monaco, Mozambique, Namibia, Niue, Oman, Qatar, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, Serbia, Seychelles, Sierra Leone, Slovenia, Switzerland, Tonga, Tuvalu, United Arab Emirates, Vanuatu

As at 25 November 2013, oil reports had not been received from the following 15 Member States:
Comoros, Djibouti, Dominican Republic, Gabon, Guinea, Kiribati, Montenegro, Palau, Saint Lucia, Senegal, South Africa, Syrian Arab Republic, Tunisia, United Republic of Tanzania, Venezuela (Bolivarian Republic of)

Supplementary Fund

At the October 2013 meetings of the governing bodies, the Supplementary Fund Assembly decided not to levy 2013 contributions, since there had been no incidents involving the Supplementary Fund.

Contributing oil received in the calendar year 2012 in the territories of States which were Members of the Supplementary Fund on 31 December 2012 (as reported by 25 November 2013) is listed below.

Member State	Contributing oil reported in 2012 (tonnes)	% of Total
Japan	235 511 154	22.53%
Republic of Korea	130 332 216	12.47%
Netherlands	119 146 474	11.40%
Italy	106 098 093	10.15%
France	68 707 170	6.57%
Spain	67 982 052	6.50%
Canada	56 256 505	5.38%
United Kingdom	55 755 554	5.33%
Germany	30 871 800	2.95%

Member State	Contributing oil reported in 2012 (tonnes)	% of Total
Australia	28 863 821	2.76%
Sweden	25 121 440	2.40%
Greece	24 728 207	2.37%
Turkey	20 509 369	1.96%
Finland	12 266 480	1.17%
Portugal	12 023 683	1.15%
Norway	11 958 026	1.14%
Lithuania	8 519 256	0.82%
Poland	5 457 223	0.52%
Morocco	5 405 644	0.52%
Denmark	5 156 635	0.49%
Ireland	2 976 519	0.28%
Estonia	2 873 697	0.27%
Belgium	2 386 321	0.23%
Croatia	2 304 169	0.22%
Barbados ^{<5>}	1 000 000	0.10%
Hungary ^{<5>}	1 000 000	0.10%
Latvia ^{<5>}	1 000 000	0.10%
Slovenia ^{<5>}	1 000 000	0.10%
Total	1 045 211 508	100.00%

As at 25 November 2013, oil reports had not been received from Montenegro.

1971 Fund

The 1971 Fund Convention ceased to be in force on 24 May 2002 and so it has not been possible to levy further contributions to the General Fund since 2003.

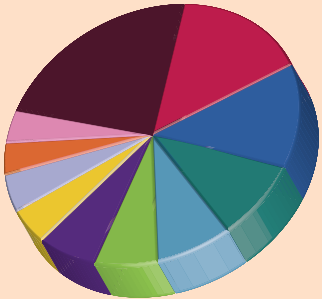
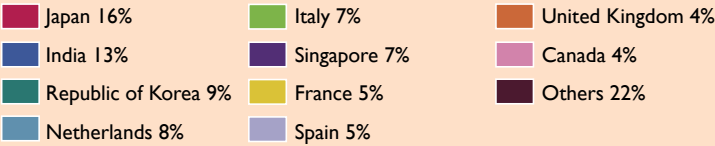
At the October 2013 meetings of the governing bodies, the 1971 Fund Administrative Council decided not to levy contributions for payment in respect of the two remaining Major Claims Funds, ie *Vistabella* and *Nissos Amorgos*.

^{<4>} The 1992 Fund Convention applies to the Hong Kong Special Administrative Region only.

^{<5>} Deemed to have received 1 000 000 tonnes for the purposes of contributions to the Supplementary Fund.

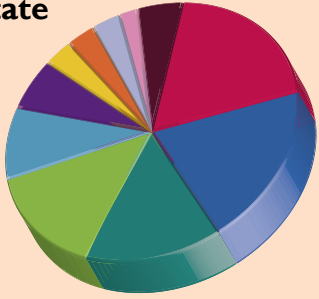
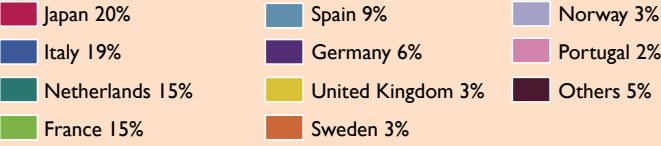
Contributions to the 1992 Fund by Member State

Figures shown are General Fund contributions for 2013 (based on 2012 oil receipts), the most recent year for which contributions were levied



Contributions to the Supplementary Fund by Member State

Figures shown are General Fund contributions for 2006 (based on 2005 oil receipts), the most recent year for which contributions were levied



External Relations

The Secretariat of the IOPC Funds undertakes a range of activities aimed at strengthening the IOPC Funds' relationships with Member States and other international, intergovernmental or non-governmental organisations. From time to time, the Secretariat organises or participates in events such as national and regional workshops or gives presentations to enhance understanding of the international regime for oil pollution compensation, to assist with implementation of the Conventions at national level and to assist potential claimants. Meetings between the Secretariat and government authorities within Member States may often prove highly beneficial to both parties. Such visits normally result in the resolution of longstanding issues such as the payment of outstanding contributions and submission of oil reports. The main activities in 2013 are outlined below and shown on the following map, together with other key outreach activities delivered since 2009.

● Key activities conducted during 2009-2012

1 Location: Curaçao
Name of Event: Regional workshop on the compensation regime
Workshop for the Caribbean Dutch territories and the applicability of the compensation regime following recent changes in legal status of those territories.

2 Location: Barbados
Name of Event: Regional workshop on the compensation regime organised by REMPEITC-Carib
Delivered as part of the Global Initiative for West, Central and Southern Africa (GI WACAF Project) for the benefit of English-speaking countries in the region.

3 Location: Barranquilla, Colombia
Name of Event: Workshop on the International Civil Liability and Compensation Regime
Organised by ROCRAM and run by the IOPC Funds as part of the IMO Technical Cooperation Programme.

4 Location: Swakopmund, Namibia
Name of Event: Sub-regional workshop on the compensation regime for the WACAF countries
Delivered as part of the Global Initiative for West, Central and Southern Africa (GI WACAF Project) for the benefit of English-speaking countries in the region.

16 Location: Rome, Italy
Name of Event: Claims and Compensation workshop
National workshop for Coast Guard personnel and other relevant agencies and departments of the Italian Government.

15 Location: Madrid, Spain
Name of Event: Director's visit to Spain
Meetings with the Director General of the Spanish Merchant Marine in Madrid, the Spanish Minister of Justice and the Ministry of Finance as well as attendance at the Prestige court hearings in La Coruña.

14 Location: London
Name of Event: Lloyd's Maritime Academy Marine Pollution Seminar
Presentations given by the Director on the recent developments within the international compensation regime and by the Head of Claims on the assessment of claims for compensation.

13 Location: Malta
Name of Event: Director visits IMLI
Lecture given to the 24th intake of IMLI lawyers on "The Role of the IOPC Funds in Compensating Victims of Oil Pollution Damage"

12 Location: Amsterdam, Netherlands
Name of Event: International Group of P&I Associations Correspondents' Conference
Presentation given on the Funds' experience in dealing with pollution incidents and the types of damages admissible under the Claims Manual.

11 Location: St Petersburg, Russian Federation
Name of Event: ITOPF Board Meeting
Participation by the Director and presentation given on recent Funds' issues.

10 Location: Japan
Name of Event: Director's visit to Japan
Presentation given by the Director on managing claims in large incidents at a Petroleum Association of Japan Oil Spill Response Workshop.

9 Location: Jakarta, Indonesia.
Name of Event: Launch of the Global Initiative programme and regional workshop for south-east Asia
New partnership between IMO and IPIECA aimed at improving the oil spill preparedness and response capabilities in south east Asia (GI SEA).

8 Location: Singapore
Name of Event: ICOPCE 2013
Pre-conference workshop delivered jointly by IOPC Funds, ITOPF and the International Group of P&I Associations. IOPC Funds also presented and chaired sessions at the conference itself.

7 Location: Port Klang, Malaysia
Name of Event: HNS Workshop
Three-day workshop on the 2010 HNS Convention, organised by the Marine Department of Malaysia, supported by the IMO Integrated Technical Cooperation Programme and delivered by representatives of IMO and IOPC Funds.

5 Location: Cairns, Australia
Name of Event: Spillcon 2013 and claims and compensation workshop
Presentation at the conference, participation in a large exercise organised by Australian Maritime Safety Authority (AMSA), and delivery of the workshop by the IOPC Funds and ITOPF.

6 Location: Wellington, New Zealand
Name of Event: Claims and compensation workshop and seminar
Half-day seminar for staff of Maritime New Zealand and 2-day workshop run by the IOPC Funds, ITOPF and International Group of P&I Associations for government officials from New Zealand and Australia.

In-house visits

In addition to these activities, delegations from a variety of organisations and universities visit the Funds’ offices when in London. In 2013, visitors included students from the universities of Gent and Antwerp in Belgium, Barcelona and Bilbao in Spain, the World Maritime University in Sweden and from the International Maritime Law Institute (IMLI) in Malta. The Secretariat also received visits from participants of the dispute settlement training programme organised by the International Tribunal for the Law of the Sea (ITLOS). During these visits, the Secretariat usually delivers presentations and holds question and answer sessions on the international liability and compensation regime.

Regional lunch meetings

The Secretariat organises informal lunch meetings at the IOPC Funds’ offices for London-based representatives of Member and non-Member States according to geographical regions and for UK-based representatives from intergovernmental (IGOs) and non-governmental organisations (NGOs) which have responsibilities or activities in fields related to those of the IOPC Funds, particularly in connection with pollution and environmental matters, maritime and shipping affairs, marine insurance, production or transport of oil or relevant questions of international law. These meetings provide an opportunity for the Secretariat to improve contacts with States and Organisations and to deal with queries relating to membership, oil reporting and contributions. During 2013, one lunch meeting was held for the IGOs and NGOs and one lunch meeting was held for South American and Caribbean States. Further events are planned for 2014.

IOPC Funds’ Short Course

The third annual IOPC Funds’ Short Course took place in November 2013. The programme covered all aspects of the work of the IOPC Funds and the international liability and compensation regime in general and included practical exercises which allowed participants to study a theoretical incident and the subsequent claims submission process. Participants also had the opportunity to visit the IMO Headquarters, the offices of the International Group of P&I Associations and one of their members (Steamship Mutual), and had a guided tour of Lloyd’s of London. The course is currently supported by IMO, the International Group of P&I Associations,

ITOPF, INTERTANKO and ICS. Each year the course is open to a maximum of ten self-funded participants from 1992 Fund Member States, nominated directly by their government.

Activities relating to the 2010 HNS Convention

The Secretariat conducted a number of activities during 2013 as part of the 1992 Fund’s work in connection with the setting up of the HNS Fund (see pages 8-9). In particular, it participated in an IMO-sponsored workshop on the 2010 HNS Convention in November in Port Klang, Malaysia, aimed at assisting the Malaysian Government with the ratification and implementation of the Convention in the near future. The workshop was also attended by representatives from Singapore and Indonesia. In May, on the occasion of a training session in Lisbon, Portugal, organised by the European Maritime Safety Agency (EMSA) for States preparing accession to the European Union, the Secretariat made a presentation on the HNS compensation regime. A presentation on the HNS Convention was also delivered on the occasion of the World LP Gas Forum that took place in London in October on invitation from the WLPGA.

Website

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

In addition, the website provides access to other IOPC Funds’ services and websites, including document services, the online reporting system and the HNS Convention website.



International non-governmental organisations with observer status to the IOPC Funds participating in the October 2013 meetings

Publications

In addition to the Annual Report 2012 and the publication Incidents involving the IOPC Funds 2012, during 2013 the Secretariat also published a new online edition of the 1992 Fund Claims Manual, incorporating the amendments adopted by the 1992 Fund Administrative Council in 2012. It has also been developing a Claims Information Pack, which is primarily aimed at assisting claimants and is to be issued in early 2014. This pack contains the new Claims Manual, a new edition of the Guidelines for claimants in the fisheries, mariculture and fish processing sector, Guidelines for claimants in the tourism sector, the text of which was adopted by the Administrative Council in October 2013, and an example claim form. Further guidelines for claimants in other sectors are under development and will be added to the pack in the future. In addition, a package of information for Member States is also being compiled and will include the guidance document resulting from the sixth intersessional Working Group and adopted during 2013 on the role of Member States in an oil spill. All publications, including the Texts of the Conventions are available to download from the IOPC Funds’ website.

Relations with Non-Member States

Former Member States of the 1971 Fund automatically have observer status with the 1992 Fund. In addition, the 1992 Fund Assembly has granted observer status to a number of States that have never been party to either Fund Convention. States which are invited to send observers to meetings of the Assembly of the 1992 Fund automatically also have observer status with the Supplementary Fund.

Observer States of the 1992 Fund and Supplementary Fund

Bolivia (Plurinational State of)	Indonesia
Brazil	Kuwait
Chile	Lebanon
Côte d’Ivoire	Pakistan
Democratic People’s Republic of Korea	Peru
Egypt	Saudi Arabia
Gambia	Slovak Republic
Guatemala	Thailand
Guyana	Ukraine
Honduras	United States

Relations with International Organisations

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

governing bodies. At the October 2013 sessions of the governing bodies, the International Spill Control Organization (ISCO) was granted observer status to the 1992 Fund and the Supplementary Fund.

Intergovernmental organisations granted observer status

Baltic Marine Environment Protection Commission (Helsinki Commission)

Central Commission for Navigation on the Rhine (CCNR)

European Commission

International Institute for the Unification of Private Law (UNIDROIT)

International Maritime Organization (IMO)

Maritime Organisation of West and Central Africa (MOWCA)

Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC)

United Nations (UN)

United Nations Environment Programme (UNEP)

Non-governmental organisations granted observer status

BIMCO

Comité Maritime International (CMI)

Conference of Peripheral Maritime Regions (CPMR)

European Chemical Industry Council (CEFIC)

International Association of Classification Societies Ltd (IACS)

International Association of Independent Tanker Owners (INTERTANKO)

International Chamber of Shipping (ICS)

International Group of Liquefied Natural Gas Importers (GIIGNL)

International Group of P&I Associations

International Salvage Union (ISU)

International Spill Control Organization (ISCO)

International Tanker Owners Pollution Federation Ltd (ITOPF)

International Union of Marine Insurance (IUMI)

Oil Companies International Marine Forum (OCIMF)

World LP Gas Association (WLPGA)

Incidents Involving the IOPC Funds

Since their establishment in October 1978, the IOPC Funds have been involved in 147 incidents.

The 1992 Fund was informed of one new oil spill during 2013, the *Nesa R3* incident in Oman, which occurred in June 2013. The Secretariat was also invited to follow developments in an incident which occurred in 2010, the *Haekup Pacific*, which whilst resulting in only a small spill at the time, is currently the subject of a wreck removal order due to the potential risk of a further spillage of oil. The Secretariat continued to deal with ten other incidents under the 1992 Fund and a further five incidents under the 1971 Fund. These are summarised in the tables opposite.

Compensation and Claims Management

The role of the IOPC Funds is to pay compensation to those who have suffered oil pollution damage in a Member State who cannot obtain full compensation for the pollution damage from the shipowner under the relevant Civil Liability Convention. Claimants may be individuals, partnerships, companies, private organisations or public bodies, including States or local authorities.

Claims settlement

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

Admissibility of claims for compensation

To be entitled to compensation, the pollution damage must result from oil pollution and have caused a quantifiable economic loss. The claimant must be able to show the amount of his loss or damage by producing accounting records or other appropriate evidence.

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

- Property damage;
- Costs of clean-up operations at sea and on shore ;
- Economic losses by fishermen or those engaged in mariculture;
- Economic losses in the tourism sector; and
- Costs for reinstatement of the environment.

Under the Fund Conventions, the Funds are obliged to ensure that all claimants are given equal treatment so if the total amount of the established claims exceeds the total amount of compensation available under the Civil Liability and Fund Conventions, each claimant will receive the same proportion of the loss. When there is a risk that this situation will arise, the Funds may have to restrict compensation payments to a percentage of the losses to ensure that all claimants are given equal treatment. The payment level may increase at a later stage if the uncertainty about the total amount of the established claims is reduced. One important effect of the establishment of the Supplementary Fund is that, in practically all cases, it should not be required to pro-rate compensation payments for pollution damage in Supplementary Fund Member States.

Claims are assessed according to criteria established by the governments of Member States. These criteria, which also apply to claims against the Supplementary Fund, are set out in the 1992 Fund’s Claims Manual, which is a practical guide on how to present claims for compensation.

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

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

1992 Fund

During 2013, the 1992 Fund dealt with outstanding claims and/or recovery actions in respect of twelve incidents.

Ship	Place of incident	Year	Outstanding actions
<i>Erika</i>	France	1999	Incident being closed
<i>Prestige</i>	Spain	2002	Claims pending
<i>Solar 1</i>	Philippines	2006	Claims pending
<i>Volgoneft 139</i>	Russian Federation	2007	Claims pending
<i>Hebei Spirit</i>	Republic of Korea	2007	Claims pending
Incident in Argentina	Argentina	2007	Claims pending
<i>King Darwin</i>	Canada	2008	Claims pending
<i>Redferrm</i>	Nigeria	2009	Claims pending
<i>JS Amazing</i>	Nigeria	2009	Claims pending
<i>Haekup Pacific</i>	Republic of Korea	2010	Awaiting developments regarding the removal orders and the removal operations
<i>Alfa 1</i>	Greece	2012	Claims pending
<i>Nesa R3</i>	Sultanate of Oman	2013	Claims pending

Supplementary Fund

As at 31 December 2013, there have been no incidents involving, or likely to involve the Supplementary Fund.

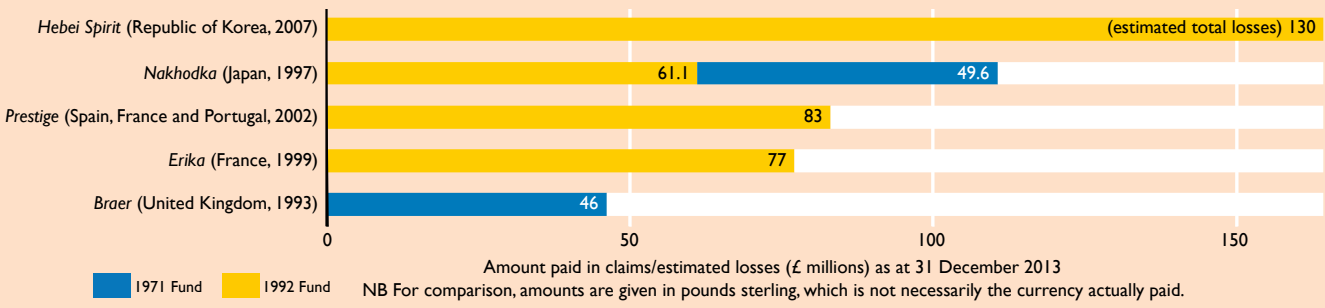
1971 Fund

During 2013, the 1971 Fund dealt with outstanding claims and/or recovery actions in respect of five incidents.

Ship	Place of incident	Year	Outstanding actions
<i>Vistabella</i>	Caribbean	1991	Recourse action pending
<i>Aegean Sea</i>	Spain	1992	Claims pending
<i>Iliad</i>	Greece	1993	Claims pending
<i>Nissos Amorgos</i>	Venezuela (Bolivarian Republic of)	1997	Incident being closed
<i>Plate Princess</i>	Venezuela (Bolivarian Republic of)	1997	Incident being closed

Detailed information on the incidents listed above can be found in a separate publication (Incidents Involving the IOPC Funds 2013) which is available on the Publications page of the IOPC Funds’ website: www.iopcfunds.org. It sets out the developments in the various cases during the course of the year and the position taken by the governing bodies in respect of claims.

Major incidents involving the IOPC Funds



The JS Amazing incident, Nigeria, 2009





The October 2013 meetings of the governing bodies

Governing Bodies

Structure of the Governing Bodies	28
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In this section

In this section, information is provided on the structure, composition and main functions of the governing bodies of the IOPC Funds (pages 28-29).

The governing bodies agree upon dates for their future sessions at each October meeting. Dates are agreed for two meetings per year, in spring and autumn, with the possibility to hold further meetings should the need arise. Details are provided on the key discussions and decisions taken at the 2013 meetings of the governing bodies, which took place in April and October (pages 31-35).

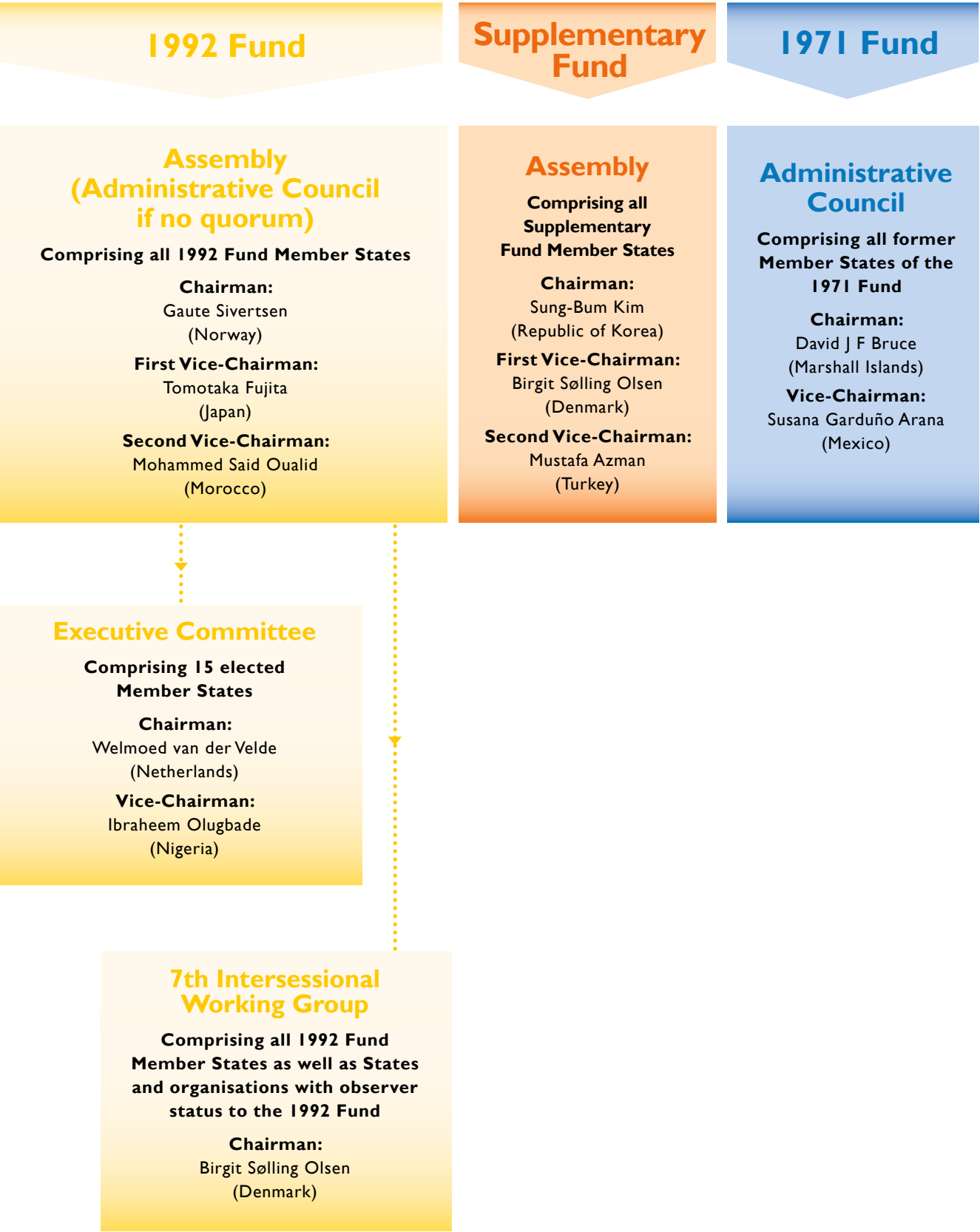
The Secretariat, in cooperation with the Chairmen and delegates, has continued to work in 2013 on improving practices in relation to the organisation of the meetings, increasing the intersessional work that takes place and the availability of documents in advance of meetings.

The April 2013 meetings included sessions of the 1992 Fund Executive Committee and of the 1971 Fund Administrative Council. The sixth and seventh 1992 Fund intersessional Working Groups also met for the fifth and second times respectively. The sixth Working Group held its final meeting and made a number of recommendations to the 1992 Fund Assembly to enhance the functioning in practice of the international liability and compensation regime. The seventh Working Group continued to consider issues relating to the definition of ‘ship’ under the 1992 Civil Liability Convention and decided to request an amendment to its mandate to allow it to continue discussions in 2014.

The October meetings saw sessions of the 1992 Fund Administrative Council, acting on behalf of the Assembly, the Supplementary Fund Assembly and further sessions of the 1992 Fund Executive Committee and 1971 Fund Administrative Council.

Complete records of decisions taken at all meetings of the governing bodies are available to download via the Document Services section of the website (www.iopcfunds.org).

Structure of the Governing Bodies, as of January 2014



Role of the Governing Bodies

Assemblies

The 1992 Fund and Supplementary Fund each have an Assembly composed of all Contracting States to the 1992 Fund Convention and Supplementary Fund Protocol, respectively. The Assembly must hold one regular session each year, normally in October, when it elects a Chairman and two Vice-Chairmen to hold office until its next regular session. Extraordinary sessions may be held as and when required. Under the 1971 Fund Convention, which since 2002 has ceased to be in force, the 1971 Fund also had an Assembly composed of all Contracting States to the 1971 Fund Convention.

The Assembly is the supreme organ of the relevant Fund and, *inter alia*, decides on the annual budget and contributions to the Organisation, approves Financial Statements, appoints the External Auditor, adopts the Internal and Financial Regulations, determines which entities have observer status with the Organisation, and generally performs such tasks as are necessary for its proper functioning. Attendance of a simple majority of Member States constitutes a quorum for the Assembly.

Administrative Councils

For the 1992 Fund Assembly, in cases where a quorum is not achieved, an Administrative Council is convened to act on behalf of the Assembly. The quorum requirement for the Administrative Council is 25 Member States. Due to the growth of the membership of the 1992 Fund and the lack of attendance of many Member States, the 1992 Fund Administrative Council has had to act on behalf of the Assembly in a number of instances in recent years.

With 29 Member States, achieving a quorum has not been an issue for the Supplementary Fund Assembly and it has therefore not been necessary so far to establish an Administrative Council for that Fund.

When the 1971 Fund Convention was still in force, in cases where a quorum was not achieved for the 1971 Fund Assembly, an Administrative Council was convened to act on behalf of that Assembly. Since 2002 the 1971 Fund no longer has Member States and therefore the Administrative Council now consists of all States having at any time been a Member State of the 1971 Fund. The 1971 Fund Administrative Council does not have any quorum requirement.

Executive Committees

Each Assembly has the right to establish any temporary or permanent subsidiary body it may consider to be necessary, to define its terms of reference and to give it the authority needed to perform the functions entrusted to it. One such subsidiary body is the 1992 Fund Executive Committee. Its main function is to take policy decisions concerning the admissibility of claims for compensation for oil pollution damage relating to incidents involving the 1992 Fund. It holds its meetings as and when required, but in practice twice a year, during the week of the regular annual session of the Assemblies in October and in the spring.

At each regular session, the 1992 Fund Assembly elects 15 States as members of the Executive Committee, to hold office until the end of the next regular session of the Assembly. When electing the Committee members, the Assembly must first elect seven from among the eleven Member States in the territories of which the largest quantities of oil were received during the preceding calendar year. The remaining eight members are elected from the other Member States, taking into account an equitable geographical distribution and the extent to which a particular State has fulfilled its obligation to submit reports on receipts of contributing oil. No State may serve on the Executive Committee for more than two consecutive terms.



Mr Gaute Sivertsen
Chairman of the 1992 Fund Assembly since October 2011 and former Chairman of the 1992 Fund Executive Committee (2000-2002), Mr Sivertsen has been Head of the Norwegian Delegation to the IOPC Funds' meetings since 1993. He is Deputy Director General of the Maritime Department of the Norwegian Ministry of Trade and Industry.

1992 Fund Executive Committee Members (from October 2012 until October 2013)		
Angola	Grenada	Poland
Australia	India	Singapore
Canada	Japan	Spain
Finland	Liberia	Tunisia
France	Panama	United Kingdom

1992 Fund Executive Committee Members (from October 2013 to October 2014)		
Angola	Japan	Poland
Australia	Liberia	Republic of Korea
Finland	Malaysia	Singapore
Grenada	Netherlands	Tunisia
Italy	Nigeria	United Kingdom

The 1971 Fund also had an Executive Committee. However, since 2000 the 1971 Fund Administrative Council has fulfilled the roles of both the Assembly and the Executive Committee and has dealt with both administrative and incident-related matters.

Working Groups

Other such subsidiary bodies are the various intersessional Working Groups which have been set up over the years to consider specific areas of interest to the 1992 Fund, and previously the 1971 Fund. The 1992 Fund sixth intersessional Working Group, which was set up by the Assembly in October 2009 to establish procedures for the assessment of large numbers of claims for small amounts, held its second and third meetings in March and July 2011, its

fourth meeting in April 2012 and its fifth and final meeting in April 2013. The Group’s Chairman presented the final conclusions and recommendations of the Working Group to the 1992 Fund Administrative Council in October 2013. In October 2011, the 1992 Fund Assembly decided to establish a seventh intersessional Working Group to consider issues relating to the definition of ‘ship’. It held its first meeting in April 2012, its second meeting in April 2013 and is expected to meet for the third time in spring 2014.



Mr Sung-Bum Kim
Chairman of the Supplementary Fund Assembly since October 2011 and member of the delegation of the Republic of Korea since October 2010. Mr Kim is Director of the Seafarers and Labour Policies Division of the Ministry of Land, Transport and Maritime Affairs in Republic of Korea.

Meetings

Meetings of the governing bodies in 2013

The IOPC Funds’ governing bodies met in April and October 2013 at the headquarters of the International Maritime Organization (IMO) in London. All documents including full Records of Decisions for the 2013 meetings of the governing bodies are available on the document services section of the Funds’ website (www.iopcfunds.org).

April 2013
1992 Fund Executive Committee (58th session)
1971 Fund Administrative Council (30th session)
1992 Fund sixth intersessional Working Group (5th meeting)
1992 Fund seventh intersessional Working Group (2nd meeting)

The above sessions of the governing bodies and meetings of the Working Groups took place from Monday 22 April to Wednesday 24 April 2013. The main issues discussed and decisions taken at the meetings are summarised below.

Incidents involving the IOPC Funds *Plate Princess* (Bolivarian Republic of Venezuela, May 1997)

The 1971 Fund Administrative Council noted the recent developments in respect of this incident, in particular that the 1971 Fund had filed pleadings in opposition to the Court decreed embargo over the assets belonging to the ‘Fund’ in Venezuela. This embargo is specifically over the contributions due to the 1992 Fund from Venezuela’s State-owned oil company, highlighting that it was only the 1971 Fund that was involved in the judgement that the Puerto Miranda Union claimants were attempting to enforce.

Erika (France, December 1999)

The Director presented an analysis of the judgement rendered in September 2012 by the Criminal Section of the Court of Cassation in respect of the Erika incident to the 1992 Fund Executive Committee. Discussions focussed on three key issues: the jurisdiction of the criminal courts in France for a spill which had occurred in the Exclusive Economic Zone, ie outside of French territorial waters; the Court of Cassation’s decision that all liable parties, including the classification society, RINA,



Captain David Bruce
Chairman of the 1971 Fund Administrative Council since October 2008 and member of the Marshall Islands delegation to the meetings of the IOPC Funds since January 2001. Captain Bruce is Senior Deputy Commissioner of Maritime Affairs and Permanent Maritime Representative of the Republic of the Marshall Islands to IMO.

could benefit from the channelling provisions contained in Article III.4 of the 1992 Civil Liability Convention (1992 CLC) but also on the decision that, applying French law of tort, they had acted recklessly and were therefore liable for the damage caused; and the decision that compensation should be paid for pure environmental damage under French law. The 1992 Fund Executive Committee noted that this judgement was not binding on the 1992 Fund, which was not a party to the criminal proceedings.

Volgoneft 139 (Russian Federation, November 2007)

The 1992 Fund Executive Committee recalled that there was an ‘insurance gap’ of some 1.5 million SDR in the case of the *Volgoneft 139* incident. It was noted that the 1992 Fund had appealed a judgement on quantum by the Arbitration Court of Saint Petersburg and Leningrad Region before the Supreme Court. The 1992 Fund Executive Committee decided to authorise the Director to pay private claimants in full according to the Court ruling and make interim payments to the three government claimants with pro-rated deductions to cover the ‘insurance gap’. The Executive Committee also instructed the Director to continue his discussions with the Russian authorities to reach an agreement on the ‘insurance gap’.

Hebei Spirit (Republic of Korea, December 2007)

It was noted that in January 2013 the Limitation Court had issued its decision regarding the distribution of the limitation fund, assessing the damages arising out of the *Hebei Spirit* incident at a total of KRW 736 billion and rejecting 64 270 claims. The 1992 Fund appealed the judgement in respect of 63 163 claims where there were matters of principle involved. More than 86 000 individual claimants have also appealed. In view of the disparity between the amounts claimed in the limitation proceedings and the amount awarded by the Limitation Court, the Director considered it premature to raise the level of payments, since it was not yet known what position would be taken by the Court of Appeal.

The 1992 Fund Executive Committee decided to maintain the level of payments in the *Hebei Spirit* incident at 35% of the assessed amount so as to avoid the risk of an overpayment situation, and to review this decision at its next session.

Treaty matters –Winding up of the 1971 Fund

The Consultation Group established in October 2012 made a number of recommendations to facilitate the process of winding up the 1971 Fund. The Administrative Council decided to follow a number of the Group’s recommendations, including instructing the Director to explore possible settlements in relation to the *Vistabella* and *Iliad* incidents and to continue discussions with the relevant parties in respect of the *Aegean Sea* and *Nissos Amorgos* incidents. The Administrative Council also instructed the Director to continue to pursue outstanding oil reports from Guyana but to write off contributions due from contributors in successor States of the former USSR and the former Socialist Federal Republic of Yugoslavia. The Director was instructed to raise the matter of outstanding contributions from two contributors in the Russian Federation with the Russian Government. He was also instructed to resolve as many of the outstanding issues as possible so that the Administrative Council, at its October 2013 session, could take the decisions required to wind up the 1971 Fund. The Director was instructed to study the legal issues relating to the winding up of the 1971 Fund, in consultation with the Legal Affairs and External Relations Division of IMO.

The 1971 Fund Administrative Council approved the amendment of the mandate and composition of the Consultation Group so that it could continue its work until the October 2013 session of the Administrative Council.

1992 Fund sixth intersessional Working Group – fifth meeting

The 1992 Fund sixth intersessional Working Group held its fifth meeting on 23 April 2013 under the chairmanship of Mr Volker Schöfisch (Germany). The Working Group considered the final outstanding issue of its mandate, that of interim payments of compensation. The Director and the International Group of P&I Associations had continued discussions since the April 2012 meeting of the Working Group on this issue but had unfortunately been unable to find a solution which was agreeable to both parties. The Working Group expressed regret that the two parties had

been unable to propose a solution to this issue but decided that the matter should continue to be discussed on a bilateral basis between the Director and the International Group and that the Director would report to the 1992 Fund Assembly once a solution had been found. Following that decision, it was agreed that the work of the sixth intersessional Working Group was complete and that the Group could be closed.

1992 Fund seventh intersessional Working Group – second meeting

The 1992 Fund seventh intersessional Working Group held its second meeting on 23 and 24 April 2013 under the chairmanship of Mrs Birgit Sølling Olsen (Denmark) to consider the definition of ‘ship’ under the 1992 Civil Liability and Fund Conventions. The Working Group considered proposals for certain vessels and activities and the possible implications that the activities of such vessels could have in terms of coverage by and contribution to the international compensation regime. The proposals led to a lively debate involving the majority of delegations present. The opinion of the Group was divided on several issues which, the Chairman suggested, demonstrated that the issues had wider implications than anticipated and which confirmed the need for the Working Group to continue its work beyond October 2013, when it had originally been due to report its findings to the 1992 Fund Assembly.

October 2013

1992 Fund Administrative Council^{<6>} (11th session)

1992 Fund Executive Committee (59th and 60th sessions)

Supplementary Fund Assembly (9th session)

1971 Fund Administrative Council (31st session)

The above sessions of the governing bodies took place during the week of 21 October 2013. The occasion coincided with the 35th anniversary of the establishment of the 1971 Fund. The key issues considered at the meetings are set out below.

Incidents involving the IOPC Funds

The Secretariat reported on all incidents currently involving the IOPC Funds. Decisions were taken in connection with the following incidents:

Nissos Amorgos (Bolivarian Republic of Venezuela, February 1997)

In May 2013 the Supreme Court (Criminal section) had upheld an earlier judgement denying the shipowner the right to limit his liability. The 1971 Fund Administrative Council, whilst expressing sympathy for the shipowner and the Club in this case, decided that the 1971 Fund should not reimburse the Club for any payments made as a consequence of the Supreme Court judgement in respect of the claim by the Bolivarian Republic of Venezuela.

Hebei Spirit (Republic of Korea, December 2007)

The 1992 Fund Executive Committee decided to maintain the level of payments in the *Hebei Spirit* incident at 35% of the assessed amount so as to avoid the risk of an overpayment situation, and to review this decision at its next session.

Nesa R3 (Sultanate of Oman, June 2013)

The 1992 Fund Executive Committee was informed of a new incident, the *Nesa R3*, a bitumen tanker which sank off the coast of Oman near Muscat in June 2013, resulting in the tragic loss of the vessel’s master and the release of an unknown quantity of its cargo of 800 plus tonnes of bitumen. The 1992 Fund Executive Committee authorised the Director to make payments of compensation in respect of admissible losses arising out of the *Nesa R3* incident and to claim reimbursement from the shipowner.

Haekup Pacific (Republic of Korea, April 2013)

The 1992 Fund Executive Committee was informed of a new incident, the *Haekup Pacific*, an asphalt carrier which sank off the coast of the Republic of Korea near Yeosu. The Executive Committee was informed that as a consequence of signing an agreement, the legal proceedings commenced by the shipowner/ UK P&I Club against the 1992 Fund had been withdrawn.

Other Incidents

The key latest developments reported in respect of other incidents were as follows:

In the *Volgoneft 139* incident, the 1992 Fund Executive Committee was pleased to note that all private claimants had been paid in full and that a recent judgement by the Presidium of the Supreme Court of the Russian Federation had ordered that previous judgements on the issue of the ‘insurance gap’ in this case be set aside.

On the *Redfferm* and *JS Amazing* incidents, which both occurred in Nigeria in 2009 but which the 1992 Fund had not been notified of until 2012, the Executive Committee was updated on the progress made by the Secretariat and the Nigerian delegation on establishing the facts of the cases and the information required to support the claims submitted. It was noted with regret that, in the absence of sufficient information at the time of the meetings, the Director was unable to recommend to the Executive Committee that he be instructed to make payment of compensation to the claimants in either case.

The 1992 Fund Executive Committee was pleased to note that the *King Darwin* incident was closed.

The 1992 Fund Administrative Council discussed the embargo ordered by the Maritime Court of First Instance in February 2013 of any assets that the 1971 or 1992 Funds might have in Venezuela in relation to the *Plate Princess* incident. Concern was expressed and it was considered by many States improper to associate the 1992 Fund with this incident which only involved the 1971 Fund. It was also stressed that the 1971 Fund and 1992 Fund were two different legal persons. The 1992 Fund Administrative Council decided, however, that taking legal action opposing the embargo would serve no useful purpose.

<6> The 1992 Fund Assembly had been scheduled to hold its 18th session but was unable to achieve the required quorum. The 1992 Fund Administrative Council therefore dealt with the items on the Assembly’s agenda.



Miss Ginette Testa

Chairman of the 1992 Fund Executive Committee from October 2011 to October 2013, Miss Testa is Permanent Representative of Panama to IMO and has been attending IOPC Funds meetings as Technical Adviser for the Panamanian Delegation since April 2010.



Mr Volker Schöfisch

Chairman of the 1992 Fund 6th intersessional Working Group from October 2009 to October 2013 and former Vice-Chairman of the 1992 Fund Executive Committee (2003-2005), Mr Schöfisch has been Head of the German Delegation to the IOPC Funds’ meetings since 2000. He is currently Head of Unit for insurance law and UNCITRAL at the Federal Ministry of Justice in Germany.

Compensation matters

The 1992 Fund sixth intersessional Working Group reported that it had completed its work on the procedures for the assessment of large numbers of claims for small amounts and was now closed. The publication of a document containing proposals of the Working Group on the role of Member States in the event of an oil spill was approved. The one outstanding issue of interim payments of compensation was to be the subject of further discussions between the Director and the International Group of P&I Associations.

The Terms of Reference of the 1992 Fund seventh intersessional Working Group on the definition of ‘ship’ under the 1992 Conventions were amended to include the establishment of a consultation group and an extension to the anticipated work-period of the Group. The consultation group met on Monday 28 October 2013 and will report to the next meeting of the Working Group in spring 2014.

Following the submission of a document by France on the subject of whether VAT paid by governments in the response to an oil pollution incident should be reimbursed to them by the IOPC Funds, the 1992 Fund Administrative Council decided, given the complexity of the issue, to instruct the Director to study the matter further and report back to the October 2014 session.

On the separate issue of assessment methods of the IOPC Funds, France had submitted another document containing a number of proposals, including amending the Claims Manual, to ensure consistency in the methods applied, particularly with reference to government claims. The 1992 Fund Administrative Council decided that it was not necessary, at this stage, to amend the Claims Manual since a set of guidelines to assist Member States with the submission of claims for clean-up operations were being prepared. It was also decided that the Director should provide Member States with a list of expert companies engaged by the IOPC Funds, as well as with a formal process for the selection of experts, including the need for minimum requirements in terms of qualifications, experience and membership of professional

bodies, to demonstrate that they were competent, capable and independent, as recommended by the Funds’ External Auditor.

A document submitted by the Secretariat containing draft guidelines for presenting claims in the tourism sector was approved for publication.

Financial matters

Various financial reports were made to the governing bodies covering investments, contributions and the submission of oil reports. States were encouraged to participate in the newly developed online reporting system for contributing oil. The joint Investment Advisory and Audit Bodies reported on their activities since October 2012 and the 2012 Financial Statements of each of the IOPC Funds were approved.

Budgetary matters

The 1992 Fund Administrative Council adopted the budget for 2014 for the administrative expenses of the 1992 Fund for a total of £4 464 460, and decided to maintain the working capital of the 1992 Fund at £22 million.

The Supplementary Fund Assembly adopted the budget for 2014 for the administrative expenses of the Supplementary Fund for a total of £45 600 and decided to maintain the working capital of the Supplementary Fund at £1 million.

The 1971 Fund Administrative Council adopted the budget for 2014 for the administrative expenses of the 1971 Fund for a total of £505 300.

All decisions relating to the levying and reimbursement of contributions are set out on pages 17-19.

Treaty matters – Implementation of the 1992 Conventions

The Director engaged an expert, Professor Dan Sarooshi, to examine the problems related to the lack of implementation of the 1992 Civil Liability and Fund Conventions into national

law in some Member States and to study the possibility for the IOPC Funds of recovering from Member States any losses suffered as a result of their failure to correctly implement the Conventions into their national law. The legal opinion of Professor Sarooshi was presented to the governing bodies and endorsed by them. The possibility of developing a new policy, similar to that adopted by the 1992 Fund Assembly in respect of outstanding oil reports, to address the failure by Contracting States to correctly implement the Conventions is to be examined by the Director. The 1992 Fund Administrative Council decided that, in the event that the 1992 Fund suffered a loss as a result of the incorrect implementation of the Conventions into national law, the 1992 Fund should always first engage in dialogue with the Contracting State concerned and allow the State the opportunity of informing the 1992 Fund Assembly of the manner in which the Conventions were implemented into domestic law, and how it intended to rectify the situation. If, in the view of the 1992 Fund Assembly, the Contracting State’s proposals to rectify the situation were not satisfactory, it was agreed that the Assembly could then consider whether it wished to instruct the Director to bring a legal action against the State to recover the loss resulting from the incorrect implementation of the Conventions.

Treaty matters – Winding up of the 1971 Fund

The Chairman of the consultation group established in October 2012 to examine the outstanding issues with the Director presented his report and made recommendations to facilitate the process of winding up the 1971 Fund. The International Group of P&I Associations submitted a document on the subject and made a statement opposing the dissolution of the 1971 Fund. However, the 1971 Fund Administrative Council decided that the 1971 Fund should be wound up as soon as possible and took a number of decisions in respect of the legal and procedural arrangements that would have to be put in place.



Mrs Birgit Sølling Olsen

Chairman of the 1992 Fund 7th intersessional Working Group since October 2011 and former Chairman of the 4th intersessional Working Group (2006-2008), Mrs Olsen has been Head of the Danish Delegation to the IOPC Funds’ meetings since 1996. Mrs Olsen is Deputy Director-General at the Danish Maritime Authority.



Mrs Welmoed van der Velde

Chairman of the 1992 Fund Executive Committee since October 2013 and Head of the Dutch delegation since 2006, Mrs van der Velde is Legal Advisor at the Ministry of Security and Justice and Judge in a Court of Appeal in the Netherlands. She previously chaired the Committee from 2010-2011.



The Chairman of the joint Audit Body and representatives of the External Auditor during the presentation of the IOPC Funds’ Financial Statements

Financial Review

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In this section

As in previous years, the Financial Statements of the 1992 Fund, the Supplementary Fund, and 1971 Fund were audited by the External Auditor of the IOPC Funds, the Comptroller and Auditor General of the United Kingdom.

The Financial Statements for 2012 were prepared in compliance with the International Public Sector Accounting Standards (IPSAS) and in accordance with the Financial Regulations of the respective Funds, where appropriate. The Key Financial Figures for 2013 (unaudited) which are provided in this section have also been arrived at in conformity with the requirements of IPSAS.

The Financial Statements of the IOPC Funds for the period 1 January to 31 December 2012 were approved by the respective governing bodies during their sessions in October 2013. The full set of audited Financial Statements can be found on the IOPC Funds’ website (www.iopcfunds.org), along with the External Auditor’s opinions on each Statement, and the Auditor’s Reports on the Financial Statements of the 1992 Fund and the 1971 Fund.

Audited extracts from the notes to Financial Statements of the financial position and financial performance by segment on the basis of the General Fund and Major Claims Funds for the financial year 2012 (pages 39-44) and key financial highlights for 2013 (unaudited, pages 45-47) are presented in this Financial Review.

The 1992 Fund administers the Supplementary Fund and the 1971 Fund, for which a management fee is received from each Fund.

Detailed Financial Statements are available under the document services section of the IOPC Funds website: www.iopcfunds.org

Certificate

Financial Statements for 2012

The extracts of the '2012 Financial Statements' reproduced here are the summary of the 1992 Fund Statement of Financial Position, the 1992 Fund Statement of Financial Performance, the Supplementary Fund Statement of Financial Position, the Supplementary Fund Statement of Financial Performance, the 1971 Fund Statement of Financial Position and the 1971 Fund Statement of Financial Performance. The full set of the IOPC Funds' 2012 Financial Statements can be obtained from the Funds' website at www.iopcfunds.org, or by contacting the Secretariat.

Key Financial Figures for 2013

As in previous Annual Reports, revenue and expenditure figures are given for 2013 in respect of each Fund. Audited results for 2013 will be included in the 2014 Annual Report.

External Auditor's Statement

The 1992 Fund Statement of Financial Position, the 1992 Fund Statement of Financial Performance, the Supplementary Fund Statement of Financial Position, the Supplementary Fund Statement of Financial Performance, the 1971 Fund Statement of Financial Position and the 1971 Fund Statement of Financial Performance are consistent with the audited Financial Statements for the year ended 31 December 2012 of the International Oil Pollution Compensation Funds approved by the 1992 Fund Administrative Council (11th session), acting on behalf of the 1992 Fund Assembly, Supplementary Fund Assembly (9th session) and 1971 Fund Administrative Council (31st session), respectively.



Mr Steve Townley, Director
National Audit Office, United Kingdom
February 2014

Extracts from 2012 Financial Statements

1992 Fund Statement of Financial Position by segment

As at 31 December 2012

	2012 General Fund	2012 Erika MCF	2012 Prestige MCF	2012 Hebei Spirit MCF	2012 TOTAL	2011 TOTAL
ASSETS	£	£	£	£	£	£
Current assets						
Cash and cash equivalents	29 556 239	26 190 747	24 793 746	116 465 414	197 006 146	180 016 769
Contributions receivable	301 020	-	19 805	1 552 284	1 873 109	1 366 527
Due from HNS Fund	247 991	-	-	-	247 991	223 926
Other receivables	398 890	15 951	41 140	253 911	709 892	1 523 492
Total current assets	30 504 140	26 206 698	24 854 691	118 271 609	199 837 138	183 130 714
Non-current assets	48 844	-	-	-	48 844	15 556
TOTAL ASSETS	30 552 984	26 206 698	24 854 691	118 271 609	199 885 982	183 146 270

LIABILITIES						
Current liabilities						
Payables and accruals	174 115	27 148	224 341	379 629	805 233	1 907 158
Provision for reimbursement of contributions	-	-	-	-	-	25 000 000
Provision for compensation	-	9 118	83 422	-	92 540	96 334
Provision for employee benefits (short term)	159 031	-	-	-	159 031	139 635
Prepaid contributions	456 642	-	-	-	456 642	856 798
Contributors' account	1 048 451	-	-	-	1 048 451	120 177
Total current liabilities	1 838 239	36 266	307 763	379 629	2 561 897	28 120 102
Non-current liabilities						
Staff Provident Fund	3 543 743	-	-	-	3 543 743	2 830 467
Provision for employee benefits (long term)	337 972	-	-	-	337 972	256 354
Total non-current liabilities	3 881 715	-	-	-	3 881 715	3 086 821
TOTAL LIABILITIES	5 719 954	36 266	307 763	379 629	6 443 612	31 206 923

NET ASSETS	24 833 030	26 170 432	24 546 928	117 891 980	193 442 370	151 939 347
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FUNDS' BALANCES						
Balance b/f: 1 January	24 974 813	25 602 340	17 728 834	83 633 360	151 939 347	128 846 087
Surplus/(deficit) for the year	(141 783)	568 092	6 818 094	34 258 620	41 503 023	23 093 260
GENERAL FUND AND MAJOR CLAIMS FUNDS (MCFs) BALANCES	24 833 030	26 170 432	24 546 928	117 891 980	193 442 370	151 939 347

1992 Fund Statement of Financial Performance by segment

General and Major Claims Funds

For the financial period 1 January – 31 December 2012

	2012 General Fund	2012 Erika MCF	2012 Prestige MCF	2012 Hebei Spirit MCF	2012 TOTAL	2011 TOTAL
REVENUE	£	£	£	£	£	£
Contributions	3 420 536	(54)	8 499 950	30 666 073	42 586 505	52 637 624
Contributions-in-kind	381 200	-	-	-	381 200	381 200
Interest on investments	298 125	260 939	186 876	2 228 079	2 974 019	2 927 613
Other revenue	328 725	-	8 168	3 182 544	3 519 437	2 557 587
Total revenue	4 428 586	260 885	8 694 994	36 076 696	49 461 161	58 504 024
EXPENSES						
Compensation claims	-	(10 012)	(1 156)	-	(11 168)	(3 033 424)
Claims-related expenses	268 267	(764 183)	1 338 902	3 502 123	4 345 109	7 082 907
Finance cost from hedging instrument	-	-	-	101 136	101 136	-
Personnel costs and other administrative costs	4 265 368	-	-	-	4 265 368	4 503 503
Currency exchange differences	164	466 988	533 501	(1 815 107)	(814 454)	1 217 355
Increase in allowance for contributions and interest on overdue contributions	36 570	-	5 653	29 924	72 147	640 423
Provision for reimbursement of contributions	-	-	-	-	-	25 000 000
Total expenses	4 570 369	(307 207)	1 876 900	1 818 076	7 958 138	35 410 764
SURPLUS/(DEFICIT) FOR THE YEAR	(141 783)	568 092	6 818 094	34 258 620	41 503 023	23 093 260

Supplementary Fund Statement of Financial Position

As at 31 December 2012

	2012	2011
ASSETS	£	£
Current assets		
Cash and cash equivalents	998 627	1 049 518
Other receivables	915	433
Total current assets	999 542	1 049 951
TOTAL ASSETS	999 542	1 049 951
NET ASSETS	999 542	1 049 951
FUND BALANCE		
Balance b/f: 1 January	1 049 951	1 089 301
(Deficit)	(50 409)	(39 350)
GENERAL FUND BALANCE	999 542	1 049 951

Supplementary Fund Statement of Financial Performance

For the financial period 1 January – 31 December 2012

	2012	2011
REVENUE	£	£
Interest on investments	12 691	20 250
Total revenue	12 691	20 250
EXPENSES		
Other administrative costs	63 100	59 600
Total expenses	63 100	59 600
DEFICIT FOR THE YEAR	(50 409)	(39 350)

1971 Fund Statement of Financial Position by segment

As at 31 December 2012

	2012 General Fund	2012 Nissos Amorgos MCF	2012 Vistabella MCF	2012 TOTAL	2011 TOTAL
ASSETS	£	£	£	£	£
Current assets					
Cash and cash equivalents	3 268 684	2 203 551	2 959	5 475 194	5 933 730
Contributions receivable	-	-	-	-	312
Other receivables	7 880	2 499	3	10 382	29 189
Total current assets	3 276 564	2 206 050	2 962	5 485 576	5 963 231
TOTAL ASSETS	3 276 564	2 206 050	2 962	5 485 576	5 963 231
LIABILITIES					
Current liabilities					
Payables and accruals	12 574	-	3 075	15 649	62 262
Contributors' account	371 193	-	-	371 193	410 889
Total current liabilities	383 767	-	3 075	386 842	473 151
TOTAL LIABILITIES	383 767	-	3 075	386 842	473 151
NET ASSETS	2 892 797	2 206 050	(113)	5 098 734	5 490 080
FUNDS' BALANCES					
Balance b/f: 1 January	3 290 311	2 186 638	13 131	5 490 080	7 113 463
(Deficit)/surplus for the year	(397 514)	19 412	(13 244)	(391 346)	(1 623 383)
GENERAL FUND AND MAJOR CLAIMS FUNDS (MCFs) BALANCES	2 892 797	2 206 050	(113)	5 098 734	5 490 080

1971 Fund Statement of Financial Performance by segment

General and Major Claims Funds

For the financial period 1 January – 31 December 2012

	2012 General Fund	2012 <i>Nissos Amorgos</i> MCF	2012 <i>Vistabella</i> MCF	2012 TOTAL	2011 TOTAL
REVENUE	£	£	£	£	£
Interest on investments	33 851	23 036	111	56 998	75 374
Other revenue	18 056	68	179	18 303	7 752
Total revenue	51 907	23 104	290	75 301	83 126
EXPENSES					
Compensation/indemnification	-	-	-	-	1 110 225
Claims-related expenses	159 070	3 624	13 355	176 049	195 123
Administrative costs	282 826	-	-	282 826	297 545
Increase in allowance for contributions and interest on overdue contributions	7 525	68	179	7 772	103 616
Total expenses	449 421	3 692	13 534	466 647	1 706 509
(DEFICIT)/SURPLUS FOR THE YEAR	(397 514)	19 412	(13 244)	(391 346)	(1 623 383)

Key Financial Figures for 2013

1992 Fund Key Financial Figures for 2013 (unaudited)

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

Revenue (£)	2013
Contributions due in 2013:	
General Fund	5 000 000
Other revenue:	
Interest on investments	2 174 000
Management fee payable by 1971 Fund	247 500
Management fee payable by Supplementary Fund	33 000
Total revenue	7 454 500

Administrative Costs (£)	2013
Joint Secretariat	
Budget (excluding External Auditor's fees for respective IOPC Funds)	4 339 660
Expenditure (excluding External Auditor's fees for respective IOPC Funds)	3 790 400
External Auditor's fees in respect of 1992 Fund	48 500

Claims Expenditure (£)	2013	2013	2013
Incident	Compensation	Claims-related expenditure	Total
<i>Erika</i>	-	100 817	100 817
<i>Volgoneft 139</i>	1 527 250	134 475	1 661 725
<i>Prestige</i> (including interim reimbursement of £48 199 from the P&I Club for joint costs)	53 811	1 331 354	1 385 165
<i>Hebei Spirit</i>	-	1 532 598	1 532 598
Other incidents	-	98 535	98 535
Total Claims Expenditure	1 581 061	3 197 764	4 778 840

Supplementary Fund Key Financial Figures for 2013 (unaudited)

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

Revenue (£)	2013
Contributions due in 2013	-
Other revenue:	
Interest on investments	8 520
Total revenue	8 520

Expenditure (£)	2013
Administrative costs:	
Management fee payable to 1992 Fund	33 000
External Auditor's fees	3 600

I 971 Fund Key Financial Figures for 2013 (unaudited)

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

Revenue (£)	2013
Contributions due in 2013	-
Other revenue:	
Interest on investments	24 700
Total revenue	24 700

Administrative Costs (£)	2013
Management fee payable to 1992 Fund	247 500
External Auditor's fees	10 300

Claims Expenditure (£)	2013	2013
Incident	Compensation/ Indemnification	Claims-related expenditure
<i>Vistabella</i>	-	36 061
<i>Nissos Amorgos</i>	-	37 671
<i>Plate Princess</i>	-	17 476
<i>Iliad</i>	-	51 780
<i>Aegean Sea</i>	-	19 954
Total Claims Expenditure	-	162 942

Acknowledgements

Photographs

Cover & Pages 1, 10, 14, 25	IOPC Funds
Pages 2, 3, 12-13, 15, 22, 26-36	You Inspire Photography

Map

Pages 4 & 5	IOPC Funds
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