



International Oil Pollution
Compensation Funds

Fonds internationaux
d'indemnisation pour les
dommages dus à la pollution
par les hydrocarbures

Fondos internacionales
de indemnización de daños
debidos a contaminación por
hidrocarburos

The October 2018 sessions of the governing bodies – In brief

2 November 2018



The governing bodies of the International Oil Pollution Compensation Funds (IOPC Funds) held sessions from Monday 29 October to Thursday 1 November 2018 at the headquarters of the International Maritime Organization (IMO) in London. Seventy States, representing 65 Member States of the 1992 Fund, 24 Member States of the Supplementary Fund and 5 observer States, as well as 13 observer organisations, attended sessions of the 1992 Fund Administrative Council, the 1992 Fund Executive Committee and the Supplementary Fund Assembly. On Tuesday 30 October, the opportunity was

taken to hold a special session to celebrate the 40th anniversary of the IOPC Funds.

1992 Fund Executive Committee (71st session)

The 1992 Fund Executive Committee was informed of one new incident which had occurred in British Columbia, Canada and noted information provided by the Secretariat on a number of recent developments in respect of ongoing incidents involving the Fund. Information was provided on all open incidents involving the IOPC Funds. In particular, recent developments in the following incidents were reported.

Incident in Canada (October 2016)

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

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

Prestige (Spain, November 2002)

In November 2017, the Court in La Coruña, Spain delivered a judgment on the quantification of the compensation due in respect of the *Prestige* incident. The total amount awarded by the Court is, after a correction in January 2018, €1 650 046 893. The 1992 Fund and other parties have filed an appeal before the

Supreme Court. The Spanish Supreme Court is expected to deliver its decision on the appeals before the end of 2018. The Director presented a document to the 1992 Fund Executive Committee which examines the impact of the judgment by the Spanish Supreme Court on the claims made by Spain, France and Portugal and identifies, on a provisional basis, the amount that the 1992 Fund could pay to the victims in the three countries. When summarising the discussion during the session, the Chairman of the Executive Committee noted that the main issue was to ascertain how to adapt the Court's decisions to the amount available for compensation and pointed out that there was general support for this matter to be discussed between the Director and Member States.

Hebei Spirit (Republic of Korea, December 2007)

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

Agia Zoni II (Greece, September 2017)

Clean-up operations following this incident concluded at the end of 2017. The *Agia Zoni II* presently remains at the salvor's shipyard, likely destined for scrapping. The salvors have submitted claims to the 1992 Fund, which are presently being assessed. In total the 1992 Fund has received 232 claims amounting to €80.65 million and USD 175 000 and has already made compensation payments totalling some €10 million. The 1992 Fund's experts are assessing a large number of other claims and are awaiting further information from many claimants to enable assessments to be completed.

The details of the investigation into the incident by the public prosecutor have not yet been released. In July 2018, the 1992 Fund was informed that the district attorney was also investigating the terms of the granting of the antipollution services agreement to the clean-up contractors. Some concerns were expressed during the discussions at the 1992 Fund Executive Committee session about the circumstances surrounding the incident and whether the 1992 Fund should await the outcome of the Greek authorities' investigation into its cause. However, the Director clarified that this had not been the practice of the Funds in previous incidents and noted that although the circumstances of the incident were unusual, it would be wrong to speculate until the Greek authorities had completed and published their reports into the cause of the incident.

Other incidents

The Secretariat also provided information in respect of the *Solar 1* (Philippines, August 2006), *Redfferm* (Nigeria, March 2009), *Haekup Pacific* (Republic of Korea, April 2010), *Alfa I* (Greece, March 2012), *Nesa R3* (Oman, June 2013), and *Trident Star* (Malaysia, August 2016) incidents. It was also reported that the *Volgoneft 139* incident (Russian Federation, November 2007) had been closed since compensation to all claimants had been paid. The *Double Joy* (Malaysia, August 2014) was also closed since all claims arising from the incident had been settled by the shipowner/insurer.

1992 Fund Administrative Council (18th session) and Supplementary Fund Assembly (15th session)

During their simultaneous sessions, the governing bodies took a number of decisions and took note of a wide range of information provided in relation to compensation matters, treaty matters, financial policies and procedures and secretariat and administrative matters. Decisions included:

Election of members of the 1992 Fund Executive Committee

In accordance with 1992 Fund Resolution N°5, the 1992 Fund Assembly elected the following States as members of the 1992 Fund Executive Committee to hold office until the end of the next regular session of the 1992 Fund Assembly:

China ^{<1>}	Jamaica	Spain
France	Japan	Sri Lanka
Georgia	Mexico	Turkey
India	Singapore	United Arab Emirates
Italy (Chairman, Ambassador Antonio Bandini)	South Africa	United Kingdom

Budgetary matters and assessment of contributions

The 1992 Fund Administrative Council made the following decisions relating to the 2019 budget and 2018 contributions:

- To adopt an administrative budget for the 1992 Fund of £4 692 577 for 2019.
- To levy contributions to the General Fund of £5.9 million, payable by 1 March 2019.
- To reimburse £3.675 million to the contributors to the *Volgoneft 139* Major Claims Fund, by 1 March 2019, with the balance on the Major Claims Fund to be transferred to the General Fund.
- To levy contributions of £1.675 million to the *Alfa I* Major Claims Fund, payable by 1 March 2019.
- To levy contributions of £26 million to the *Agia Zoni II* Major Claims Fund, with £10 million payable by 1 March 2019 and £16 million, or part thereof, deferred for payment no later than 1 September 2019, if it proves necessary.

The Supplementary Fund Assembly adopted an administrative budget for 2018 of £49 200.

2010 HNS Convention

On the basis of the recent progress by States towards ratification of the Convention and in particular the ratifications by Canada, Denmark, Norway and Turkey, the Director is of the view that the 2010 HNS Convention is now likely to meet the criteria for entry into force in 2021 or 2022 and that the work carried out by the 1992 Fund Secretariat to set up the HNS Fund and to make preparations for the first session of the HNS Fund Assembly should now enter a new phase. The Director presented a document containing the specific administrative tasks and other areas on which he believes the 1992 Fund Secretariat should now focus. The 1992 Fund Administrative Council agreed with the Director's proposal to undertake the tasks listed in the document ([IOPC/OCT18/8/2](#)) and to report on its progress to the 1992 Fund Assembly on a regular basis.

Other decisions

The governing bodies also took decisions regarding the following:

- The approval of a request for observer status from the organisation Cedre (Centre of Documentation, Research and Experimentation on Accidental Water Pollution).
- Following a full review, the approval of the continuance of observer status of each of the 16 international non-governmental organisations currently holding that status.
- The establishment of a Supplementary Fund Administrative Council

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

Information noted included:

Compensation matters

Implementation of the 1992 Civil Liability Convention and the 1992 Fund Convention

In recent years, upon the request of some Member States, the Secretariat has examined and provided comments on national legislation implementing the 1992 Civil Liability Convention (1992 CLC) and the 1992 Fund Convention. The Secretariat presented a document to the governing bodies detailing some of its observations, in particular pointing out that legislation is not always updated with the latest limitation amount of the shipowner's liability under the 1992 CLC and the maximum amount of compensation payable under the 1992 Fund Convention. The Director invited Member States to review their national legislation currently in force and offered the Secretariat's assistance in that regard if they so requested.

Financial reporting

Report of the joint Audit Body – Risk management (Insurance Problems)

The joint Audit Body is currently reviewing the risks arising from incidents involving the IOPC Funds where the ships were insured by insurers that were not members of the International Group of P&I Associations. The Audit Body reported to the governing bodies on the initial stage of this risk review which had been undertaken in close cooperation with the Secretariat. After some discussion of this interim report, the Audit Body stated that it would continue to examine this matter and will report to the governing bodies at a future session, with proposals for a variety of tools to deal with the different problems arising.

Celebratory session and reception to mark the 40th anniversary of the IOPC Funds

The IOPC Funds took the opportunity of its meeting of the governing bodies to formally celebrate its 40th anniversary. A celebratory session was held during the afternoon of 30 October 2018, at which the three former Directors, Dr Reinhard Ganten, Mr Måns Jacobsson and Mr Willem Oosterveen, were each presented with a special award in recognition of their valuable contribution to the work of the IOPC Funds.

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

Future meetings

The governing bodies decided to hold the next regular sessions of the 1992 Fund Assembly and the Supplementary Fund Assembly during the week of 28 October 2019. They also agreed that the next sessions of the governing bodies would take place during the week of 1 April 2019.

Note: This is a summary of key aspects of the sessions held and does not reflect the sessions in full. A comprehensive Record of Decisions may be obtained via the Document Services section of the IOPC Funds' website at www.iopcfunds.org.