



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 November 2024 sessions of the governing bodies – In brief 13 November 2024



Photo credit: AlistairVeryard.com

The governing bodies of the International Oil Pollution Compensation Funds (IOPC Funds) held sessions from Tuesday 5 to Friday 8 November 2024 at the headquarters of the International Maritime Organization (IMO) in London. Sixty-eight 1992 Fund Member States, including 24 Supplementary Fund Member States, three observer States and 13 observer organisations, attended sessions of the 1992 Fund Assembly, the 1992 Fund Executive Committee and the Supplementary Fund Assembly. This meeting was held in person, complemented by a passive streaming service.

1992 Fund Executive Committee (83rd session)

Information was provided to the 1992 Fund Executive Committee on all open incidents involving the IOPC Funds. In particular, recent developments in the following incidents were reported.

NEW INCIDENT: *Terranova* – Philippines (July 2024)

On 25 July 2024, the *Terranova* encountered heavy weather during Typhoon Gaemi and capsized in Manila Bay, the Philippines. The Philippines Coast Guard and the insurers, Steamship Mutual Underwriting Association Limited (Steamship Mutual), promptly responded and engaged contractors to contain and recover oil from the vessel and from the sheen which appeared following the incident indicating that the hull was breached, and oil was being slowly released from the cargo tanks.

Following the incident, clean-up and response operations commenced. At the time of the November 2024 Committee session, the cargo tanks of the *Terranova* had been emptied and 97% of the cargo had been removed or recovered during at-sea response activities. Steamship Mutual is a party to the Small Tanker Oil Pollution Indemnification Agreement (STOPIA 2006) (as amended 2017), under which the insurer voluntarily agrees to indemnify the 1992 Fund for compensation paid up to a maximum of SDR 20 million. Initial estimates indicate that the claims for pollution damage will surpass the 1992 Civil Liability Convention (1992 CLC) limit of SDR 4.51 million, but it remains to be seen whether the STOPIA 2006 limit will be reached. The 2006 Memorandum of Understanding (MoU) between the 1992 Fund and the International Group of P&I Associations has been followed, and Steamship Mutual and the 1992 Fund will share joint experts. On 11 October 2024, the 1992 Fund and Steamship Mutual established a claims submission office (CSO) in Bataan to facilitate the submission of claims for compensation resulting from the incident.

The 1992 Fund Executive Committee decided to authorise the Director to make payments in respect of losses arising out of the *Terranova* incident and to sign an agreement on interim payments with Steamship Mutual in respect of the incident.

NEW INCIDENT: *Marine Honour* – Singapore (June 2024)

On 14 June 2024, the product tanker *Marine Honour* was stationary alongside the container ship, *Ever Blink*, at Pasir Panjang Terminal, Singapore, when it was struck by the hopper dredger *Vox Maxima*. This caused the *Marine Honour* to contact the *Ever Blink*. The collision breached the hull of the *Marine Honour*, resulting in an estimated 817 cubic metres of intermediate fuel oil (IFO) 380 being released into the environment. The spill affected areas along the coast of Singapore from Pasir Panjang Terminal to East Coast Park and spread to the Southern Islands. Oil also reached the southern coast of Johor and the East Johor Strait in Malaysia.

Singapore and Malaysia are both 1992 Fund Member States. The *Marine Honour* is insured by QBE Insurance (Singapore) Pte Ltd (QBE), under the British Marine brand. The limitation amount applicable to the *Marine Honour* in accordance with the 1992 CLC is SDR 4.51 million. STOPIA 2006 does not apply as the vessel's owner is not a party to that agreement. Given the latest information reported, claims relating to this incident will exceed the limit of liability of the insurer under the 1992 CLC. The 1992 Fund will therefore be called upon to pay compensation.

The 1992 Fund entered into an MoU with QBE on 1 July 2024, and on 29 July 2024 they established a joint Claims Submission Office (CSO) in Singapore adjacent to the Pasir Panjang Terminal. Claimants from both Singapore and Malaysia have been invited to file their claims there. The owners of the *Marine Honour* and QBE have filed an application with the Singapore Court to constitute a limitation fund under the 1992 CLC.

As at the time of the session, a total of 150 claims had so far been registered with the CSO, and the total claimed amounts had risen to SGD 9 million and USD 17.5 million. The 1992 Fund is awaiting claims from the Maritime and Port Authority of Singapore (MPA) and other government agencies in Singapore for their clean-up and response costs, which will form a significant portion of the total amount to be paid in compensation.

The 1992 Fund Executive Committee decided to authorise the Director to make payments in respect of losses arising out of this incident.

***Gulfstream*, Trinidad and Tobago (February 2024)**

Clean-up operations related to the *Gulfstream* incident have been concluded. At the time of the Committee session, 112 claims for compensation totalling, USD 23 million, covering some of the clean-up operations, and including 171 claims in the fisheries sector undertaken in Tobago, had been submitted to the focal point office (FPO). These claims are being assessed by the 1992 Fund's experts. Further claims totalling £13 633,

EUR 45 328 and USD 3 434 had been submitted by the authorities in Bonaire who undertook surveillance prior to, and clean-up operations following, the arrival of the oil on its coastline on 26 February 2024. Further costs relating to the oil recovery operation from the barge are yet to be submitted and no estimates are currently available for losses likely to be claimed in the tourism sectors.

In early May 2024, the *Solo Creed* tug was arrested in Angola for breaching the boundaries of a number of oil field exclusion zones. The vessel was placed under arrest by the Angolan authorities and the tug remained at anchor in Luanda Bay, Angola. The authorities in Trinidad and Tobago are awaiting confirmation of the arrest from the Angolan authorities. They have received communication from the Government of Tanzania that the owner of the *Solo Creed* at the time of registration was a company based in Guyana, but no information was provided regarding the insurers at the time of registration. Lawyers have been retained by the Trinidad and Tobago authorities to advise them upon the steps necessary to initiate legal proceedings against the owners of the *Solo Creed* and/or its crew, and an arrest application has been filed in Luanda.

In a statement submitted at the meeting, Trinidad and Tobago's Minister for Energy and Energy Resources thanked the IOPC Funds and ITOPIF for their cooperation in the handling of the incident and reaffirmed the 1992 Fund Member State's commitment to pursuing all necessary legal actions both domestically and internationally to uphold the rights and interests of its citizens. The Minister emphasised that it was important to ensure accountability for the significant harm inflicted on the livelihoods and environment of Tobago and to recover the costs associated with the oil spill from those who are responsible. Other delegations took the opportunity to urge any Member State with information relating to this incident to share it with Trinidad and Tobago.

Princess Empress, the Philippines (February 2023)

The 1992 Fund continues to work closely with the insurer of the *Princess Empress*, the Shipowners' Mutual Protection and Indemnity Association (Luxembourg) (Shipowners' P&I Club), to process claims and pay compensation. The payment process for the fishers' claims assessed in March 2024 has been completed and 26 034 claimants in the fisheries sector have received payments totalling some PHP 823.3 million, taking into account the provisional payments previously made to some claimants. The Club and the 1992 Fund have recently approved the assessment of claims from 9 030 fish traders that had suffered losses due to lack of alternative products to sell during the fishing bans in the areas affected by the spill. Taking into account provisional payments previously made to some of the claimants, at the time of the session, there were 7 628 fish trading claims to be paid, totalling PHP 179.6 million. The payment process for these claims is being carried out in a similar manner to the provisional payments, and the first stage is already underway.

Bow Jubail (Netherlands, June 2018)

In May 2024, the Rotterdam District Court determined the amount of the limitation fund plus interest, and the shipowner's P&I Club (Gard P&I (Bermuda) Ltd)), established the limitation fund plus interest in the amount of SDR 18.9 million (EUR 23.03 million including interest and costs) and paid the sum into Court.

The six-year anniversary of the spill occurred on 23 June 2024 and in August 2024, the time limit for claimants to file claims with the limitation fund assessor expired. In total, 44 claims were submitted, totalling EUR 30.8 million, USD 1.92 million and NOK 152 070. All but one of the claims reserved the right to amend their claims by the addition of further sums, but at the time of the Committee session, the total sum claimed was unknown. However, the 1992 Fund's lawyers have been instructed to try to ascertain this figure as soon as possible. The 1992 Fund and the shipowner's P&I Club have instructed experts to begin assessing the claims submitted. A court hearing is expected to take place in January 2025.

Other incidents

The Secretariat also provided information in respect of the *Prestige* (Spain, November 2002), *Solar 1* (Philippines, August 2006), *Redfferm* (Nigeria, March 2009), *Alfa I* (Greece, March 2012), *Nesa R3* (Oman, June 2013), *Nathan E. Stewart* (Canada, October 2016), *Agia Zoni II* (Greece, September 2017), *MT Harcourt* (Nigeria, November 2020) and Incident in Israel (Israel, February 2021) incidents. It was noted at the session that, since all the outstanding claims relating to the *Haekup Pacific* incident (Republic of Korea, April 2010), had been withdrawn, the incident was now closed.

1992 Fund Assembly (29th session) and Supplementary Fund Assembly (21st session)

During their simultaneous sessions, the governing bodies took several decisions and noted a wide range of information provided in relation to compensation matters, treaty matters, financial policies and procedures and Secretariat and administrative matters.

Election of Chairs of the governing bodies

Following their re-election at the opening of the sessions, Ambassador Antonio Bandini (Italy) chaired the 29th session of the 1992 Fund Assembly and Mr François Marier (Canada) chaired the 21st session of the Supplementary fund Assembly. Later in the sessions, the Director reminded delegations that Ambassador Bandini, had decided to step down from his post of Chair of the 1992 Fund Assembly at the end of the session. As a result, the 1992 Fund Assembly decided to elect the current Chair of the Supplementary Fund Assembly, Mr François Marier as Chair of the 1992 Fund Assembly until the next regular session, whilst the Supplementary Fund Assembly elected the current First Vice-Chair of the Supplementary Fund Assembly, Mr Andrew Angel (United Kingdom) as Chair of the Assembly until the next regular session. It also elected Mr Carlos Sequeira (Portugal) to the newly vacant position of First Vice-Chair.

The Director thanked Ambassador Bandini for his leadership and commitment to the work of the IOPC Funds. Several delegations commended the outgoing Chair's diplomatic and linguistic skills and wished him well in his retirement. In recognition of his contributions, the Director presented Ambassador Bandini with a gift.

Election of members of the 1992 Fund Executive Committee

In accordance with 1992 Fund Assembly 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:

Antigua and Barbuda (Vice-Chair, Ms Katarina McGhie Thompson)	Madagascar	Poland (Chair, Ms Małgorzata Buszyńska)
France	Marshall Islands	Portugal
India	Namibia	Republic of Korea
Italy	Netherlands	Singapore
Japan	Norway	Uruguay

Budgetary matters and assessment of contributions

The 1992 Fund Assembly made the following decisions relating to the 2025 budget and 2024 contributions:

- to adopt an administrative budget for the 1992 Fund of £5 775 384 for 2025;
- to levy 2024 contributions to the General Fund for the sum of £13 million, payable by 1 March 2025;
- to levy 2024 contributions of £40 million to the *Marine Honour* Major Claims Fund, with £30 million payable by 1 March 2025, and £10 million, or part thereof, to be invoiced later in 2025 if it proves necessary;

- to levy 2024 contributions of £10 million to the *Gulfstream* Major Claims Fund, payable by 1 March 2025;
- to levy 2024 contributions of £10 million to the *Princess Empress* Major Claims Fund, payable by 1 March 2025;
- to maintain the working capital of the 1992 Fund at £15 million in the budget year 2025 and to increase the working capital to £22 million over the budget years 2026 and 2027 by increasing the levy of contributions to the General Fund.

The Supplementary Fund Assembly adopted an administrative budget for 2025 of £60 510 and decided to maintain the working capital of the General Fund at £1 million.

Report of the joint Audit Body and appointment of External Auditor

The joint Audit Body presented its annual report to the governing bodies, setting out the work it had undertaken since the November 2023 meeting of the IOPC Funds, describing in detail its areas of focus in line with its agreed work programme. The 1992 Fund Assembly and the Supplementary Fund Assembly noted the recommendation of the Audit Body with regards to the next IOPC Funds' External Auditor and appointed Forvis Mazars for a period of four years, covering the financial years 2026-2029 inclusive, subject to satisfactory annual performance reviews. The governing bodies also endorsed the recommendation of the Chair of the 1992 Fund Assembly to re-appoint Mrs Alison Baker as the external expert of the joint Audit Body for a second three-year term, until 31 December 2027.

Fulfilment of obligations by Member States to submit oil reports and ensure payment of contributions

At the time of the meeting, only one Supplementary Fund Member State had not completed submission of 2023 oil reports. However, 27 Member States of the 1992 Fund had yet to submit their 2023 reports and a number of those States had reports outstanding for several years. This issue remains a significant concern to the governing bodies and, as instructed at previous sessions, the Director has, together with the Audit Body, explored ways to incentivise States to fulfil their obligations under the 1992 Conventions. A new document was presented at the November 2023 meeting identifying States which would be subject to 1992 Fund Assembly Resolution N°12 and Supplementary Assembly Fund Resolution N°3, under which payment of compensation to Government authorities in a State affected by an incident would be postponed if they had outstanding oil reports or unpaid contributions for more than two years. The governing bodies were informed that in November 2024, 20 States were notified that 1992 Fund Assembly Resolution N°12 was applicable to them.

The Director urged all States to submit oil reports in a timely and accurate manner and to ensure the prompt payment of contributions since it affects the IOPC Funds' ability to implement an equitable system of levying contributions to ensure that victims of oil pollution in Member States are compensated in full for their loss or damage. The Director further reported that significant progress had been made in the application of 1992 Fund Assembly Resolution N°13 and Supplementary Fund Assembly Resolution N°5, which authorised him to issue invoices based on estimates, including retrospectively in relation to past periods, when no oil reports had been submitted.

Potential impact of international sanctions on the international liability and compensation regime

The Secretariat highlighted the issues, risks and dangers and the potential impact of international sanctions upon the international liability and compensation regime, drawing attention to both the guidance issued by the IMO Legal Committee, and the impact upon many of the Clubs in the International Group, who were no longer able to insure vessels trading or carrying Russian crude oil, as they once had.

Recent data has shown a substantial increase in the size of the so-called 'dark' or 'shadow' fleet, which in turn could lead to a higher threat of accidents and oil spills, an increased difficulty in assigning liability when ship-source spills did occur, and a lack of proper insurance or other financial security. At the 33rd session of the IMO Assembly, which convened from 27 November to 6 December 2023, the Member States adopted a Resolution calling upon flag States to take measures against 'dark fleet' or 'shadow fleet' operations.

The Director took the opportunity to remind Member States of their obligation under the 1992 CLC, to ensure that tankers had a CLC certificate and noted that failure to do so might result in Flag State liability. During the discussions on this matter at the meeting, several delegations shared the Director's concerns.

Risk of uninsured and unsafe ships

Following discussions at the April 2024 sessions of the governing bodies, the Director was instructed to invite feedback and prepare revised draft Resolutions for the 1992 Fund Assembly and the Supplementary Fund Assembly on the issue of uninsured and unsafe ships. He was also instructed to update the internal guidelines for the Claims Department to provide more detailed internal procedures for gathering information and identifying responsible parties after an incident and develop a new post-incident guidance document for Member States for investigating the circumstances surrounding an oil pollution incident.

During discussions on these matters, several delegations who spoke confirmed their general support for both the draft guidance for Member States and the draft Resolutions. Many other delegations reiterated their concerns in respect of the growing risk to the international liability and compensation regime as a result of the increasing transportation of oil by unsafe or uninsured ships, and stated that the adoption of the Resolutions was an urgent and important step in trying to address this issue.

The governing bodies noted with satisfaction that the internal procedure to be followed by the Secretariat in the event in an incident had been updated to include additional details on the information necessary to determine the applicability of the 1992 CLC, the 1992 Fund Convention and the Supplementary Fund Protocol, and to identify the parties involved.

The governing bodies decided to endorse the guidance for Member States, subject to the amendments that had been agreed during the sessions and adopted the revised Resolutions on Raising awareness of the risk of uninsured and unsafe ships (1992 Fund Assembly Resolution N°14 and Supplementary Fund Assembly Resolution N°6, respectively).

Development of a guidance document — Procedures for determining whether a ship falls under the 1992 Civil Liability Convention or the 2001 Bunkers Convention

Following a number of meetings with industry representatives to discuss a standard procedure to determine when a ship that can serve both as an oil tanker and as a chemical tanker, ceased to be a 'ship' under the 1992 CLC, the Director proposed that such guidance be issued as a footnote in the IOPC Funds' publication 'Guidance for Member States, Consideration of the definition of 'ship''. The purpose of this footnote would be to establish a procedure to help determine whether a vessel was classified as a 'ship' under the 2001 Bunkers Convention, or under Article I(1) of the 1992 CLC.

The governing bodies endorsed the text of the footnote for future inclusion in the IOPC Funds' publication, as proposed. They also decided that the proposal made by a delegation to amend the text, and the proposal to insert the footnote also at paragraph 3.1(4) would be considered together with the interpretation of the meaning of the word 'residues' at a future session.

2010 HNS Convention

The Secretariat reported that it had continued to take opportunities to promote the entry into force of the 2010 HNS Convention, to engage with interested States and other key stakeholders, and to share information with industry representatives through the delivery of various workshops or other training and outreach activities, often in close cooperation with the IMO Secretariat.

Belgium, Germany, the Kingdom of the Netherlands and Sweden informed the 1992 Fund Assembly of their commitment to take the necessary steps to deposit their instruments of ratification of the 2010 HNS Convention concurrently during early summer 2025, which would mark a significant milestone towards the Convention's entry into force, which would then be anticipated for 2027.

The Secretariat reported on the various tasks it needed to undertake before entry into force of the Convention and the 1992 Fund Assembly approved an appropriation of £799 000 in the 2025 budget for the 1992 Fund to cover the costs for those preparations and other administrative tasks in respect of the HNS Fund.

Other decisions

The governing bodies also took decisions regarding the following:

- the approval of the 2023 Financial Statements of the 1992 Fund and Supplementary Fund;
- the appointment of members and substitute members of the Appeals Board; and
- amendments to the Staff Rules and Regulations.

They also noted information reported in respect of:

- the payment of contributions to the IOPC Funds;
- the report of the joint Investment Advisory Body;
- the application of the European Union General Data Protection Regulation; and
- the outreach activities and information services delivered since 2023 and those planned for 2025.

Dates and format of future meetings

It was decided that the next sessions of the governing bodies would be held during the weeks of 28 April and 20 October 2025. The governing bodies instructed the Director to explore with IMO the practical arrangements for delivering hybrid meetings including in respect of the registration system, the resources required and the costs to be incurred and to report his findings to the governing bodies at their April 2025 session. The Director will also review the Rules of Procedure of the governing bodies in respect of meetings and put forward a proposal for any required amendments, taking into account the discussions and decisions of the IMO Council at its upcoming session in November 2024.

The governing bodies decided to postpone final consideration on the format of future IOPC Funds' meetings until the April 2025 session, when it would have all the relevant information available to take an informed decision.

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.