

Managing Claims in Large Incidents



Petroleum Association of Japan
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International Oil Pollution Compensation Funds

The international compensation regime

History



- 1969 Civil Liability Convention
- 1971 Fund Convention (**ceased to be in force in 2002**)

Previous regime

Current regime

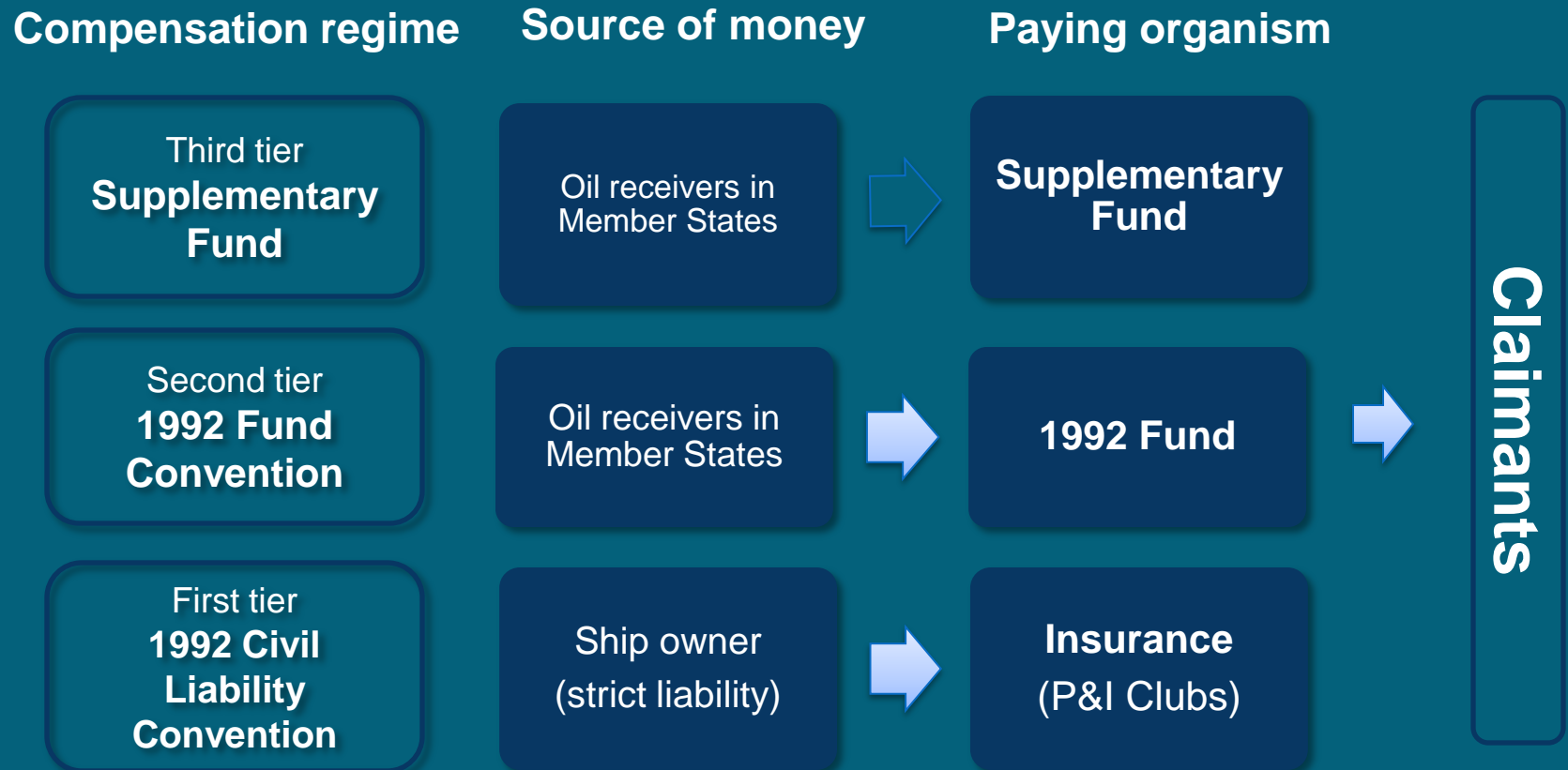
- 1992 Civil Liability Convention
- 1992 Fund Convention

2003 Supplementary Fund Protocol

- **Supplementary Fund**

The compensation regime

How does it work?



1992 Civil Liability Convention

First Tier

- **Strict liability of registered shipowner.** No fault required. Very few exceptions
- **Limitation of liability** based on the gross tonnage of the ship
- Shipowners required to have **third party liability insurance**



1992 Fund Convention

Second Tier



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What

Kicks in when compensation under the first tier is insufficient

Maximum compensation is 203 million SDR, including the amount already paid under CLC

Creates the 1992 Fund

When

Shipowner is exempt under the 1992 Civil Liability Convention

Shipowner is financially incapable

Damage exceeds the shipowner's liability

Not applicable

Damage occurs in non-Member State

Damage is caused by an act of war or spill from a warship

Claimant cannot prove it came from a ship

Supplementary Fund

Third Tier



- Protocol establishing a Supplementary Fund entered into force in 2005
- Maximum compensation **750 million SDR (USD 1 159 million)**, including amounts payable under 1992 Conventions
- Contributions from oil receivers in State Parties to Supplementary Fund Protocol

Compensation limits

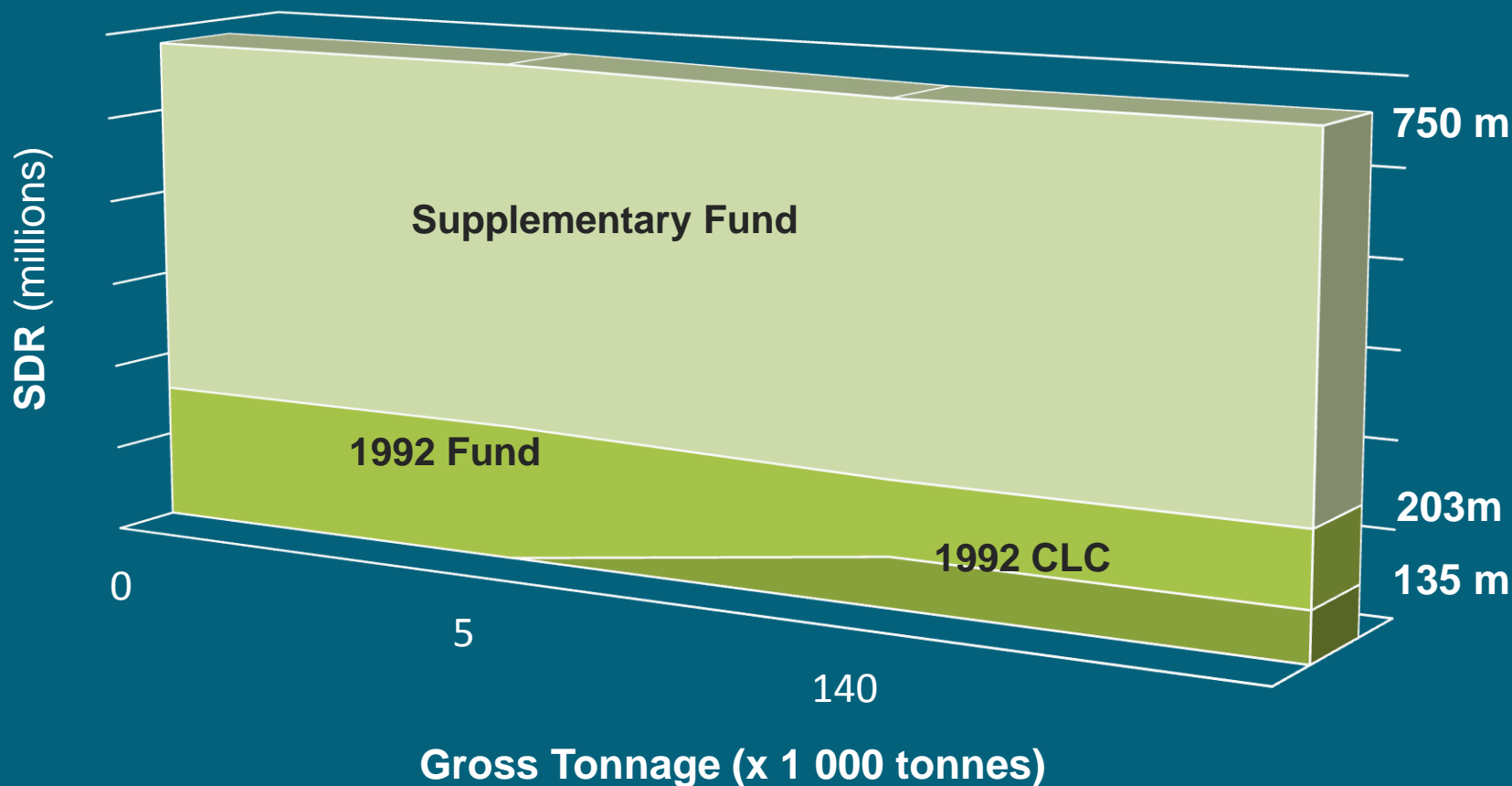
Laid down by the Conventions



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■ 1992 Civil Liability Convention ■ 1992 Fund

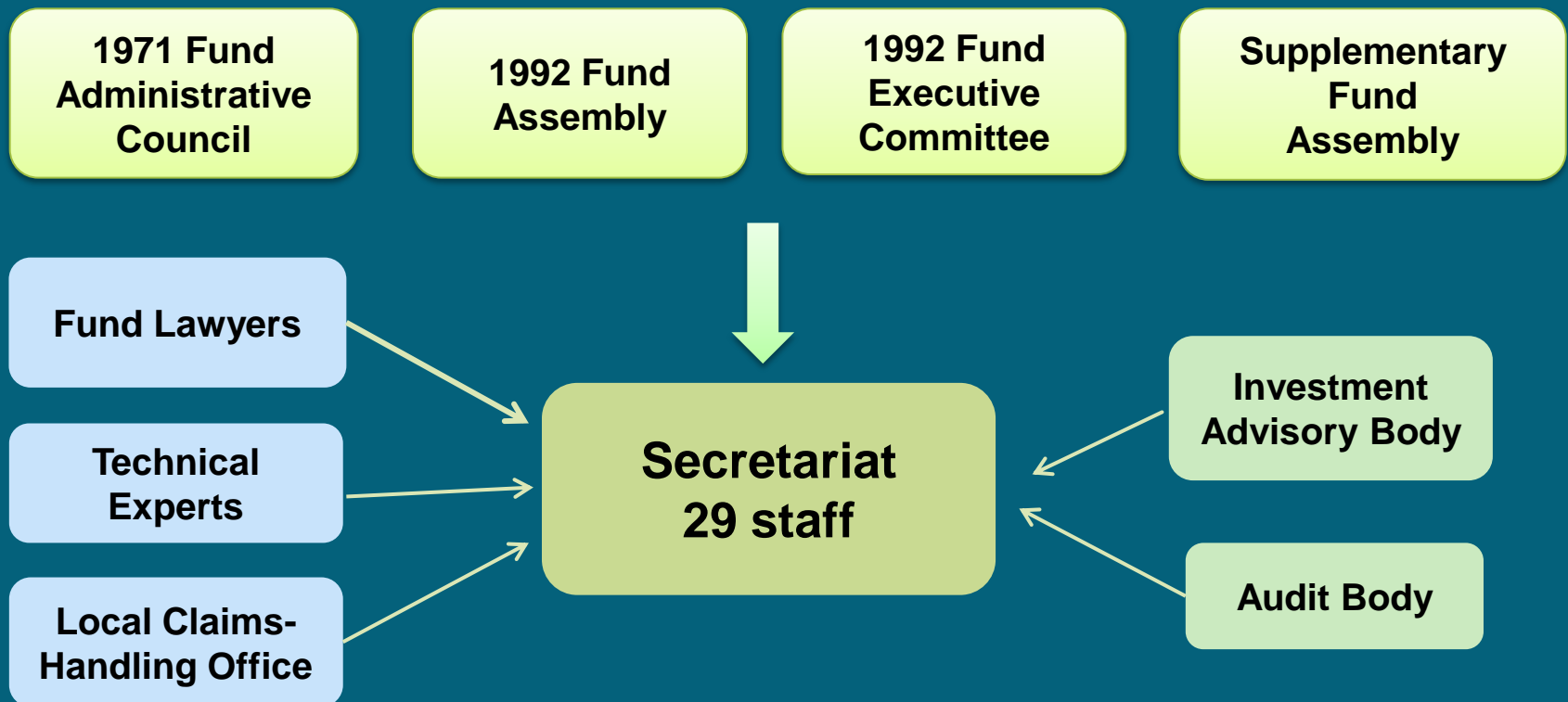
■ Supplementary Fund



How does the IOPC Funds work?



IOPC Funds Governing Bodies

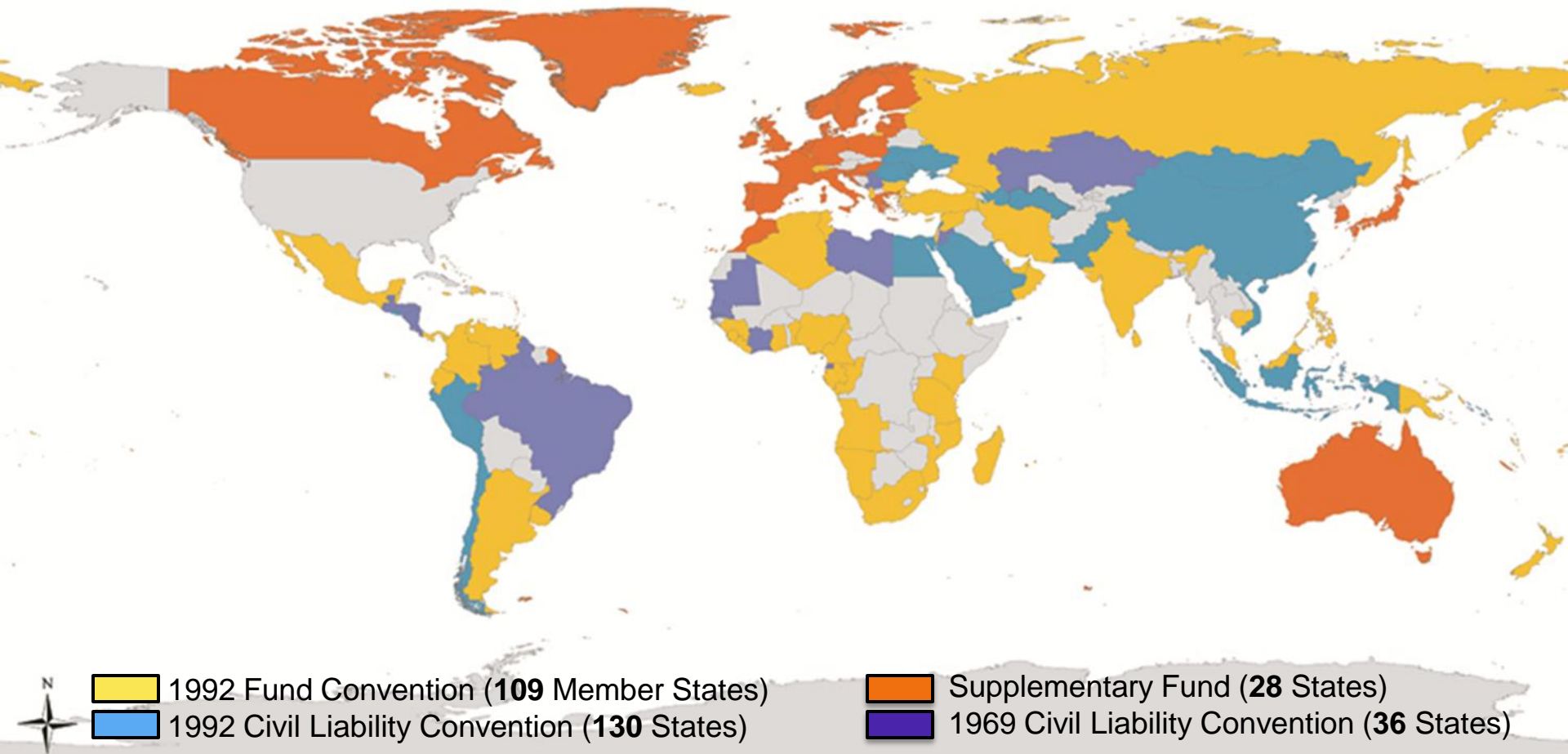


The Member States

February 2013



IOPC Funds



Claims and compensation

Open incidents



1971 Fund

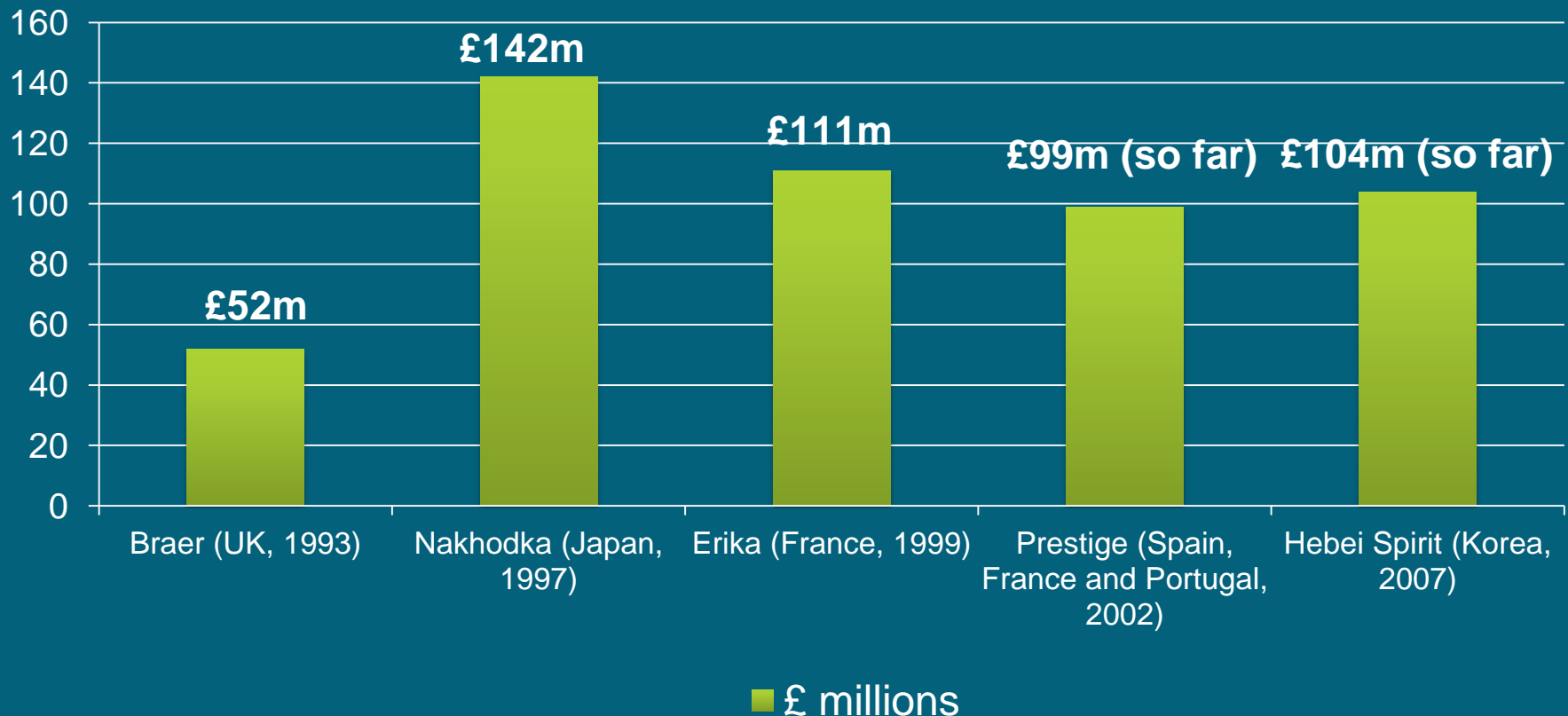
<i>Vistabella</i>	France, 1991
<i>Aegean Sea</i>	Spain, 1992
<i>Iliad</i>	Greece, 1993
<i>Plate Princess</i>	Venezuela, 1997
<i>Nissos Amorgos</i>	Venezuela, 1997

1992 Fund

<i>Erika</i>	France, 1999
<i>Prestige</i>	Spain, France, Portugal, 2002
<i>Solar 1</i>	Philippines, 2006
<i>Hebei Spirit</i>	Republic of Korea, 2007
<i>Volgoneft 139</i>	Russia, 2007
<i>Presidente Ilia</i>	Argentina, 2007
<i>King Darwin</i>	Canada, 2008
<i>JS Amazing</i>	Nigeria, 2009
<i>Redfferm</i>	Nigeria, 2009
<i>Alfa 1</i>	Greece, 2012

Major incidents and compensation

Amount paid in claims (includes shipowner's contribution under CLC)



Hebei Spirit

Republic of Korea, December 2007

- Approximately 10 900 tonnes of crude oil spilled
- CLC limit was 89.8 million SDR (approximately KRW 186.8 billion)
- Special Law to compensate victims of the spill
- Korean Government decides to 'stand last in the queue' with its claims
- 128 400 claims assessed for KRW 180.8 billion
- KRW 171.9 billion paid



Taeon, Republic of Korea
7 December 2007

Hebei Spirit

Republic of Korea, 2007



Claim assessment teams

- *Komos, Hyopsung, Spark, Inteco, Homarus, CMA, ITOPF*
- Four local companies and international experts carry out assessments
- Claims managers from IOPC Funds and P&I Club
- 75 experts (mainly Korean)
- Local claims office ('Hebei Spirit Centre')
- Limited evidence of loss
- Non-licensed activity
- Large number of claims for small amounts

Working Groups

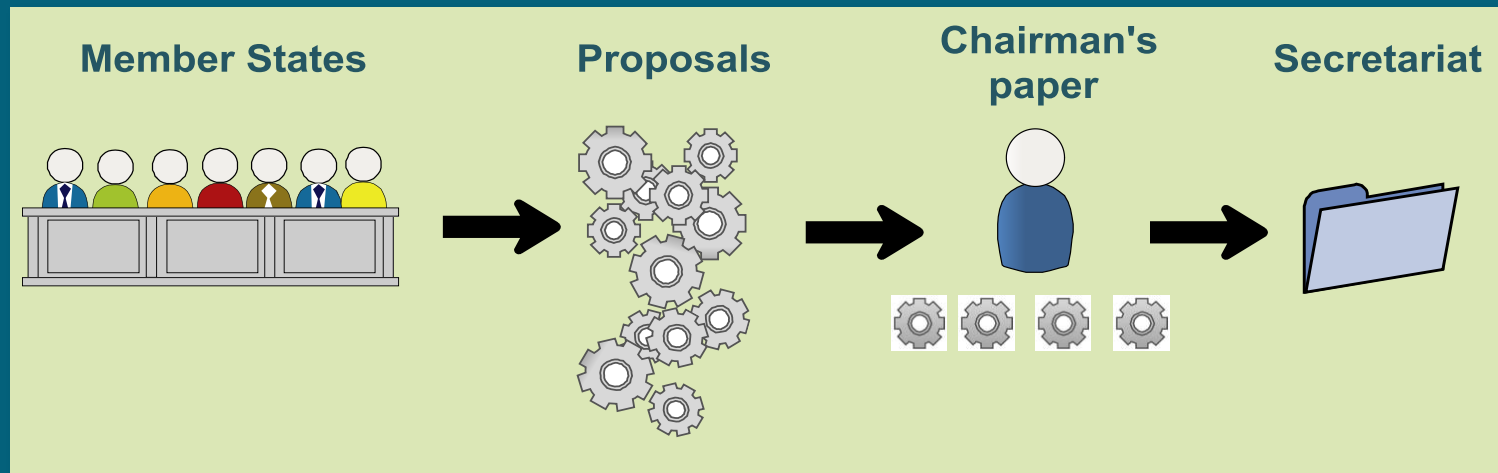
Large number of claims for small amounts



- Dramatic rise in the number of claims for small amounts, particularly where claimants could not prove losses
 - *Erika* (1999): 7 000 claims
 - *Solar 1* (2006): 32 000 claims
 - *Hebei Spirit* (2007): 128 000 claims
- Each claim has to be individually assessed
- In 2009, Working Group was established
 - To make recommendations to Assembly on how make the compensation regime more efficient for the benefit of claimants

Working Group

Large number of claims for small amounts



1. The role of Member States
2. Existing practices
3. Changes to the Claims Manual
4. Amendments to the Conventions

Deepwater Horizon

United States, April 2010



Gulf of Mexico, USA
20 April 2010

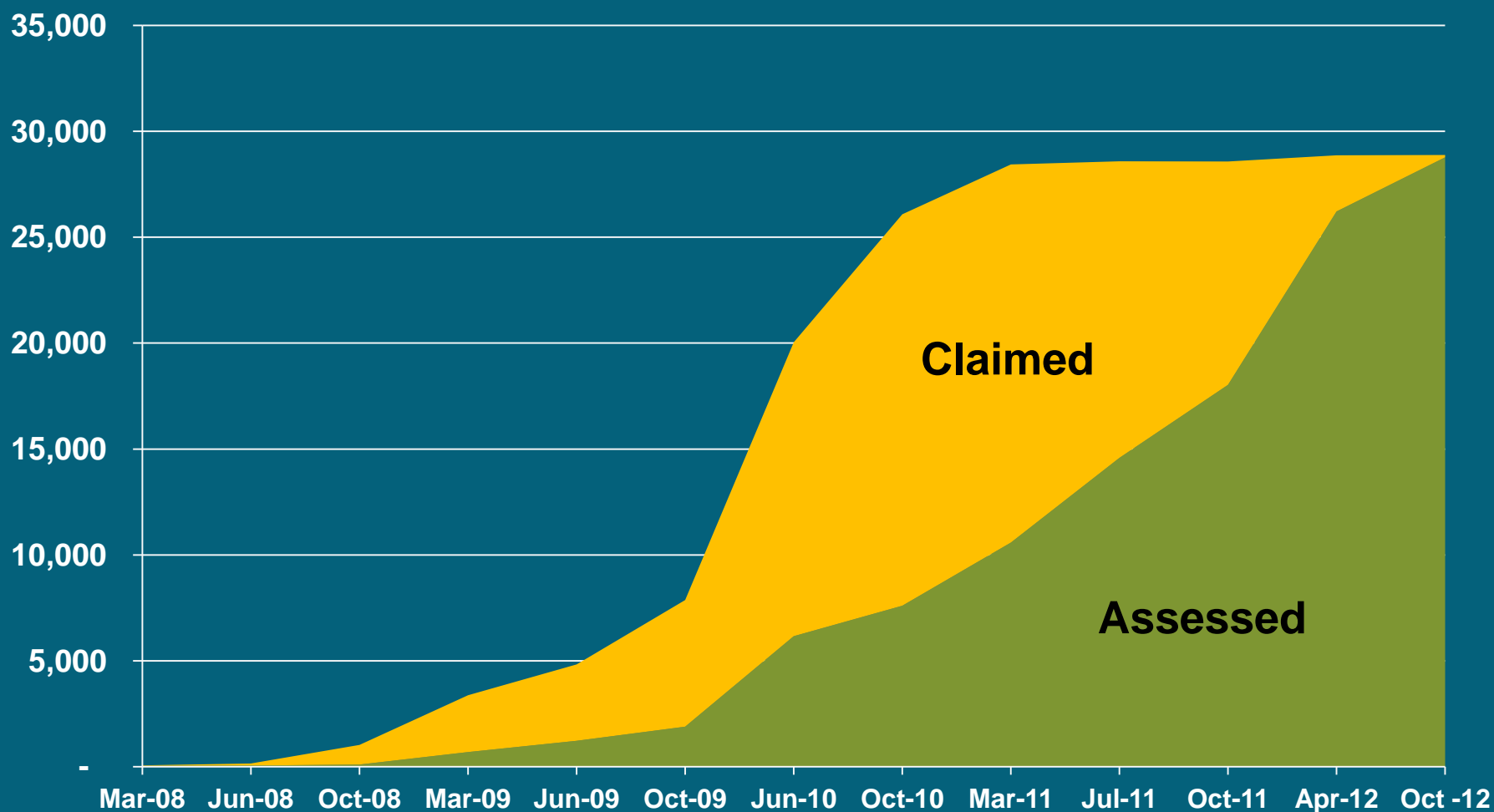
- Not a spill from ship
- Not a Member State
- CLC/Fund not applicable
- Large incident
- International interest
- Large number of claims
- New demands for fast and efficient compensation

Hebei Spirit

Claims progress



IOPC Funds

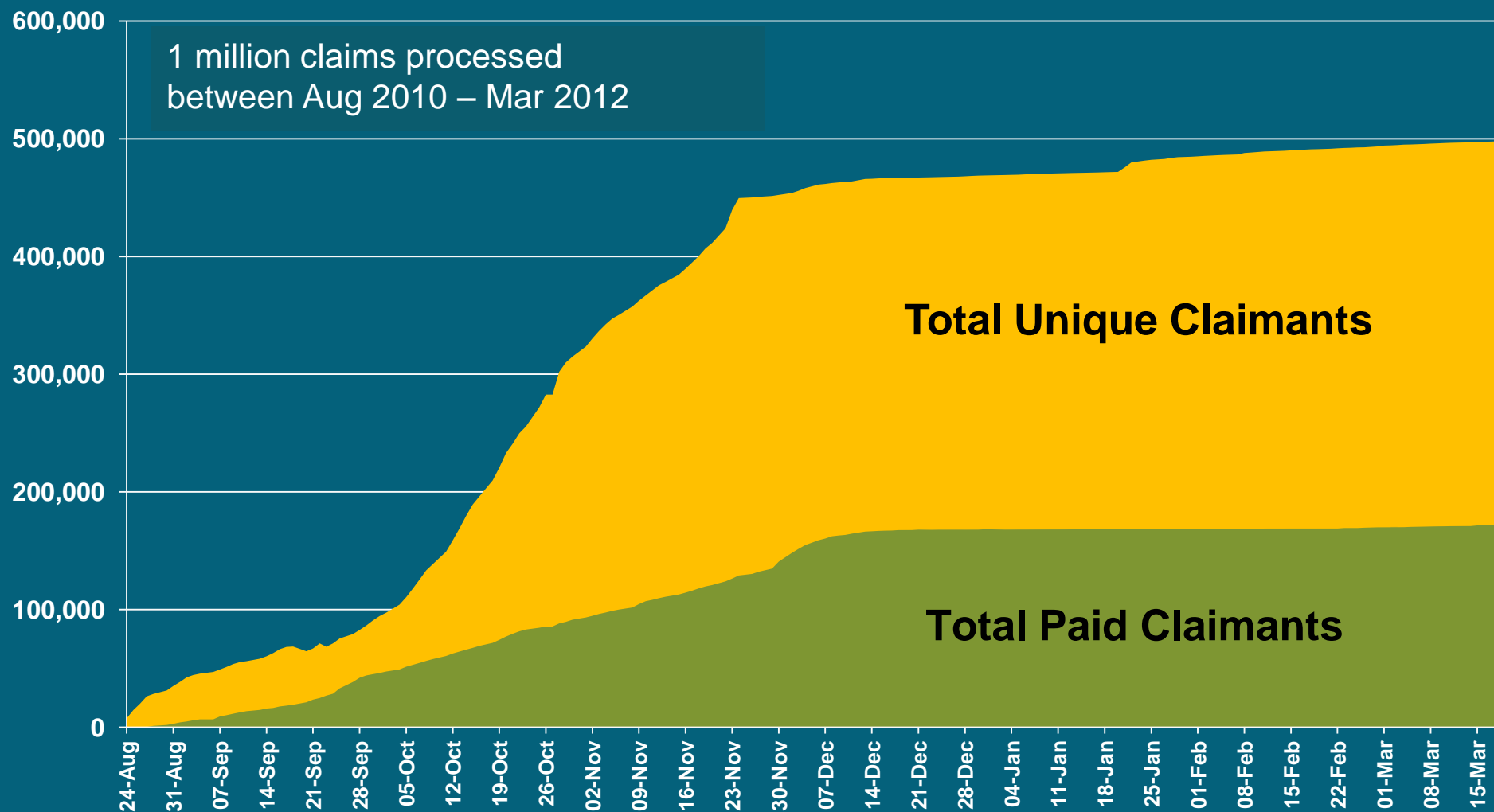


Deepwater Horizon

Claims progress



IOPC Funds



Working Group's proposal

The role of Member States



- Stand last in the queue
- MoU with domestic insurance companies
- Access to statistical data
- Grouping of claims and claimants
- Standard reference prices
- Reimbursement of overpayment of **interim payments**
- National expert list and expert mediation panel
- Use of social security system



Working Group's proposal

Existing practices



1. Partnership with commercial adjusters and accountants
2. The use of economic models
3. Outsourcing
4. Remuneration of experts
5. Claims Manual and claims forms in languages of Member States



Working Group's proposal

Large number of claims for small amounts



Revision to Claims Manual

- Fast track' assessment of claims
- Fraudulent claims
- Target time frame for assessing claims
- Use of economic models

Guidance documents

- To set out the various 'tools' that Member States could use in the event of an oil spill
- To assist on presenting claims in the tourism sector

Issue of interim payments still to be resolved

Deepwater Horizon

Gulf Coast Claims Facility



IOPC Funds

1 million claims processed
\$6.2 billion paid
between Aug 2010 - Mar 2012
(on average 1 500 claims/day)

Three options offered to claimants

Interim Payment Claims

- Covers only past damages & requires documentation of loss
- Doesn't require signing a release
- Claimants can reapply for additional interim damages every quarter

Quick Payment Final Claims

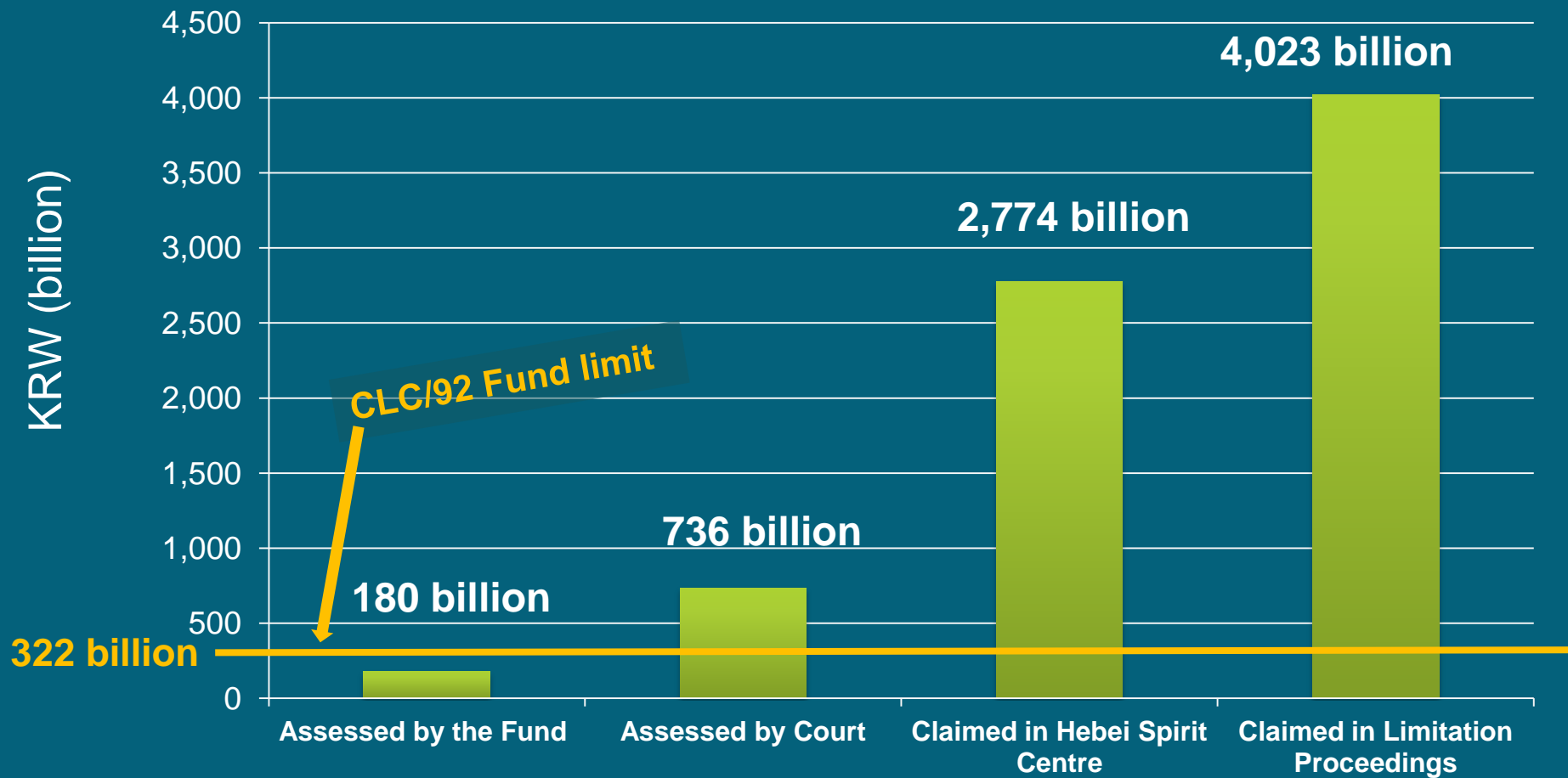
- Pays \$5 000 for individual claimants, \$25 000 for business claimants
- Requires signing a release & covenant not to sue

Full Review of Final Payment Claims

- Submit documentation of loss & receive a lump sum payment for all past and future losses
- Requires signing a release & covenant not to sue

Hebei Spirit

Claims and assessed losses

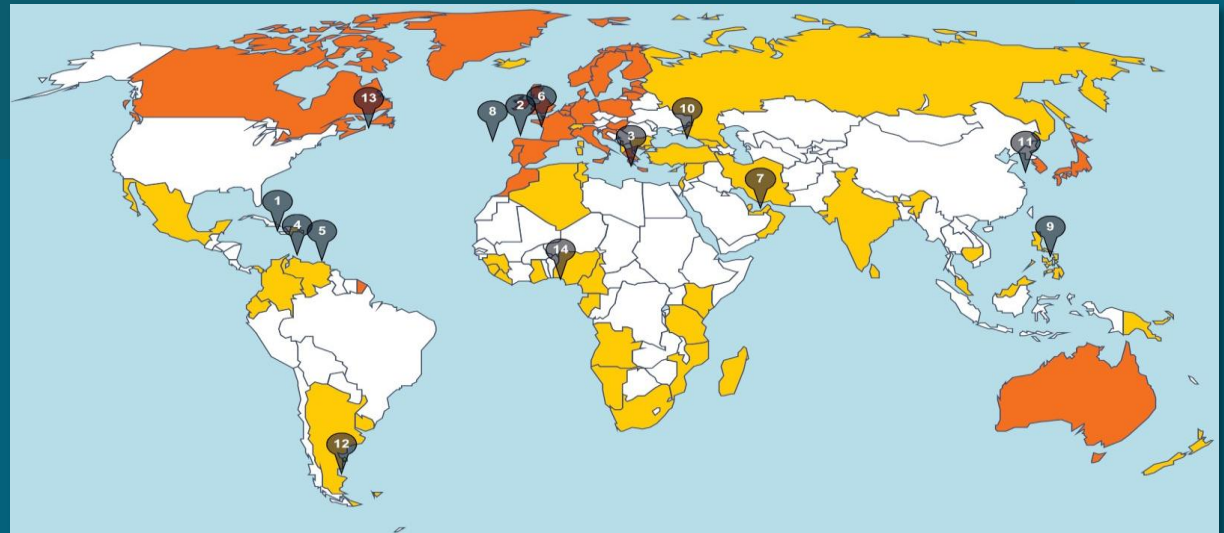


The international compensation regime

Conclusions



- More than 140 incidents great and small, in over 30 years
- Flexible enough to adapt to changing circumstances
- Identifying and preparing for new threats
- Constantly under review to ensure it meets the needs of society in the 21st century





IOPC Funds

www.iopcfund.org



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