

# Maintaining Future Effective Preparedness against an Oil Spill



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# Who we are



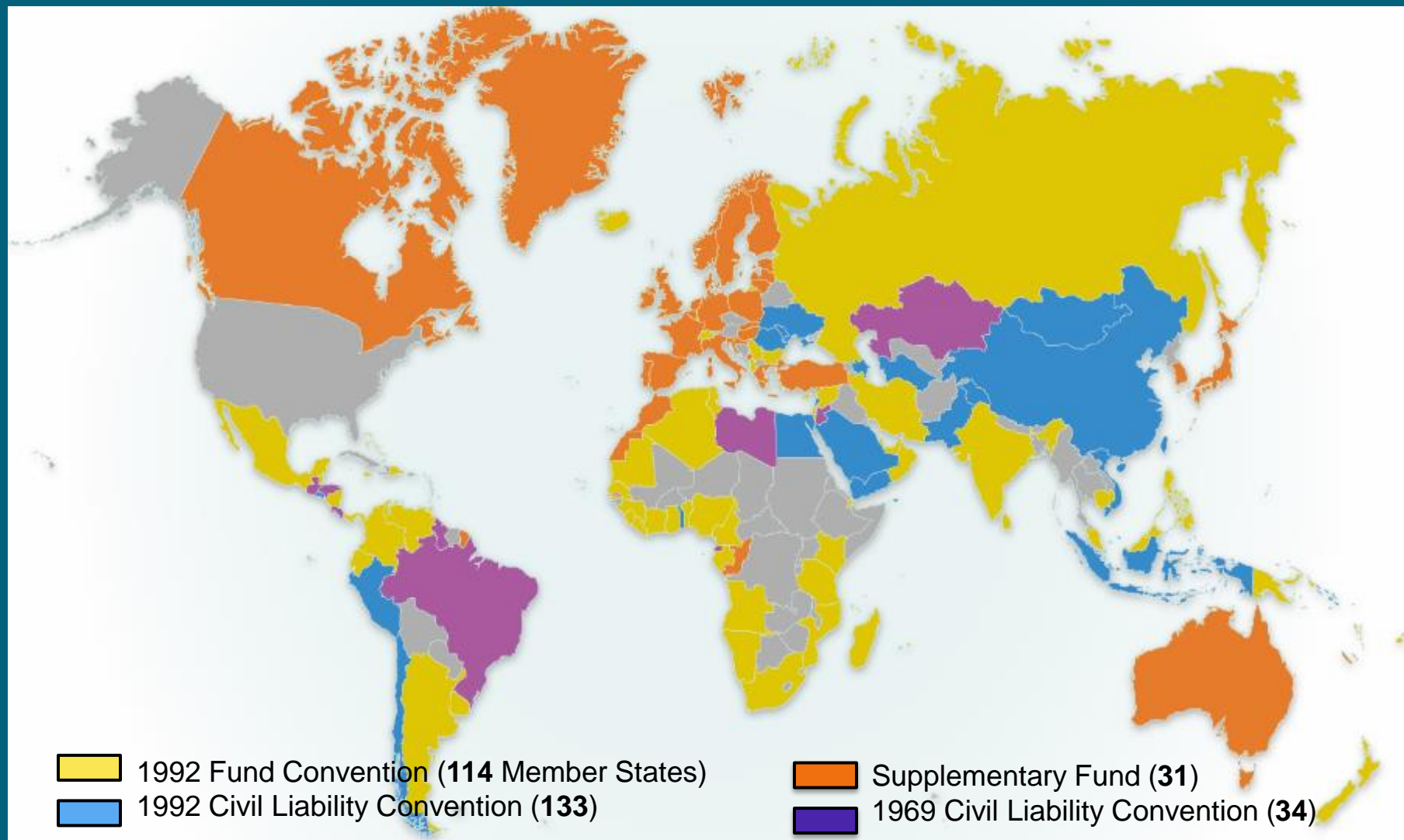
- **The International Oil Pollution Compensation Funds are two intergovernmental organisations (the 1992 Fund and the Supplementary Fund) which provide compensation for oil pollution damage resulting from spills of persistent oil from tankers.**
- **It has 114 Member States, covering 94% of the world tonnage.**
- **It has been involved in some 150 oil spills worldwide.**

# The Member States

*January 2016*



IOPC Funds





# Why we are needed

*Tanker oil spills do happen*



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# Why we are needed

*1971 Fund Incidents*



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# Why we are needed

*1992 Fund incidents*



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# Why we are needed



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- Tanker spills are in decline but the figure of oil transported by sea in 114 Member States is some 1,500 million tonnes per year.
- Japan received more than 213 million tonnes of oil in 2014 with tankers passing the Japanese coastline every day.
- The transport of oil creates a risk and the oil industry worldwide recognised long ago that it had a responsibility to cover that risk.
- The international liability and compensation regime, which shares the cost of covering that risk provides a good solution, and has done so for nearly 40 years.

# Why we are needed



The IOPC Funds provide:

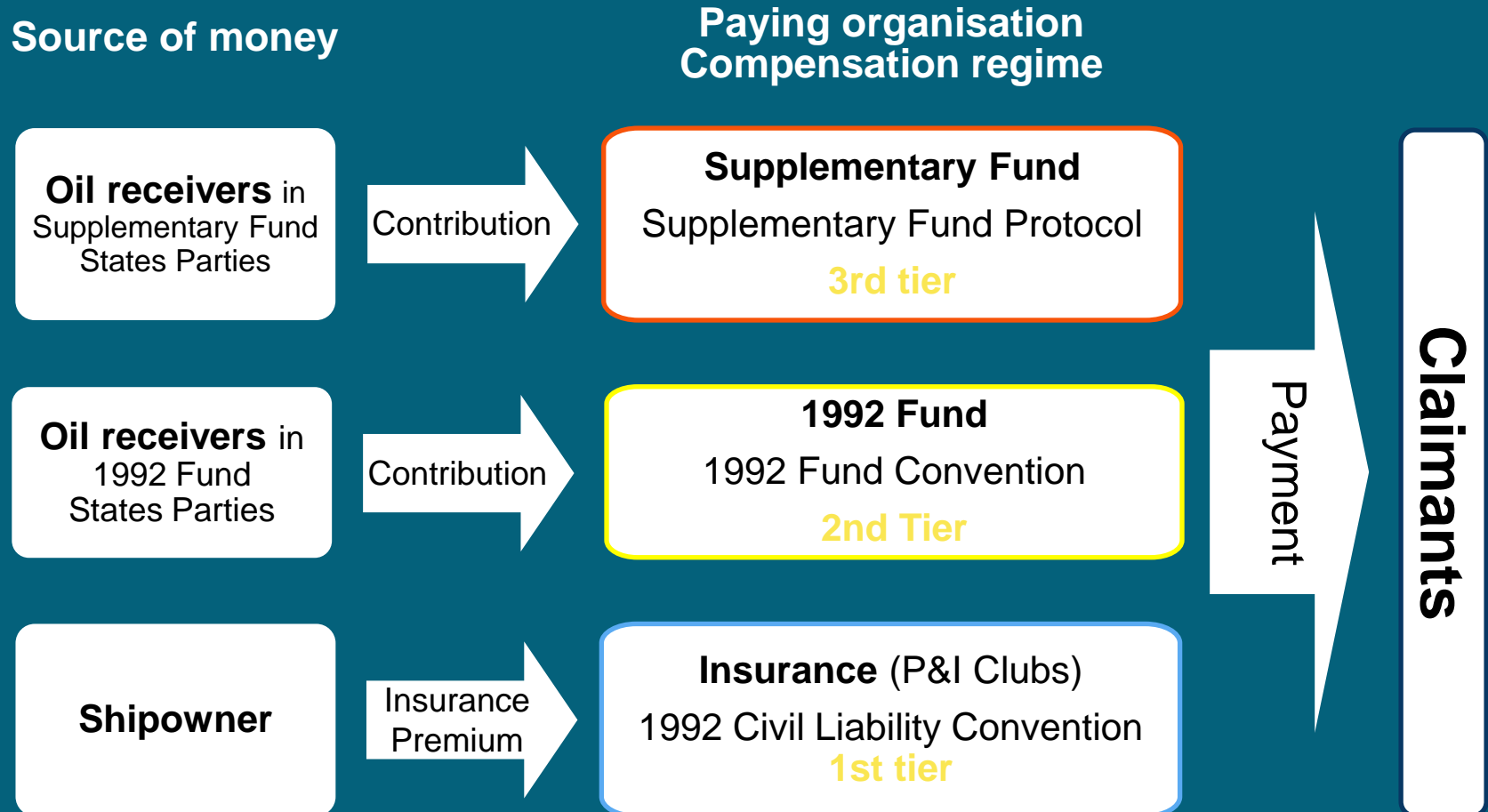
- Compensation through **amicable settlement**
- **Uniform and consistent** application of the compensation regime
- **Equal treatment** of all claimants



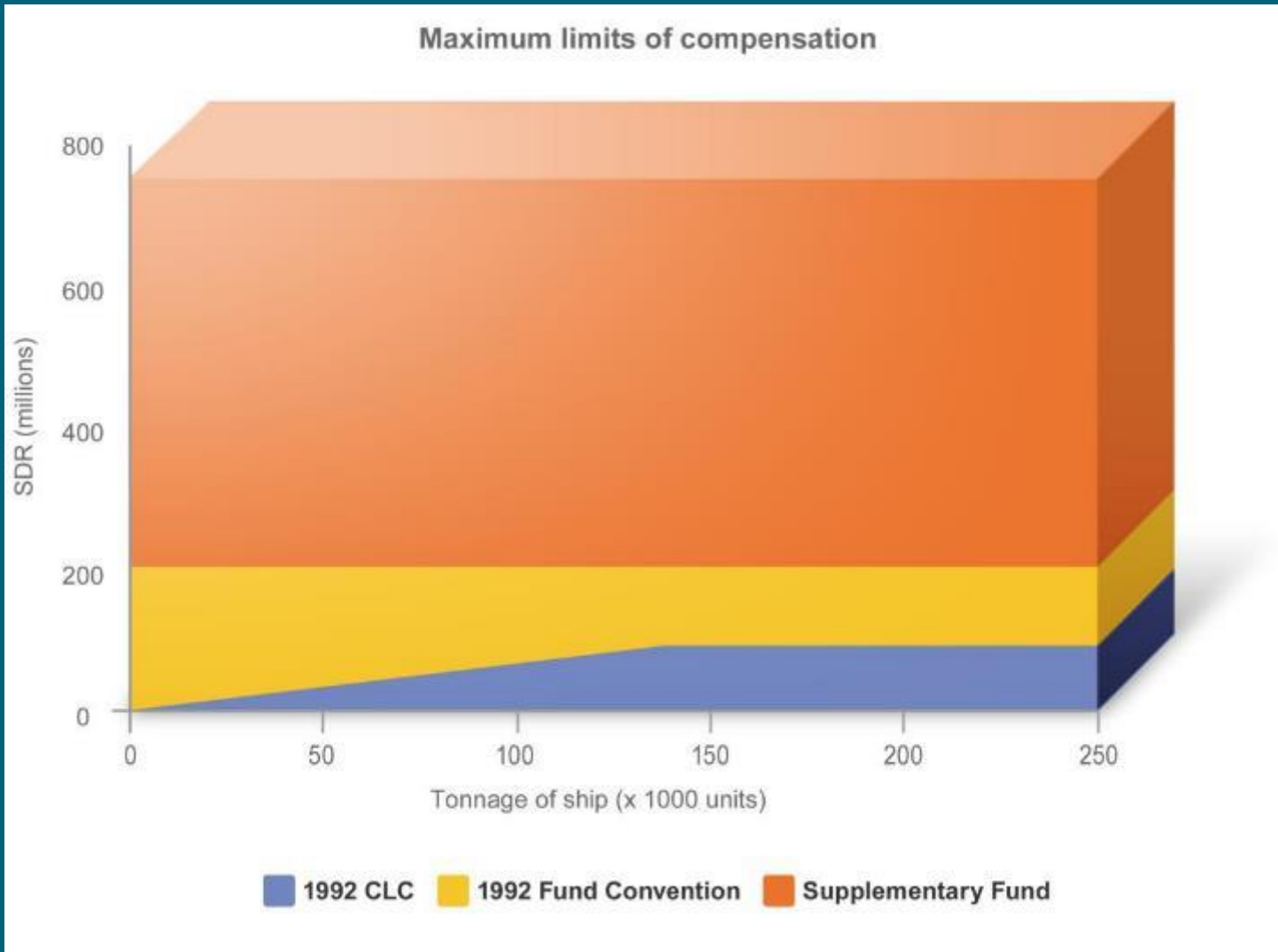


# How the compensation regime works

## *Three tier system*



# Compensation limits



# How the Fund element is financed

## *Contributions from the oil industry*



- Oil receivers: 'persons' who receive more than **150,000 tonnes** of contributing oil (**crude oil** and **heavy fuel oil**) per year after sea transport
- The Fund Assembly decides the amount of contributions to be levied each year, based on amounts required to meet claims
- The cost of financing the IOPC Fund is divided fairly. The levy per tonne is based on the total of the oil reports for the relevant year
- Oil receivers (not governments) pay

A detailed view of the "Contributing Oil Report Form" from the International Oil Pollution Compensation Funds. The form is titled "CONTRIBUTING OIL REPORT FORM" and includes sections for "OIL RECEIVER" information (Company Name, Street, City, Postal Code, Contact Person for Invoice, Contact Person for Oil Reports), "OIL INFORMATION" (Received directly after carriage by sea, Received from non Member States), and "SIGNATURES" (Company Official, Government Official). It also includes a section for "For IOPC Funds Use Only" with checkboxes for "Checked" and "Approved". The form is designed to collect data for calculating contributions to the IOPC Fund.



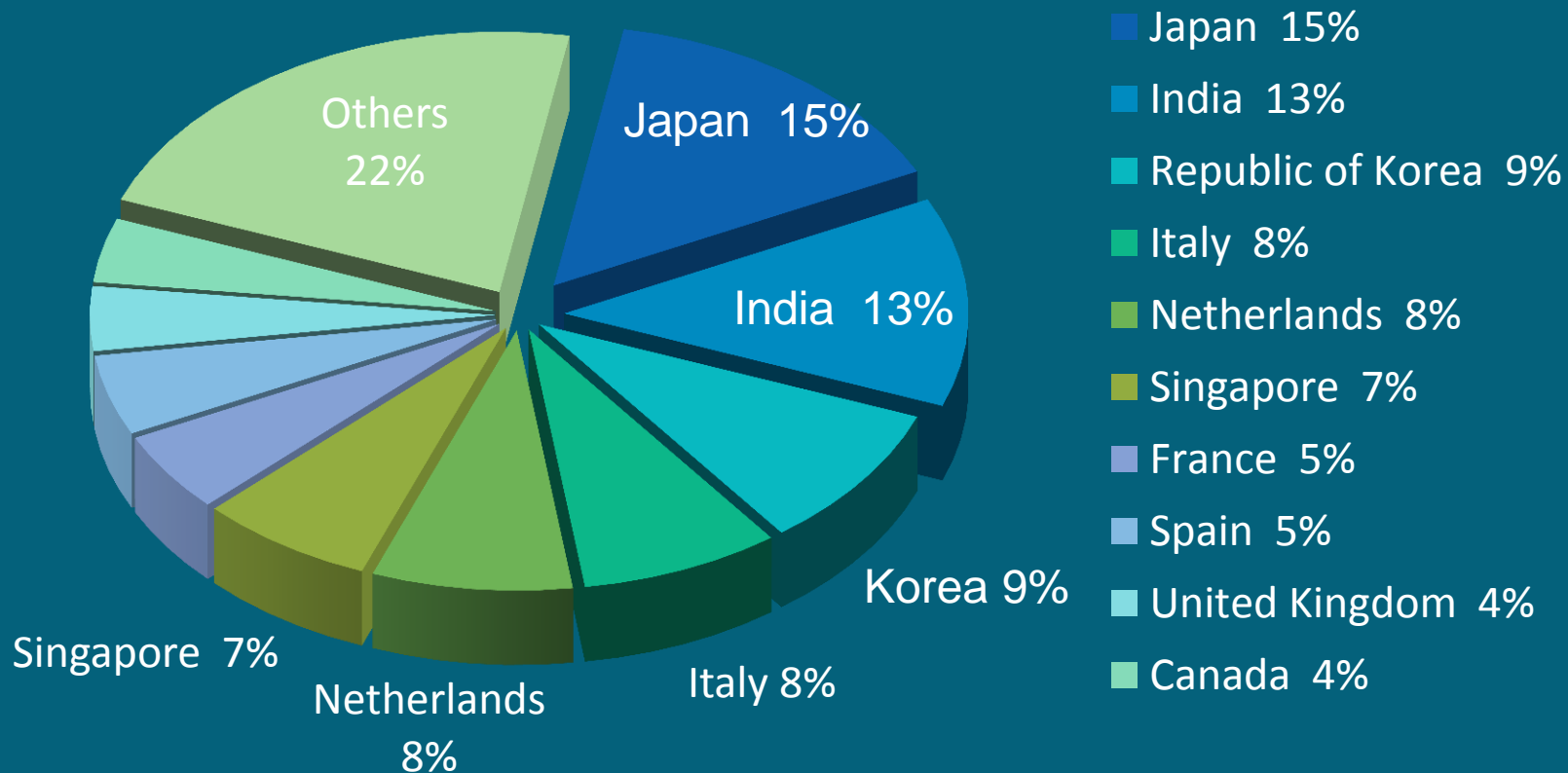
# Contributions

*From Member States' oil industry*



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## Contributions to the 1992 Fund (2014)



# Oil reports

## *States obligations*



- Member States must inform the IOPC Funds of the **quantity of contributing oil received in the previous calendar year.**
- Term “received” refers to first receipt immediately after carriage by sea
  - Oil may be transported from abroad, from another port in same State or from an off-shore production facility.
  - Oil received for transshipment to another port or received for further transport by pipeline also considered as receipt.
- **Non-submission of oil reports can result in delays of compensation**



# Contributions timeline



By Jan 15

- Letters from the Funds to Member States requesting oil reports

By April  
30

- Submission of oil reports from Member States

October

- Assembly decides on the amount of levies for contributions
- Secretariat issues invoices to contributors based on oil reports

By March  
N+1

- Payment of contributions by each contributor directly to the Funds



# When we invoice



- **The price of oil is falling and it is a bad time for any perceived hidden extra costs. However, the contributions to the IOPC Funds can generally be both small and infrequent.**
- **Annual contributions to the General Fund are levied to:**
  - Meet administrative expenses during the year (~ £3-4 million)
  - Pay for compensation for small incidents (below SDR4 million)
- **Contributions are levied to pay compensation for large oil spills:**
  - A Major Claims Fund is established for those incidents when necessary

# What we have invoiced

*Levies payable in 2014 - 2016*



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Year payable		Oil year	Total oil (tonnes)	Total levy	Levy (£ per tonne)
2016	General Fund	2014	1,514.0 million	4,400,000	0.0029061
2015	General Fund	2013	1,533.5 million	3,800,000	0.0024779
2014	General Fund	2012	1,565.7 million	3,300,000	0.0021077
2014	Volgoneft 139 MCF	2006	1,534.0 million	7,500,000	0.0048892
2014	Prestige MCF	2001	1,356.6 million	2,500,000	0.0018429

# What we have paid

1978 - 2015



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## Supplementary Fund

- No incident
- No compensation paid

## The 1992 Fund

- Has been involved in 42 incidents
- Paid about £237 million in compensation

## The 1971 Fund

- Was involved in 107 incidents
- Paid about £331 million in compensation and/or indemnification

## Total

- Incidents: 149
- Compensation paid: £567 million



# When and who we pay

## *Main types of claims*



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- **Clean-up operations and preventive measures**
- **Property damage**
- **Economic losses in fishery, mariculture and tourism sectors:**
  - Consequential loss
  - Pure economic loss
- **Environmental damage**
  - Reasonable costs for reinstatement of the environment



# When and who we pay

## *General criteria for admissibility of claims*



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**The admissibility criteria is strictly applied.**

- **Any loss must actually have been incurred.**
- **Any loss must relate to measures that are considered reasonable and justifiable.**
- **There must be a close link of causation between the loss and the contamination.**
- **A claimant is entitled to compensation only if he/she has suffered a quantifiable economic loss.**
- **A claimant has to prove the amount of his loss by producing documents or other evidence.**
- **Claimants are required to declare that their claims are a true reflection of the losses.**

# Problems faced by the Funds

## *Implementation of the Conventions*



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### 1. Claims

- Interpretation by national courts
- Conflict with national law

### 2. Oil reporting and contributions

- Implementation of the 1992 Fund Convention in national law
- Consequences





# Importance of correct implementation

## *Risks and measures*



- **Lack of implementation can result in financial loss to IOPC Funds and its contributors:**
  - Non reporting of oil and non payment of contributions
  - Failure by State to ensure that shipowners maintain right type of insurance cover
  - Court judgments not following decisions of Member States
  - IOPC Funds may be forced to pay compensation for non-admissible claims
- **CLC/Fund Conventions must be implemented to ensure equal treatment between Member States (fairness).**
  - Development of a policy to address failure by Member States to implement the Conventions
  - Priority given to dialogue with State concerned to resolve implementation issues
  - Ultimately, Assembly may decide to take legal action against a Member State to recover a loss

# Example - Volgoneft 139

Russian Federation, 2007



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Insurance gap of  
some SDR 1.5 million



- Russian-registered small tanker breaks apart in a storm in Kerch Strait
- Spills 1 200–2 000 tonnes of fuel oil
- 50 km of shorelines in Russian Federation and Ukraine affected. Ukraine not party to 1992 Conventions
- 1992 CLC limit (before November 2003) is SDR **3 million**
- 1992 CLC limit (after November 2003) is SDR **4.5 million**
- *Force majeure* defence
- ‘Metodika’ claim for environmental damage not admissible

# Volgoneft 139

*Russian Federation, 2007*



- The Russian Federation had **not implemented** the new 1992 CLC limit decided by the Legal Committee of IMO at the time of the incident (SDR 4.5 M)
  - the shipowner's insurance covers only SDR 3 M.
- Legal proceedings ongoing to solve the insurance gap issue

# The IOPC Funds Secretariat

*Its role*



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- **Administer Fund Conventions**
- **Consist of Assembly, Executive Committee and Secretariat**
- **Establish criteria for admissibility of claims**
- **Assess claims and pay compensation to victims when applicable**
- **Maintain cooperation between the parties:**
  - insurer (P&I Club)
  - 1992 Fund/Supplementary Fund
  - Government (both central and local)
  - Oil industry/Contributors



# Engagement with Member States

*Importance of maintaining good contacts*



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- In the event of an incident, good lines of communication are essential between the affected State and the Secretariat
- Contacts must be established long before a spill to ensure Conventions are implemented and victims are protected
  - Support is available from the IOPC Funds in matters of training and assistance with implementation, oil reporting and claims submission, including an in-house short course.



# General Public Information

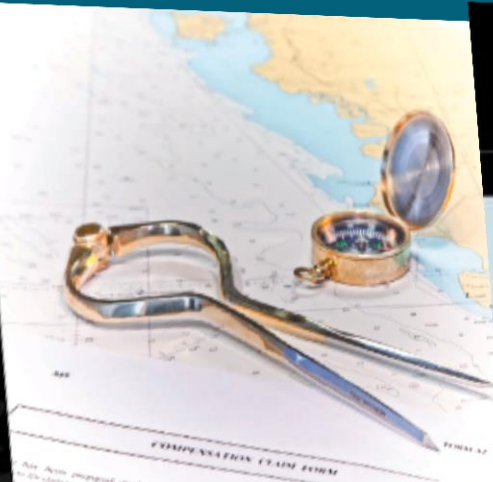
*Printed and online publications – [www.iopcfunds.org](http://www.iopcfunds.org)*



IOPC Funds

International Oil Pollution Compensation Fund 1992

## Claims Information Pack



### LIABILITY AND COMPENSATION FOR OIL POLLUTION DAMAGE

TEXTS OF THE 1992 CIVIL LIABILITY CONVENTION, THE 1992 FUND CONVENTION  
AND THE SUPPLEMENTARY FUND PROTOCOL

2011 EDITION



INTERNATIONAL OIL POLLUTION COMPENSATION FUND  
INTERNATIONAL OIL POLLUTION COMPENSATION FUND



2011 EDITION



## International Oil Pollution Compensation Annual Report



## The 2010 HNS Convention



September 2014



# The role of Member States



- The IOPC Fund is an organisation which belongs to its Member States who take the decisions on compensation and contributions.
- Active participation at meetings of Governing bodies by Member States is vital to the functioning of the Organisation.
- The international compensation regime is necessary because the risk of oil spills is still there.





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[www.iopcfunds.org](http://www.iopcfunds.org)



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