



PAJ Oil Spill Workshop 2018

Tokyo, Japan



Recent incident involving the IOPC Funds - Agia Zoni II -

Jose Maura

Director

28 November 2018

Outline of the regime

Scope of the Conventions

A uniform international rules.

Provides compensation to:

- victims of 'pollution damage' (including preventive measures) caused by 'persistent oil' from 'ships (tankers)'

Applies to:

- territory, territorial waters and Exclusive Economic Zone (or equivalent) of Member States

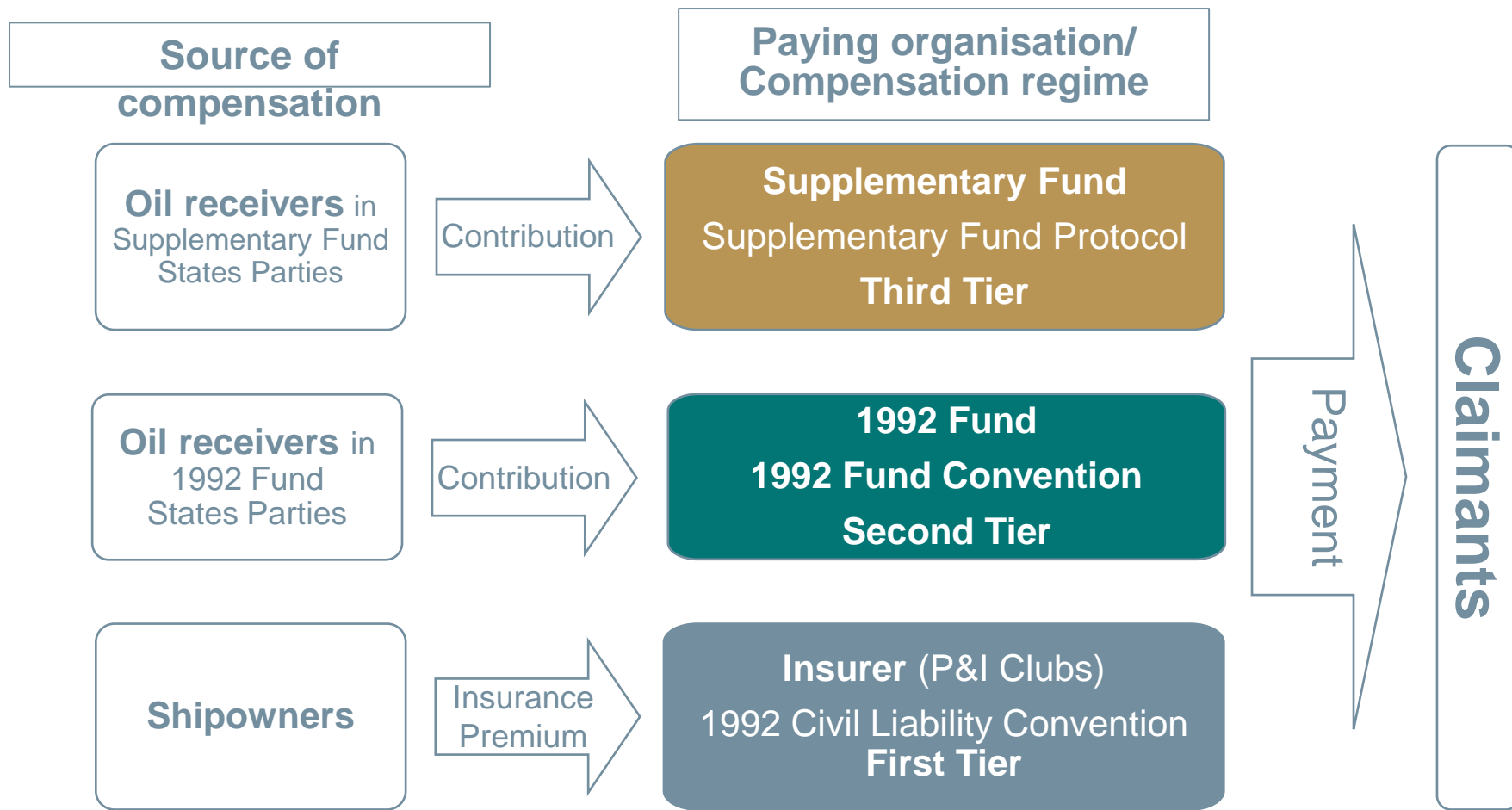


Source KOMOS



How the regime works

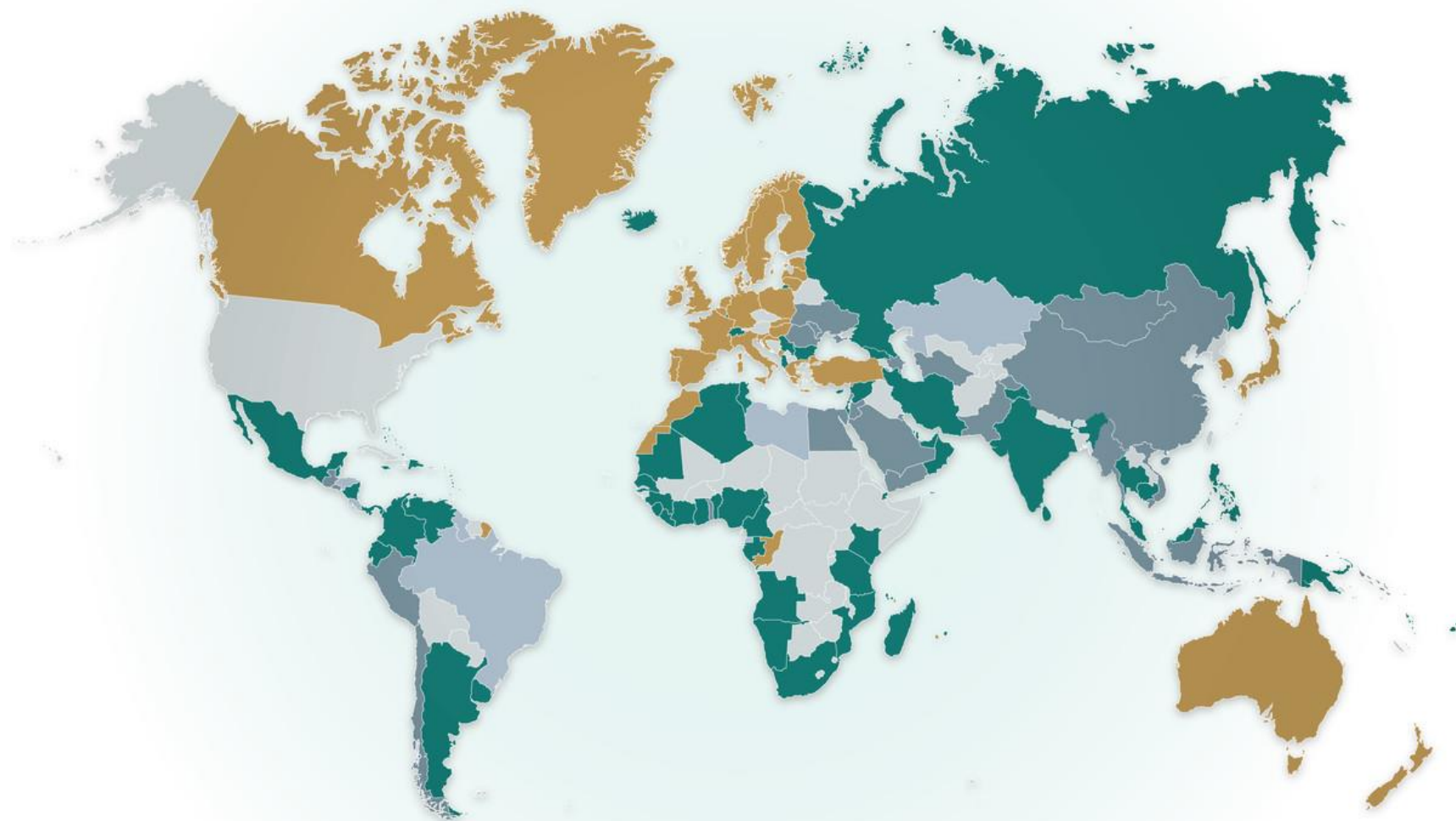
Three Tier system





Member States Map

November 2018



 1992 Fund Convention (**115** Member States)

 1992 Civil Liability Convention (**137**)

 Supplementary Fund (**32**)

 1969 Civil Liability Convention (**34**)



Main features

- **Strict liability** of registered shipowner (channelling of liability to shipowner)
- **Limitation of liability** based on the gross tonnage of the ship
- Shipowners required to have **compulsory third party insurance** and **certificate**
- Direct action against insurer
- **Exclusive jurisdiction** where the damage occurred
- Few exceptions to liability



ANNEX

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF CIVIL LIABILITY FOR OIL POLLUTION DAMAGE

Issued in accordance with the provisions of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992

Name of ship	Deletion number	Port of registry	Name and address

This is to certify that there is in force in respect of the above named ship a policy of insurance or other financial security satisfying the requirements of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Type of Security: _____

Duration of Security: _____

Name and Address of the Insurer(s) and/or Guarantor(s): _____

Name: _____

Address: _____

This certificate is valid until: _____

Issued or certified by the Government of: _____

(Full designation of the State)

At: _____ On: _____ (Date)

Signature and Title of issuing or certifying official: _____

Explanatory Notes:

1. If desired, the designation of the State may include a reference to the competent public authority of the country where the certificate is issued.
2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
3. If security is furnished in several forms, these should be enumerated.
4. The word "Duration of Security" must stipulate the date on which such security takes effect.

INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS Texts of the Conventions 17

Model form of the CLC certificate

1992 Fund Convention

Second Tier – the 1992 Fund



Source KOMOS

The 1992 Fund

- Pays compensation when:
 - damage exceeds shipowner's liability under the 1992 CLC
 - shipowner financially incapable of meeting their obligations
 - no liability under the 1992 CLC
- Maximum compensation **SDR 203 million**, including CLC
- **Contributions** from oil receivers in State Parties to the 1992 Fund Convention
- Very limited exceptions
 - damage resulted from an act of war, damage caused by a State ship
 - claimant cannot prove that damage resulted from incident involving ship(s)

Supplementary Fund Protocol

Third Tier – the Supplementary Fund

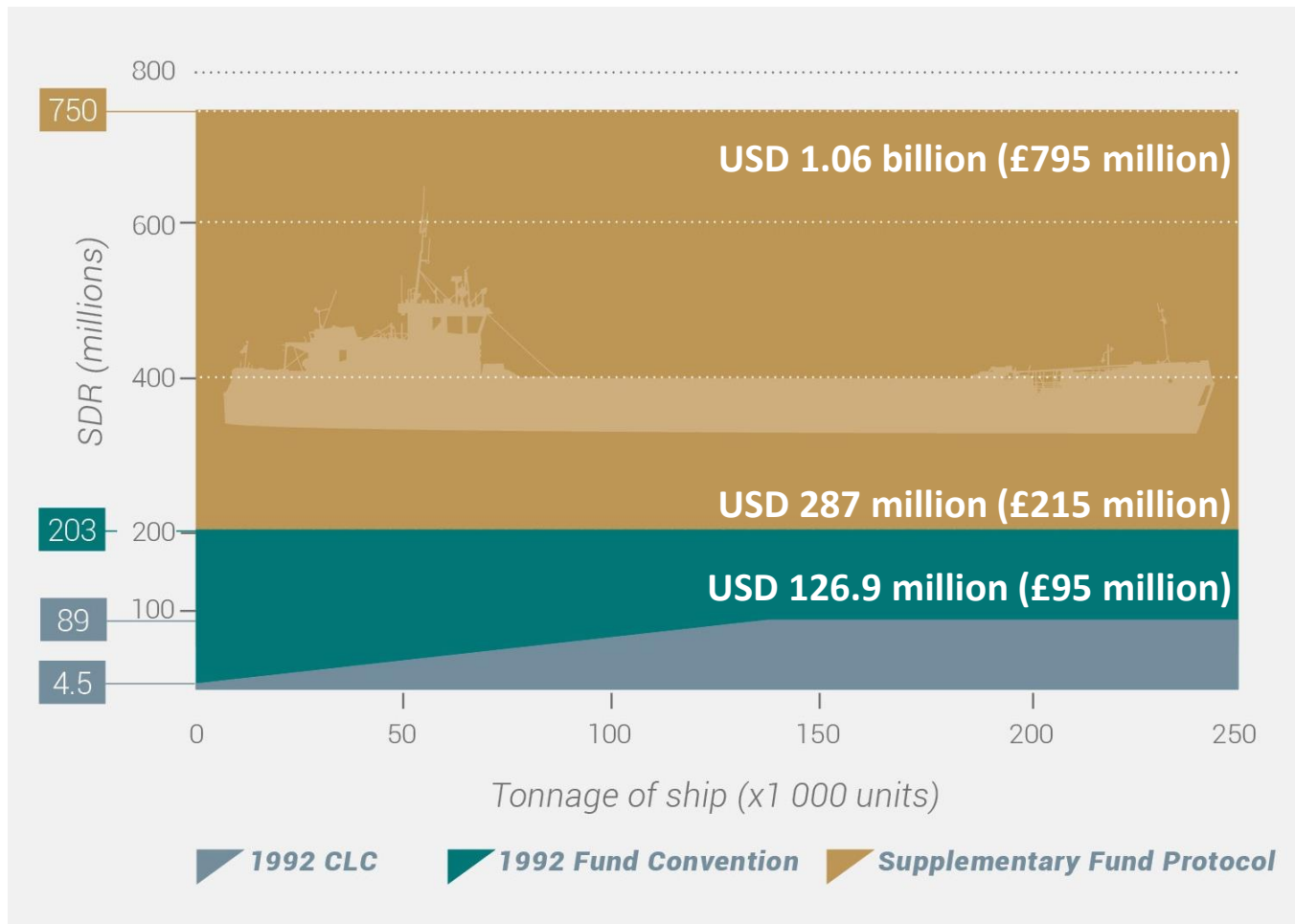


The Supplementary Fund:

- **Pays compensation** when damage exceeds, or there is a risk that it will exceed, the applicable limit under 1992 Fund
- Maximum compensation **SDR 750 million**, including amounts payable under 1992 Conventions
- **Contributions** from oil receivers in State Parties to Supplementary Fund Protocol
- **Minimum contribution**: 1 million tonnes of contributing oil are deemed to be received in each State Party

The regime in figures

Liability limits under the Conventions



*Exchange rates as at 9 July 2018



The IOPC Funds

The basics



- Administer the 1992 Fund Convention and Supplementary Fund Protocol
- Consists of **Assemblies**, **Executive Committee** and the **Secretariat**
- Establish criteria for admissibility of claims
- Assess claims and pay compensation to victims when applicable
- Receive oil reports and contributions



How the IOPC Funds work?

Organigram



IOPC Funds Governing Bodies

1992 Fund
Executive
Committee

1992 Fund
Assembly

Supplementary
Fund Assembly



In Member States

Fund Lawyers

Technical
Experts

Local Claims
Handling
Office



Director
Secretariat

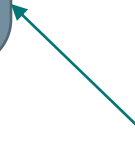
Audit Body

Oversight



Investment
Advisory
Body

Advisory



Director
Mr José Maura

Admissible claims

Types of claims

1 Costs of clean-up operations and preventive measures



2 Property damage



3 Economic losses by fishermen or those engaged in mariculture



4 Economic losses in the tourism sector



5 Costs for reinstatement of the environment





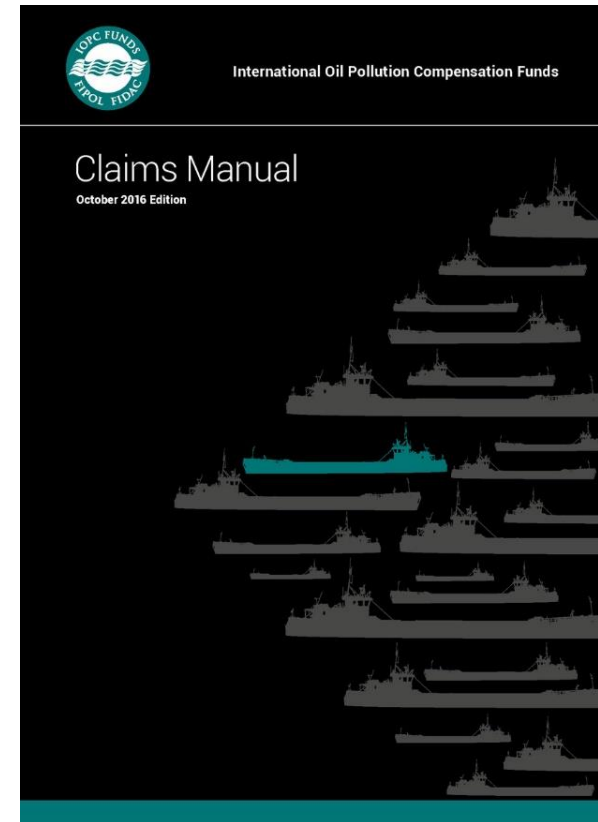
Admissibility of claims

Basic principles



Existing criteria: **Claims Manual**

- Objective criteria
- Reasonableness
- Relationship between costs and benefits



**Political/social considerations are outside
the scope of the Conventions**



Management of an incident

Role of the IOPC Funds' Secretariat

- Cooperation between 1992 Fund and the P&I Clubs:
 - Joint experts
 - Joint assessments
 - Joint costs
 - Setting up of a joint claims handling office
- Meetings with authorities, the public and the media
- Meeting with claimants
- Regular visits to affected sites
- Reports to 1992 Fund Executive Committee

MEMORANDUM OF UNDERSTANDING
BETWEEN THE INTERNATIONAL GROUP OF P & I CLUBS, ON THE ONE PART,
AND
THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND 1992 AND THE
INTERNATIONAL OIL POLLUTION COMPENSATION SUPPLEMENTARY FUND 2003,
ON THE OTHER PART

The Members of the International Group of P & I Clubs ("the Clubs"), whose names and addresses are scheduled hereto, on the one part, and the International Oil Pollution Compensation Fund 1992 ("1992 Fund") and the International Oil Pollution Compensation Supplementary Fund 2003 ("Supplementary Fund"), hereinafter referred to collectively as "the Funds", on the other part, agree as follows:

1 Notification of incidents to the 1992 Fund

The Clubs will report to the 1992 Fund each escape or discharge of oil where there is a reasonable risk that claims for oil pollution damage may be made against that Fund. Thereafter the Club concerned and the 1992 Fund will exchange views concerning the incident and co-operate with a view towards avoiding, eliminating or minimising pollution damage.



Management of an incident

Role of the governing bodies



1992 Fund's Executive Committee:

- Gives instructions in respect of the handling of claims
- Authorises to make settlements of claims
- Decides on the level of payment
- Decides on the admissibility of particular claims raising new **questions of principle**





Who contributes to the Funds?

Contributors

- Oil cargo interests are our contributors: ‘persons’ who **receive** more than 150 000 tonnes of **contributing oil** per year after sea transport



- In the 114 Member States of the 1992 Fund, there were approximately 230 contributors in 2017.
- In the 31 Member States of the Supplementary Fund, there were approximately 140 contributors in 2017, including 7 States.



Calculating the levy per tonne

2018 Levies



	Oil Year	Total Levy	÷	Total oil (tonnes)	=	Levy per tonne (£)
1992 Fund						
General Fund 2018	2017	5 900 000		1 586 303 134		0.0037193
<i>Volgoneft 139</i> (Reimbursement)	2006	(3 675 000)		1 513 731 871		(0.0024278)
<i>Alfa I</i> MCF	2011	1 675 000		1 545 786 311		0.0010836
<i>Agia Zoni II</i> MCF	2016	10 000 000		1 546 400 431		0.0064666
<i>Agia Zoni II</i> MCF (Deferred levy)	2016	16 000 000		1 546 400 431		0.0103466

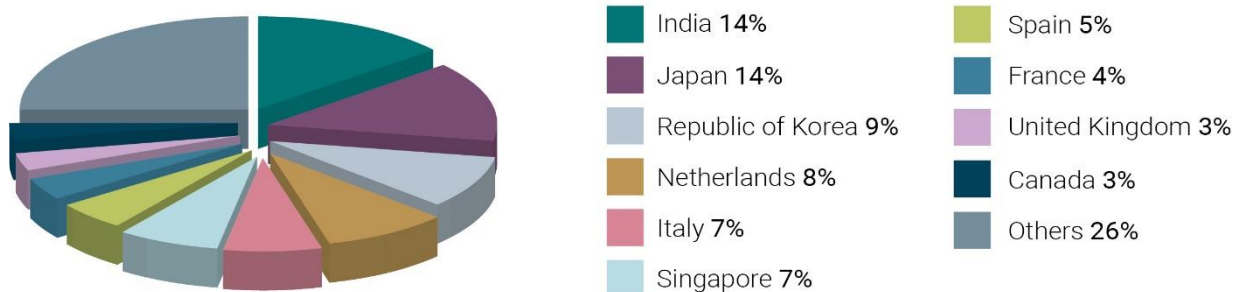


Contributions

From Member States' oil industry

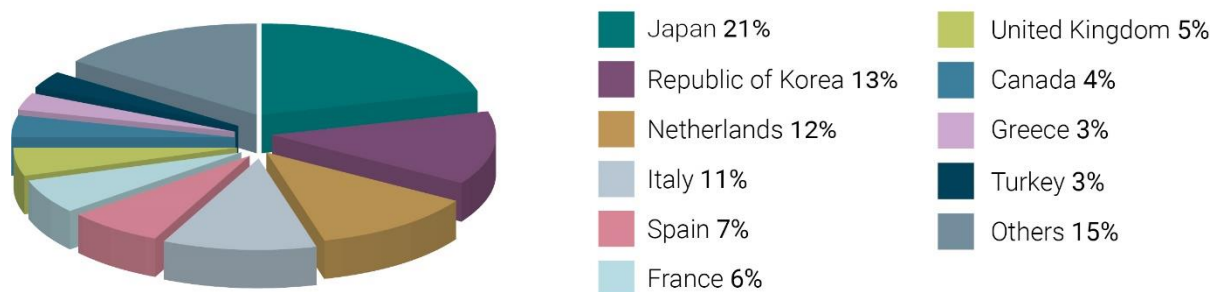


1992 Fund (2016)



10 States represent 74% of contributions

Supplementary Fund (2016)



10 States represent 85% of contributing oil received



What we have paid

1978 – 2018



Supplementary Fund

- No incident
- No compensation paid

The 1992 Fund

- Has been involved in 45 incidents
- Paid about £349 million in compensation

The 1971 Fund

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

Total

- Incidents: 150
- Paid about £680 million in compensation and/or indemnification

Figures as at 30 September 2018



Functions of the Secretariat

Engagement with Member States

In the event of an incident, **cooperation and frequent communication** are essential between the affected State and the Secretariat.

Attendance at sessions of the governing bodies by Member States is vital to the functioning of the organisation.

Contacts must be established long before a spill to ensure Conventions are implemented and victims are protected.

The Secretariat establishes and maintains **good communication with Member States** by engaging in various activities (workshops, conferences, visits, meetings etc.).





Functions of the Secretariat

Information services, online

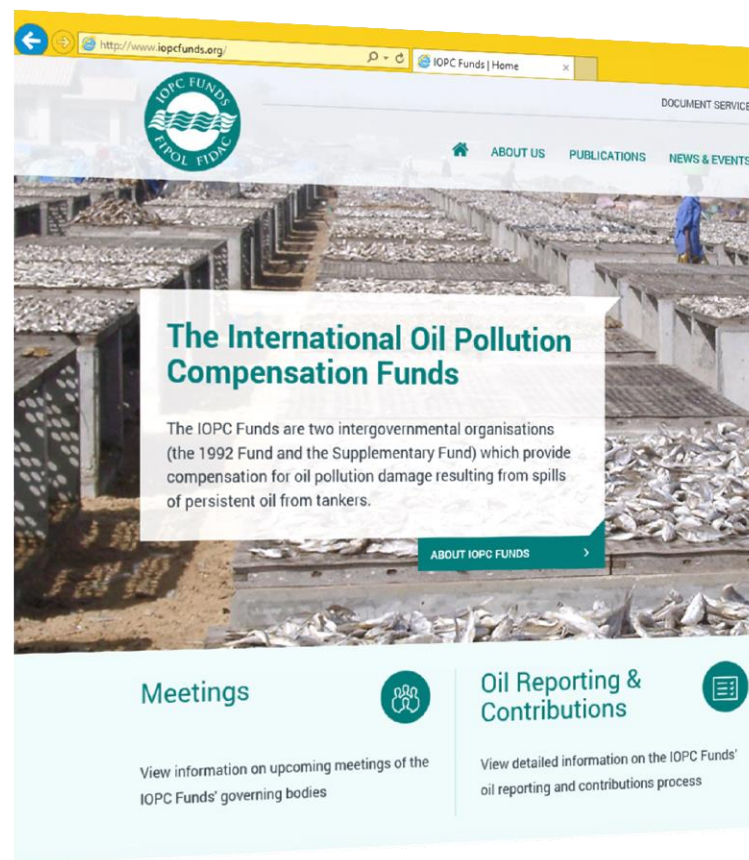
www.iopcfunds.org

Available in all three working languages of the Funds: English, French & Spanish

Interactive features allows users to easily find the latest information on

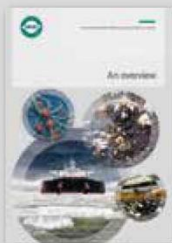
- Incidents (both open and closed)
- Member and non-Member States
- Claims and compensation

Meeting documents (past and present) available to search and download from Document Services portal





General



An Overview



Annual Report



Text of Conventions

Claims information pack



Claims Manual



Guidelines for presenting claims in the fisheries, mariculture and fish processing sector



Guidelines for presenting claims in the tourism sector



Guidelines for presenting claims for clean up and preventive measures



Guidelines for presenting claims for environmental damage



Example Claim Form

Guidance for Member States



Measures to facilitate the claims handling process



Management of fisheries closures and restrictions following an oil spill



Consideration of the definition of 'ship'

Available to download or
in hard copy upon request

Agia Zoni II

The incident



Ship	<i>Agia Zoni II</i>
Date of incident	10 September 2017
Place of incident	Saronic Gulf, Greece
Cause of incident	Sinking—circumstances under investigation (<i>calm weather conditions, only 2 crew members on board</i>)
Quantity of oil spilled	Unknown but estimated to be in the region of 700 metres ³





Agia Zoni II

Vessel details

Agia Zoni II	Double-hulled tanker, Greek-flagged
Gross Tonnage	1 597 GT
Built	1972
CLC Limit	€5.41 million



Source MarineTraffic.com

Oil on board at time of incident	Amount
Heavy fuel oil 380 cSt high sulphur	1 946.094 mt
Heavy fuel oil 180 cSt	247.768 mt
Marine gas oil (MGO)	369.118 mt
Approximately 15 mt of bunkers (MGO), 300 litres of lubricants and 200–300 litres of chemicals	
Approximate total quantity of oil cargo/bunkers/chemical on board	<u>2 580 mt</u>



Agia Zoni II—Details of incident

Impact of the incident

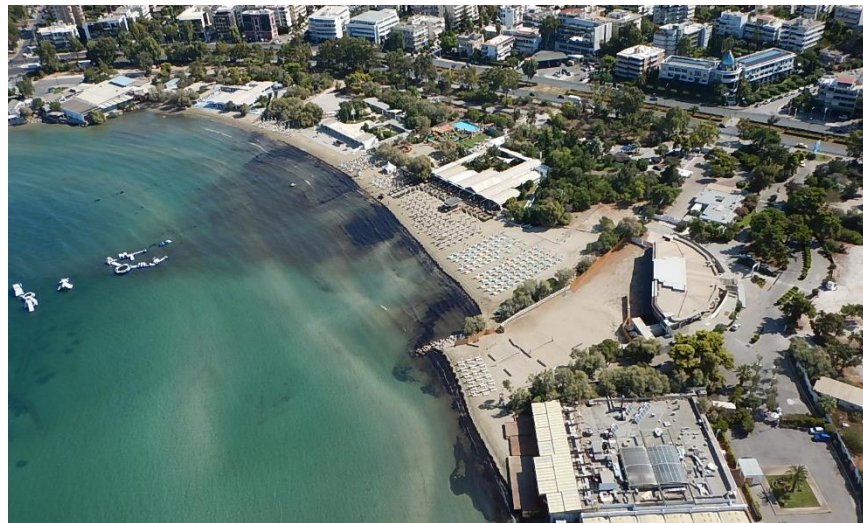


Google Earth

Data SIO, NOAA, U.S. Navy, NGA, GEBCO
© 2017 Google
Image © 2017 TerraMetrics

Affected areas

Aerial views





- 20–25 km of coastline affected
- Large numbers of personnel (~400) employed
- Large quantities of booms (> 9 km) & sorbents used
- Use of manual & mechanical methods – issues with sunken oil
- Onshore clean-up operation finished by the end of 2017



Source IOPC Funds



Source IOPC Funds



10 September 2017: Salvor commenced operations under
Lloyds Open Form (LOF) salvage agreement

15 September 2017: LOF terminated

Salvor contracted head of clean-up contractor

2 claims submitted at wreck site for €16.95 million





Government intervention

Wreck removal



29 September 2017: Greek State ordered owner to lift wreck within 30 days

13 October 2017: Greek State ordered salvor to lift wreck at no cost to Greek State

29 November 2017: wreck lifted

At time of lifting wreck, some oil released and re-polluted previously cleaned beaches

Wreck towed to salvor's shipyard

Oil removal operations from engine room subsequently undertaken





P&I insurance details

Lodestar Marine Limited



- Fixed premium provider but with significant financial backing.
 - Policy limit: €5 million
 - Policy covers: (1) oil pollution liabilities, and
(2) wreck removal
- No hull insurance in place
- Limitation fund established by Lodestar Marine Limited in October 2017 for €5.41 million
- Under Greek law, Greek Government has a direct right of action against the insurer for wreck removal costs

1992 Fund activities

Early on-site visits

The 1992 Fund Secretariat:

- met with Greek authorities shortly after the incident;
- visited the affected areas many times; and
- monitored developments

1992 Fund engaged experts in clean-up, tourism and fisheries industries, who:

- went on-site soon after the incident;
- conducted daily surveys; and
- attended meeting with authorities and claimants



Source IOPC Funds



Source IOPC Funds



Management of claims

Claims Submission Office

Opening of a Claims Submission Office on 2 November 2017

- Staffed by manager and assistant
- Assist claimants and their claims for compensation
- Assist the Secretariat with the management of the claims
- 130+ claimants / representatives visited the office

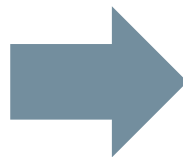
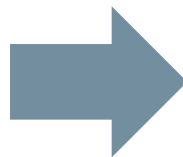


Source IOPC Funds



Before and After

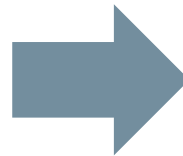
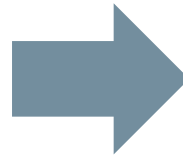
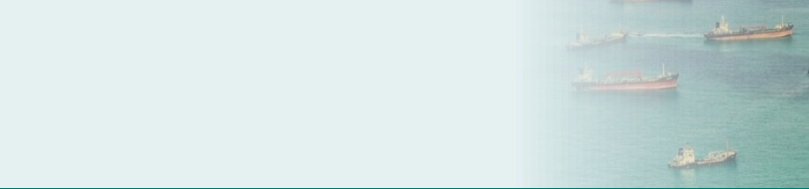
Athens Riviera—shoreline returned to normal





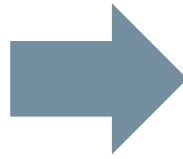
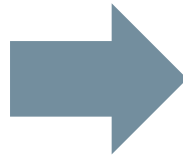
Before and After

Salamina island



Before and After

Salamina island and Piraiki



Claims submitted as at October 2018



		<u>Claimed</u>		<u>Approved</u>		<u>Paid by Fund</u>
Claim Category	No.	Amount (€)	No.	Amount_(€)	No.	Amount_(€)
Clean-up	23	74.04 million	7	9.90 million	6	9.89 million
Environmental Monitoring	4	94 927	3	90 587	3	90 587
Fisheries (incl. wholesalers)	77	2.47 million	1	14 754	1	14 754
Property	87	751 482	2	5 752	2	5 752
Tourism	40	3.21 million	7	176 391	1	27 093
Other	1	90 000	0	0.00	0	0.00
Total	232	80.65 million	20	10.18 million	12	10.03 million



- Investigation into the cause of incident is still ongoing
- Still early to determine the overall cost of the incident
- Insurance of €5 million by Lodestar Marine Limited appears insufficient
- 1992 Fund Assembly has approved levies:
 - €26 million in 2018 – paid
 - €10 million in 2019 – invoiced
 - €16 million in 2019 – deferred
- Incident raises a number of issues:
 - Reliability of some insurers
 - Local regulations applicable to old tankers
 - Is the CLC/Fund system there to deal with these types of incidents?



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