



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 March 2007 sessions of the governing bodies - In brief

19 March 2007

From 14 to 16 March 2007, the governing bodies of the International Oil Pollution Compensation Funds (IOPC Funds) held a number of meetings. The 1992 Fund held a meeting of its Executive Committee and the 1971 Fund held a meeting of its Administrative Council, both of which dealt with incidents. The 1992 Fund also held a meeting of the intersessional Working Group on non-technical measures to promote quality shipping for carriage of oil by sea, which was set up in February 2006.

### *Incidents*

#### ***Erika (France, 1999)***

Legal actions have been taken against the shipowner, his insurer and the 1992 Fund by 796 claimants. Out-of-court settlements have been reached with 440 of these claimants. The Courts have rendered judgements in respect of 95 claims and actions by 266 claimants (including 144 salt producers) are pending. The total amount claimed in the pending actions, excluding the claims from the French State and Total SA, is €58.7 million (£39 million).

The 1992 Fund will continue to hold discussions with the claimants whose claims are not time-barred for the purpose of arriving at out-of-court settlements if appropriate.

Ninety judgements have been rendered by the French Courts, the majority of which have been in favour of the 1992 Fund. In most cases the judgements stated that the 1992 Fund's criteria for admissibility of claims were not binding on the national courts, and that it was for the courts to decide whether a claimant had an admissible claim under the Conventions as implemented in French law. However, in spite of this the judgements rendered had often arrived at the same conclusions as those that the Fund had reached on the basis of its criteria.

More detailed information of these judgements is available in documents 92FUND/EXC.36/4, 92FUND/EXC.36/4/Add.1 and 92FUND/EXC.36/4/Add.2 via the IOPC Funds' website: <http://www.iopcfund-docs.org/docs.html> or <http://www.iopcfund.org/ongoing.htm>.

#### ***Solar 1 (Philippines, 2006)***

On 11 August 2006 the Philippines registered tanker *Solar 1*, (998 GT), laden with a cargo of 2 081 tonnes of industrial fuel oil, sank in 630 metres of water in the Guimaras Straits, some ten nautical miles south of Guimaras Island, Philippines. An unknown, but substantial quantity of oil was released from the vessel after it sank and the sunken wreck continued to release oil, albeit in ever decreasing quantities.

The Philippines is a party to the 1992 Civil Liability and Fund Conventions. The limitation amount applicable to the *Solar 1* in accordance with the 1992 Civil Liability Convention is £3.6 million but the owner of the *Solar 1* is a party to the Small Tanker Oil Pollution Indemnification Agreement 2006 (STOPIA 2006) whereby the limitation amount applicable to the tanker has been increased, on a voluntary basis, to £15.8 million. The *Solar 1* incident is the first involving a vessel entered in STOPIA 2006.

About 124 km of shoreline and around 500 hectares of mangrove on Guimaras Island and surrounding islets were polluted to varying degrees. The oil had a significant impact on small-scale fisheries and aquaculture as well as on

small-scale tourism businesses leading to considerable financial hardship for some individuals. As a result, the 1992 Fund and the shipowner's insurer took a pro-active approach.

It was decided to pay each claimant individually and by 31 January 2007 a total of 10 978 claimants in the fisheries sector on Guimaras Island had received compensation totalling £1.3 million. A further 11 000 claimants in the fishery sector in Iloilo Province have been offered compensation totalling £600 000 and it is hoped that payments will commence in early April 2007. More than half of the 70 claims received from the tourism sector, mainly from owners of small resorts and tour boat operators, have been settled for a total of £9 000. It is likely that many of the resort owners will submit claims for further losses during 2007. With regard to claims for the costs of clean-up operations, the majority of them have been settled, including an interim payment of £1.9 million towards three claims totalling £3.4 million from oil spill responders and another interim payment of £1.1 million towards the £2.0 million claim from Petron Corporation.

In view of the likelihood that a significant quantity of oil remains in the wreck of the *Solar 1*, and in view of the seismic activity in the area where the wreck is located and its close proximity to sensitive economic and environmental resources, the Executive Committee decided at its October 2006 session that a claim for the cost of removing the oil from the wreck would be admissible in principle.

In November 2006, the shipowner's insurer had signed a contract with an underwater engineering company to conduct the operation to remove the oil remaining in the wreck of the ship. The operation, which commenced on 12 March 2007, is expected to cost between £4 and £7 million.

#### ***Shosei Maru (Japan, 2006)***

On 28 November 2006, the Japanese tanker *Shosei Maru* (153 GT) collided with the Korean cargo vessel *Trust Busan* (4 690 GT) two kilometres off Teshima, in the Seto Inland Sea in Japan. About 60 tonnes of heavy fuel oil and bunker diesel oil escaped into the sea from the *Shosei Maru*. The *Shosei Maru* was insured with the Japan Shipowners' Mutual Protection and Indemnity Association (Japan P&I Club).

Claims are expected for at sea and on-shore clean-up operations, cleaning of ships' hulls and damages to seaweed cultivations. The estimated claimed amount for damages arising out of this incident is expected to exceed the limitation amount applicable to the *Shosei Maru* under the 1992 Civil Liability Convention, which is £3.5 million.

The 1992 Fund was informed by the Japan P&I Club that since the vessel was only engaged in coastal trade, it had not been insured through the pooling agreement of the International Group of P&I Clubs. The Fund was also informed that the owner of the *Shosei Maru* had not given written consent for the vessel to be entered in STOPIA 2006 and that the ship had therefore not been entered in the Agreement. Consequently, if the total amount of damages were to exceed the limitation amount applicable to the *Shosei Maru* under the 1992 Civil Liability Convention, the Fund would be required to pay compensation in respect of this incident without being subsequently reimbursed under STOPIA 2006.

Concerns were expressed by a number of delegations regarding the fact that some tankers were not entered in STOPIA 2006, which, in their view, highlighted one of the shortcomings of voluntary agreements. The International Group of P&I Clubs were urged to extend STOPIA 2006 to as many vessels as possible and to actively encourage shipowners to enter their vessels into the Agreement. It was also suggested that providing details of the total number of tankers that were not entered in STOPIA 2006 would be useful. The International Group of P&I Clubs agreed to submit such a document to the next Executive Committee session, which would outline details on the operational aspects of STOPIA 2006, the number of tankers falling outside of the Agreement and the efforts that the Clubs were undertaking to encourage shipowners to enter their vessels into STOPIA 2006.

The Executive Committee authorised the Director to make settlements of claims arising from the incident to the extent that they did not give rise to questions of principle not previously considered by the Committee.

#### ***Working Group of the 1992 Fund on non-technical measures to promote quality shipping for carriage of oil by sea***

At its February 2006 session, the 1992 Fund Assembly decided to establish a Working Group on non-technical

measures to promote quality shipping for the carriage of oil by sea.

The Working Group held its first meeting in May 2006, focusing on current and planned procedures and practices of the marine insurance industry and States to promote quality shipping. During its second meeting held in March 2007, the Group continued discussing the sharing of information relating to the quality of shipping and possible barriers to sharing such information. The Group considered a number of documents on national legal factors that allowed, required or prevented marine insurers and the P&I Clubs, and other related businesses, from sharing information on clients and whether competition law and practices took into consideration the need for measures to encourage quality shipping for the transportation of oil.

The Working Group was informed of a number of recent measures taken by the International Group of P&I Clubs to contribute positively to global efforts to improve ship quality and safety standards, in particular the so called 'designated vessel' procedure and the 'double retention mechanism'. The procedure provides that an International Group Club will be able to nominate a vessel, which it considers does not meet the minimum acceptable quality standards expected of vessels entered with Clubs within the International Group, for inspection by an independent committee. If upheld by the independent committee, the nominated vessel will be deemed a 'designated vessel'. Such vessels will attract a double retention under the International Group claims pooling system (ie 2 x US\$7 million) pending rectification of the deficiencies identified, and, in the event that this was not done within 12 months of the vessel being designated, claims arising thereafter would be excluded from pooling.

The Working Group will continue its deliberations at its third meeting to be held during the June 2007 sessions of the IOPC Funds' governing bodies.

#### ***Future meetings***

The following meetings have been scheduled for 2007.

12-15 June	1992 Fund Assembly 1992 Fund intersessional Working Group on non-technical measures to promote quality shipping for carriage of oil by sea 1992 Fund Executive Committee
Week of 15 October	1992 Fund Assembly 1992 Fund Executive Committee 1971 Fund Administrative Council Supplementary Fund Assembly