



International Oil Pollution  
Compensation Funds

<b>Agenda Item 9</b>	IOPC/JUL21/9/WP.1/1	
<b>Date</b>	23 July 2021	
<b>Original</b>	English	
<b>1992 Fund Administrative Council</b>	92AC20/92AES25	
<b>1992 Fund Executive Committee</b>	92EC76	●
<b>Supplementary Fund Assembly</b>	SAES9	●

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## RECORD OF DECISIONS OF THE JULY 2021 SESSIONS OF THE IOPC FUNDS' GOVERNING BODIES

### INCIDENTS INVOLVING THE IOPC FUNDS

(continued)

#### 3 **Incidents involving the IOPC Funds**

3.1	<b>Incidents involving the IOPC Funds</b>		<b>92EC</b>	<b>SA</b>
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3.1.1 The 1992 Fund Executive Committee noted that, since its last session in March 2021, there had been developments in respect of the incident in Israel, which required the Executive Committee to be convened in order to take a decision.

3.1.2 The governing bodies further noted that there are currently no incidents involving the Supplementary Fund.

3.2	<b>Incidents involving the IOPC Funds — 1992 Fund: Incident in Israel Documents IOPC/JUL21/3/1 and IOPC/JUL21/3/1/1</b>		<b>92EC</b>	
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3.2.1 The 1992 Fund Executive Committee took note of the information regarding the incident in Israel as set out in documents IOPC/JUL21/3/1 submitted by the Secretariat and IOPC/JUL21/3/1/1 submitted by the Government of Israel.

3.2.2 The Executive Committee recalled that in February 2021, the Government of Israel had contacted the 1992 Fund requesting assistance with oil found along the Israeli coastline believed to be caused by a mystery spill. The Executive Committee recalled that the Israeli Government reported that tar balls had washed up along its entire Mediterranean coastline and that it believed a spill had occurred in the waters of the exclusive economic zone (EEZ) of Israel. It further recalled that the source of the spill had not been identified.

3.2.3 The Executive Committee recalled that clean-up operations had been carried out under the direction of the Marine Environment Protection Division of the Israeli Ministry of Environment, with local authorities organising the response on the beaches.

3.2.4 The Executive Committee also recalled that the analysis of the polluting oil carried out by two laboratories in Israel had indicated that the oil found along the coastline was crude oil. It further recalled

that the Israeli authorities believed that the oil was released from a tanker i.e., a ship as defined by the 1992 Civil Liability Convention (1992 CLC).

- 3.2.5 The Executive Committee recalled that, following the information received from the Israeli authorities, the 1992 Fund had engaged experts specialising in the analysis and fingerprinting of petroleum oil to travel to Israel in order to collect samples of the tar balls from various affected sites for analysis. The experts were asked to examine the nature of the oil and to advise on the possible sources of that oil.
- 3.2.6 The Executive Committee noted that the result of the analysis carried out by the 1992 Fund's experts had shown that the samples collected were of crude oil which had originated from a single source. It further noted that the experts had explored possible sources for the oil and had concluded that, as there are no crude oil platforms or pipelines in the area, the only possible source was a tanker carrying crude oil.
- 3.2.7 The Executive Committee further noted that the composition of the sampled oil was consistent with crude oil washing which would, therefore, indicate that the source was a recent illegal dumping from an unknown tanker and not a historical incident.

#### *Claims for compensation*

- 3.2.8 The Executive Committee noted that whilst no claims had been submitted yet, initial estimates of the cost of the response to the oil spill were in the region of ILS 55 million (£12.1 million) and that additional claims for economic losses were expected.

#### *Applicability of the Conventions*

- 3.2.9 The Executive Committee recalled that in October 2002, it had decided that the 1992 Fund Convention also applied to spills of persistent oil even if the ship from which the oil came could not be identified, provided that it was shown to the satisfaction of the 1992 Fund, or in the case of dispute to the satisfaction of a competent court, that the oil originated from a ship as defined in the 1992 CLC.
- 3.2.10 The Executive Committee noted that according to the investigations carried out by the 1992 Fund experts, the pollution was caused by crude oil and it could not have originated from any other source but a passing oil tanker.
- 3.2.11 Therefore, the Executive Committee noted that based on the advice received from the 1992 Fund experts, the Director was of the view that the pollution which had affected the coastline of Israel could be considered as a spill from an unknown source (a so-called 'mystery spill') and that, for this reason, the 1992 Civil Liability and Fund Conventions would apply.

#### DOCUMENT SUBMITTED BY THE ISRAEL

- 3.2.12 The Executive Committee took note of the information provided by the Government of Israel as presented in document IOPC/JUL21/3/1/1.
- 3.2.13 The Executive Committee noted that on 17 February 2021, the Marine Environment Protection Division of the Ministry of Environmental Protection received reports about a massive tar landing along the entire Mediterranean coastline of Israel. It also noted that clean-up operations were carried out by the central government, local authorities and an NGO who was in charge of deployment of some 12 000 volunteers. It further noted that clean-up operations were concluded by April 2021.
- 3.2.14 The Executive Committee recalled that the analysis of the samples of tar balls on the beaches carried out by two Israeli laboratories, showed that the polluting material was crude oil. It also noted that an

investigation by the Israeli Government had ruled out all possible non-ship sources for the coastal oil pollution in Israel.

- 3.2.15 The Executive Committee noted that, taking into account the modelled trajectory of the oil slicks, the Government had concluded that the pollution was caused by a spill from an unidentifiable tanker in a two-to-three-week time frame prior to 17 February 2021.
- 3.2.16 The Executive Committee further noted that the Government of Israel, in the investigation of the vessels potentially responsible for the spill, had identified only one tanker that was likely to be responsible for the spill, the *MT Emerald*. However, it also noted that this conclusion was based only on the circumstantial evidence and that, therefore, there was insufficient proof to establish that it was that specific tanker that caused the pollution of the Israel's coastline.

*Intervention by the delegation of Israel*

- 3.2.17 The delegation of Israel thanked the Director and the Secretariat for their assistance during the incident. That delegation informed the Executive Committee that, apart from the first month of intensive clean-up operations in accordance to their National Contingency Plan, some clean-up operations are still ongoing in some parts of the coastline, in particular rocky shores. They further informed the Executive Committee that, while the clean-up operations were ongoing, the Government of Israel had also commenced an investigation into the source of the incident. That delegation explained that though they had identified the oil as crude oil and had been able to eliminate all sources but one tanker carrying oil as cargo, they could not positively identify the actual ship which had caused the spill.

*Debate*

- 3.2.18 The delegations that took for floor thanked the Director, the Secretariat and the Government of Israel for the detailed documents describing the circumstances of the incident in Israel.
- 3.2.19 All the delegations which took the floor supported the Director's view that the 1992 Civil Liability and Fund Conventions apply to this incident and that, therefore, the Director should be authorised to make compensation payments for admissible claims arising out of this incident.
- 3.2.20 A number of delegations, while agreeing that this incident should fall within the scope of the 1992 Civil Liability and Fund Conventions, asked that the Director keep searching for the source ship, in order to recover any compensation paid by the 1992 Fund, which should have been paid by the shipowner and its insurer under the 1992 CLC.
- 3.2.21 The Chair of the Executive Committee thanked the Director and the delegation of Israel for their documents. She summarised the debate by noting that there was unanimous support for this incident to be considered as within the scope of the 1992 Civil Liability and Fund Conventions, and for the Director to be authorised to make compensation payments for admissible claims arising out of this incident. She further noted that there were a number of delegations which had requested that the Director continue to try to identify the ship which had caused the pollution, in order to pursue recourse actions against the shipowner and/or insurer for the compensation paid by the 1992 Fund.

***1992 Fund Executive Committee decision***

- 3.2.22 The 1992 Fund Executive Committee decided that the 1992 CLC and the 1992 Fund Convention applied to this incident and it authorised the Director to pay compensation in respect of claims arising out of the incident in Israel.
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