



International Oil Pollution  
Compensation Funds

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## THE POTENTIAL IMPACT OF SANCTIONS ON THE INTERNATIONAL LIABILITY AND COMPENSATION REGIME

### CONSEQUENCES OF THE SANCTIONS REGIME ON RUSSIAN ORIGIN PERSISTENT OIL CARRIED BY SEA

Document submitted by the International Group of P&I Clubs

<b>Summary:</b>	This information paper raises awareness of the impact of economic sanctions on the trade in Russian origin persistent oil, the effect of these sanctions on the carriage of such oil and restrictive measures on financial services. The intention of this paper is to raise such awareness for the sole purpose of the workings of the 1992 Civil Liability Convention (CLC) and the 1992 Fund Convention. It also raises awareness of the economic sanctions on Russia that have been introduced by the Member States of the European Union, the United Kingdom and the United States, among others.
<b>Action to be taken:</b>	<u>1992 Fund Assembly</u>  Information to be noted.

## 1 Introduction

### 1.1 Council of European Union Sixth Package of Sanctions

1.1.1 In June 2022, the Council of the European Union (EU) adopted a sixth package of sanctions that, *inter alia*, prohibit the purchase, import or transfer of crude oil and certain petroleum products from Russia to the EU. In summary, Article 3n of Council Regulation 833/2014 as amended, provides:

- ‘1. It shall be prohibited to provide, directly or indirectly [insurance], related to the transport, including through ship-to-ship transfers, to third countries of crude oil or petroleum products as listed in Annex XXV which originate in Russia or which have been exported from Russia.
2. The prohibition in paragraph 1 shall not apply to:
  - (a) the execution until 5 December 2022 of contracts concluded before 4 June 2022, or of ancillary contracts necessary for the execution of such contracts; or
  - (b) the transport of crude oil or petroleum products as listed in Annex XXV where those goods originate in a third country and are only being loaded in, departing from or transiting through Russia, provided that both the origin and the owner of those goods are non-Russian.’

- 1.1.2 EU Member States will be responsible for enforcing the Regulation within their own territories. The European Commission will enforce the Regulation on the Member States. Similar restrictions have been introduced by the Government of the United Kingdom of Great Britain and Northern Ireland (UK) through the Russia (Sanctions) (EU Exit) Regulations 2019, as amended.
- 1.1.3 Since the International Group of Protection & Indemnity (P&I) Clubs (the Clubs) are subject to regulatory supervision and compliance rules in the jurisdictions of the EU, Japan, UK and United States of America (US), they will not have discretion to provide cover for voyages that are prohibited by law. The Clubs rely on claims sharing arrangements, 'the Pool', for claims in excess of USD 10 million up to USD 100 million and, thereafter, a reinsurance programme that is heavily dependent on the participation of reinsurers that are domiciled, regulated and incorporated in multiple jurisdictions including the EU, US and UK. Consequentially, the Clubs and most of their reinsurers are unable to provide insurance and reinsurance services to the extent that such is prohibited by law and notwithstanding, the provisions of the 1992 Civil Liability and Fund Conventions.
- 1.1.4 If the Clubs are prohibited from providing cover, they will be unable to respond to, *inter alia*, a 1969 or 1992 Civil Liability Convention (CLC) claim arising in one or more CLC jurisdictions. These restrictions on the transport of persistent oil of Russian origin clearly impacts on the operation of the 1992 CLC and the provisions in Article VII relating to insurance.

## **2 Effect of EU and UK measures on the Civil Liability Convention and the IOPC Fund Conventions**

### **2.1 Impact on Shipowners**

Post 5 December 2022, the prohibition on the transport of Russian persistent oil will prevent UK and EU incorporated, domiciled or regulated shipowners from loading and transporting such oil which is prohibited under the Regulation(s) from any port of departure to any port of discharge whether within or outside the UK/EU. Non-EU or UK incorporated, domiciled or regulated shipowners will be prohibited from transporting such cargoes to UK/EU destinations but will not be prohibited from transporting cargoes to non-EU destinations. The great majority of such non-EU shipowners currently obtain their P&I cover from one of the International Group member Clubs.

### **2.2 Impact on Insurers**

The prohibitions relating to insurance will prevent EU incorporated, domiciled or regulated insurers and reinsurers from providing insurance and reinsurance cover from 5 December 2022 to any vessel that carries Russian origin persistent oil, regardless of whether these are destined for delivery within or outside the EU. The prohibitions on insurance will not, however, prevent non-EU regulated insurers and reinsurers from providing cover for non-EU incorporated, domiciled or regulated shipowners transporting cargoes to non-EU destinations. Any P&I insurance arrangements which shipowners enter into with non-IG P&I Clubs will not extend to include the voluntary additional compensation provided by shipowners who are members of the International Group, pursuant to the Small Tanker Oil Pollution Indemnification Agreement (STOPIA) 2006 (as amended 2017) and the Tanker Oil Pollution Indemnification Agreement (TOPIA) 2006 (as amended 2017) arrangements (see document 92FUND/A/ES.10/13).

### **2.3 1992 Civil Liability Convention on Blue Cards**

- 2.3.1 Article VII of the 1992 CLC makes insurance or other financial security compulsory for ships carrying more than 2 000 tonnes of persistent oil in bulk as cargo. Such ships must carry a certificate issued by a State as proof of compliance with this requirement. The ship's insurer or provider of financial security will, in the case of an International Group P&I Club, issue a so-called 'Blue Card' which is then used to obtain a certificate from the Flag State of the ship or other 1992 CLC State Party, if the ship is

not registered in a State Party. The Blue Card also provides that the insurer remains financially responsible for three months after notice of cancellation of cover is provided to the Flag State (unless that three-month period is cut short for reasons provided in Article VII). A consequence of the UK/EU sanctions legislation is that an International Group P&I Club will be prohibited from providing cover or meeting claims for pollution damage that results from a voyage deemed to be in breach of the applicable sanctions legislation. The sanctions legislation will, therefore, have a direct impact on the operation of the Article VII(5) and the direct action provision at Article VII(8) of the 1992 CLC.

- 2.3.2 Potentially, there may be a significant financial impact on the 1992 Fund and the Supplementary Fund Member States as a result of the latest UK/EU sanctions on the purchase and transport of Russian persistent oil.

**3 Action to be taken**

1992 Fund Assembly

The 1992 Fund Assembly is invited to take note of the information contained in this document.

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