



International Oil Pollution
Compensation Funds

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1992 Fund Assembly	92A29	
1992 Fund Executive Committee	92EC83	●
Supplementary Fund Assembly	SA21	

INCIDENTS INVOLVING THE IOPC FUNDS — 1992 FUND

BOW JUBAIL

Note by the Secretariat

Objective of document:	To inform the 1992 Fund Executive Committee of the latest developments regarding this incident.
Summary:	<p>On 23 June 2018, the oil and chemical tanker <i>Bow Jubail</i> (23 196 GT) collided with a jetty owned by LBC Tank Terminals in Rotterdam, the Netherlands. As a consequence of the collision, fuel oil from the bunker tanks spilled into the harbour. The ensuing pollution affected vessels in the vicinity, quays and other property, and wildlife.</p> <p>In March 2023, the Supreme Court of the Netherlands confirmed the decisions by the Rotterdam District Court and by the Appeal Court that the <i>Bow Jubail</i> qualified as a ‘ship’ as defined under the 1992 Civil Liability Convention (CLC).</p> <p>As a consequence, the 1992 CLC applies to this incident. The limitation amount applicable under the 1992 CLC is SDR 16 million (EUR 19.66 million)^{<1>}. The owner of the <i>Bow Jubail</i> is a party to the Small Tanker Oil Pollution Indemnification Agreement (STOPIA) 2006 (as amended 2017)^{<2>} whereby the limitation amount applicable to the tanker is increased, on a voluntary basis to SDR 20 million (EUR 24.57 million).</p> <p>Legal actions have been brought by several claimants before the Rotterdam District Court against the shipowner, its insurer (Gard P&I (Bermuda) Ltd) and other parties. The 1992 Fund had been notified or included as a defendant in some of the actions.</p> <p>In June 2023, the shipowner’s P&I Club applied to the Rotterdam District Court to limit its liability under the 1992 CLC to the amount of the 1992 CLC limit, i.e. SDR 15 991 676 (EUR 19.65 million) by way of a Letter of Undertaking (LoU).</p> <p>In October 2023, the Court rejected the application by the shipowner’s P&I Club to limit its liability under the 1992 CLC, indicating that the application should include the interest accrued.</p>

<1> The exchange rates used in this document as at 30 June 2024 are: SDR 1 = £1.03926 and £1 = EUR 1.228720, except in respect of payments made by the 1992 Fund where the conversion has been made at the rate on the date of payment.

<2> From this point forward, references to ‘STOPIA 2006’ should be taken to read ‘STOPIA 2006 (as amended 2017)’.

	<p>In December 2023, the shipowner submitted a new application to the Rotterdam District Court to limit its liability under the 1992 CLC, to an amount which included interest counting from the start of the day after the incident up to the start of the day following which the fund would be constituted.</p>
Recent developments:	<p>In May 2024, the Rotterdam District Court determined the amount of the limitation fund plus interest. The shipowner's P&I Club established the limitation fund plus interest in the amount of SDR 18.9 million (EUR 23.03 million^{<3>} including interest and costs) and paid the sum into Court.</p> <p>The six-year anniversary of the spill occurred on 23 June 2024, in advance of which the 1992 Fund informed those claimants who had not yet commenced action against the Fund of the approaching time bar, and recommended that they should commence legal proceedings to protect their rights.</p> <p>In August 2024, the time limit for claimants to file claims with the limitation fund assessor expired. In total 44 claims were submitted, totalling EUR 30.8 million, USD 1.92 million and NOK 152 070. All but one of the claims reserved the right to amend their claims by the addition of further sums, so as at 2 September 2024, the total sum claimed is unknown, but the 1992 Fund's lawyers have been instructed to try to ascertain this figure as soon as possible.</p> <p>The 1992 Fund and the P&I Club have instructed experts to begin assessing the claims submitted. A court hearing was scheduled for September 2024 for the limitation fund assessor to disclose the progress of his assessments. Given that the claims were only submitted in August 2024, an application was made to adjourn the court hearing until January 2025 to enable further progress to be made.</p>
Relevant documents:	<p>The online Bow Jubail incident report can be found via the Incidents section of the IOPC Funds' website.</p>
Action to be taken:	<p><u>1992 Fund Executive Committee</u></p> <p>Information to be noted.</p>

1 Summary of incident

Ship	<i>Bow Jubail</i>
Date of incident	23.06.2018
Place of incident	Rotterdam, the Netherlands
Cause of incident	Collision with a jetty
Quantity of oil spilled	Approximately 217 tonnes of heavy fuel oil
Area affected	Rotterdam Port, the Netherlands
Flag State of ship	Norway
Gross tonnage	23 196 GT
P&I insurer	Gard P&I (Bermuda) Ltd
1992 CLC limit	SDR 15 991 676 (EUR 19.65 million)
STOPIA/TOPIA applicable	Yes – SDR 20 million (EUR 24.57 million)
1992 CLC + 1992 Fund + Supplementary Fund limit	The limit provided under the three Conventions would be SDR 750 million.

^{<3>} At the rate of SDR 1 = EUR 1.218930, based on the date of establishing the limitation fund.

Legal proceedings	<p>Legal actions have been brought by several claimants before the District Court in Rotterdam against the shipowner, its insurer and other parties. The 1992 Fund has been notified or included as a defendant in some of the actions.</p> <p>In May 2024, the shipowner established the limitation fund, including interest and costs, for this incident under the 1992 CLC before the Rotterdam District Court.</p> <p>In August 2024, the limitation fund assessor received claims from 44 claimants and commenced his assessment of those claims.</p>
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2 Background information

On 23 June 2018, the oil and chemical tanker *Bow Jubail* (23 196 GT) collided with a jetty owned by LBC Tank Terminals in Rotterdam, the Netherlands. As a consequence of the collision, a leak occurred in the area of the starboard bunker tank, resulting in a spill of fuel oil into the harbour. The ensuing pollution affected vessels in the vicinity, quays and other property, and wildlife. Details of the incident can be found in the [Bow Jubail incident report](#) on the IOPC Funds' website.

3 Applicability of the Conventions

- 3.1 The Netherlands is Party to the 1992 Civil Liability and Fund Conventions and the Supplementary Fund Protocol.
- 3.2 The 1992 Civil Liability Convention (CLC) applies to this case, thus the 1992 Fund Convention will also apply to this case. However, it is unlikely that the Supplementary Fund Protocol would apply as the losses are unlikely to exceed the limit of liability under the 1992 Fund Convention.
- 3.3 The ship is insured with Gard P&I (Bermuda) Ltd, which is a member of the International Group of P&I Associations. The limitation amount applicable to the *Bow Jubail* is SDR 15 991 676 (EUR 19.65 million), but the owner of the *Bow Jubail* is a party to STOPIA 2006, whereby the shipowner would indemnify, on a voluntary basis, the 1992 Fund up to SDR 20 million (EUR 24.57 million).

4 Limitation proceedings

4.1 Limitation proceedings under the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention 2001)

Details of the limitation proceedings initially commenced under the Bunkers Convention 2001 can be found in documents [IOPC/MAY23/3/6](#) and [IOPC/MAY23/3/6/1](#).

4.2 Limitation proceedings under the 1992 CLC

- 4.2.1 In June 2023, the shipowner applied before the Rotterdam District Court for leave to limit its liability in accordance with the 1992 CLC, requesting to establish a limitation fund in the form of a LoU issued by the shipowner's insurer, Gard P&I (Bermuda) Ltd for the 1992 CLC amount.
- 4.2.2 The first hearing of the Rotterdam District Court was held in September 2023. The 1992 Fund attended the hearing with the Fund's lawyers, since it was expected that the liability arising out of this incident would exceed the 1992 CLC limit.

- 4.2.3 In October 2023, the Rotterdam District Court rejected the application, indicating that the application to limit liability under the 1992 CLC should include the interest accrued over the period between the date of the incident and the date the limitation fund was set up. It then informed the shipowner that they could either amend their application to increase the amount of the limitation to include interest, or submit another application which included the interest.
- 4.2.4 In December 2023, the shipowner submitted a new application to limit its liability under the 1992 CLC, to an amount which included interest counting from the start of the day after the incident up to the start of the day following which the fund would be constituted.
- 4.2.5 In May 2024, the Rotterdam District Court accepted the shipowner's amended application to increase the amount of the limitation to include interest, and the sum of EUR 23.03 million (including interest and costs) was paid into Court.

5 Civil proceedings

- 5.1 A total of 29 legal actions were brought by 57 claimants before the Rotterdam District Court against the shipowner, its insurer and other parties, in order to protect their right to receive compensation in case the Supreme Court decided the *Bow Jubail* qualified as a 'ship' under the 1992 CLC. The 1992 Fund has been notified of all the actions and has been included as a defendant in most of them. Given the decision of the Supreme Court in March 2023, these claims have now been filed in the limitation proceedings.
- 5.3 In August 2024, the time limit for claimants to file claims before the limitation fund assessor expired. A total of 44 claims were filed for EUR 30.8 million, USD 1.8 million and NOK 152 070. All but one of the claims reserved the right to amend their claims by the addition of further sums, so at present the total sum claimed is still unknown. The 1992 Fund's lawyers have been instructed to try to ascertain this figure as soon as possible.
- 5.4 In a preliminary review of the amounts claimed by the parties whose claims are not time-barred, the total provisional estimate appears close to EUR 60 million (£52 million) bearing in mind that not all claimants have quantified their damages in full. The amount claimed as at 2 September 2024 is already well in excess of the 1992 CLC limit, as well as in excess of the indemnity that the shipowner would provide to the 1992 Fund under STOPIA 2006 which is SDR 20 million (EUR 24.57 million).
- 5.5 The majority of the claims submitted consist of demurrage (delay) and detention costs due to the temporary closure of port areas, which stopped cargo ships entering or leaving the port. Other examples of damages which have been claimed include the costs of cleaning ships and loss of profit and turnover of claimants' shipping activities due to the temporary closure of the contaminated port.
- 5.6 A court hearing had been set for September 2024 for the limitation fund assessor to report on the progress of assessing claims, but given the short time period between the claims and supporting documents being provided to the limitation fund assessor, and the proposed court hearing date, an application was made to adjourn the hearing date until January 2025, to enable some progress to be made in assessing the claims. As at 2 September 2024, the decision regarding the adjournment of the application is still awaited.
- 5.7 The 1992 Fund Secretariat has met several times with the P&I Club and the lawyers and surveyors to discuss the progress and assessments of the claims submitted.

6 Director's considerations

- 6.1 The *Bow Jubail* incident occurred on 23 June 2018. Due to the legal proceedings under the Bunkers Convention 2001 and the late involvement of the 1992 Fund in the case, as at 2 September 2024 no settlement of claims has been made, but experts are assessing the claims submitted to the limitation fund assessor.
- 6.2 The 1992 Fund was notified of the limitation proceedings brought against the shipowner within three years from the date when the damage occurred. Consequently, the IOPC Funds informed those claimants who only notified the Fund of their claims that they should have commenced a lawsuit by 23 June 2024, to protect their rights.
- 6.3 A total of 44 claims have been submitted to the limitation fund assessor. The 1992 Fund's lawyers are checking to ascertain whether all claims have been filed against the 1992 Fund within the relevant time bar, and whether there is any difference between claims filed against the 1992 Fund and those filed with the limitation fund assessor.
- 6.4 At its May 2023 session, the 1992 Fund Executive Committee authorised the Director to sign an Interim Payment Agreement with the Gard Club (Bermuda) Ltd, and to apply it retrospectively to the amounts approved by the 1992 Fund and paid by the Club prior to the signature of the Agreement, so that those payments are considered as interim payments of established losses which fall within the provisions of the Agreement (see document [IOPC/MAY23/9/1](#), paragraph 3.6.32).
- 6.5 As at 2 September 2024, this Agreement has not yet been signed, as the situation with respect to the shipowner's application to limit its liability has only recently been finalised. Talks continue with the Gard Club (Bermuda) Ltd concerning the management of the incident.
- 6.6 The Director will report on further developments at the next session of the 1992 Fund Executive Committee.

7 Action to be taken

1992 Fund Executive Committee

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