INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUNDS

IOPC/2014/Circ.7	
11 December 2014	
1992 Fund	●
Supplementary Fund	●

Nomination of candidates for the position of External Auditor of the International Oil Pollution Compensation Funds

The Director has the honour to notify Member States that the term of office of the present External Auditor of the International Oil Pollution Compensation Funds, the Comptroller & Auditor General of the United Kingdom, as head of the National Audit Office, covers the financial years 2011-2015 inclusive. It will therefore be necessary for the 1992 Fund Assembly and the Supplementary Fund Assembly at their regular sessions in October 2015 to appoint a new External Auditor to fill the vacant position and to audit the Financial Statements from 1 January 2016 for such a period as the governing bodies deem appropriate. The External Audit appointment has traditionally been made for a period of four years but may be renewed. Financial Regulation 14.1 of the 1992 Fund and the Supplementary Fund (as amended at the October 2014 sessions of the Funds' governing bodies) requires that the External Auditor shall be the Auditor-General (or officer holding the equivalent title) of a Member State or a commercial firm with the requisite capabilities nominated by a Member State or identified by the Audit Body.

A tender brief is at Annex I. Detailed information on the IOPC Funds is available on the Funds' website (www.iopcfunds.org).

The deadline for the submission of nominations by Member States to the IOPC Funds' Secretariat is **30 January 2015** and resulting tenders should be submitted no later than **13 March 2015**. Meetings with the Secretariat for the purpose of familiarisation, if so desired, will take place between the beginning of January 2015 and the end of February 2015 in order to allow both the Secretariat and candidates reasonable flexibility in scheduling any such meetings.

Tenders received by the closing date will be considered by the IOPC Funds' joint Audit Body at its April 2015 meeting. Candidates shortlisted at this meeting will be asked to make themselves available for interview by the Audit Body in London in early June 2015. The Chairpersons of the 1992 Fund Assembly and the Supplementary Fund Assembly will also be invited to attend these interviews. The Audit Body will then provide a recommendation to the governing bodies of the respective Organisations at their October 2015 meetings as to the selection of the External Auditor, including a proposal as to the length of the term of office (currently four years).

At their October 2015 sessions, the governing bodies will then appoint the External Auditor to audit the Financial Statements from 1 January 2016 for such a period as the governing bodies deem appropriate.

For ease of reference, a timetable for the appointment of the External Auditor is at Annex II and an overview of the IOPC Funds set out at Annex III.

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ANNEX I

NOMINATION OF CANDIDATES FOR THE POSITION OF EXTERNAL AUDITOR OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS

TENDER BRIEF

This note and the accompanying papers have been prepared to assist prospective candidates in understanding the external audit tender process.

International Oil Pollution Compensation Funds

The International Oil Pollution Compensation Funds (IOPC Funds) are intergovernmental organisations which provide compensation for oil pollution damage resulting from spills of persistent oil from tankers.[<1>] The current oil pollution compensation regime operates within the framework of the 1992 Civil Liability Convention and the 1992 Fund Convention which entered into force on 30 May 1996. The International Oil Pollution Compensation Fund 1992 (1992 Fund) was set up under the 1992 Fund Convention.

A Protocol to the 1992 Fund Convention adopted in 2003 resulted in the establishment of the International Oil Pollution Compensation Supplementary Fund 2003 (Supplementary Fund), which provides an optional third tier of compensation. The Protocol entered into force on 3 March 2005. Any State Party to the 1992 Fund Convention may become Party to the Protocol and thereby become a Member of the Supplementary Fund.

The IOPC Funds have a joint Secretariat, administered by the 1992 Fund, which is based in London and headed by one Director. As at 1 November 2014 the Secretariat had 34 established posts. The Funds use external consultants to provide advice on legal and technical matters as well as on matters relating to management. In connection with a number of major incidents the Funds and the shipowner's third party liability insurer involved have jointly established local claims offices to facilitate the efficient handling of the great numbers of claims submitted and in general to assist claimants.

An overview of the IOPC Funds is set out in Annex III and additional information can be found on the IOPC Funds' website (www.iopcfunds.org). The audited 2013 Financial Statements for the IOPC Funds can be found on the 'Structure' page of the 'About Us' section of the IOPC Funds website.

Activities of the Funds

The IOPC Funds publish an Annual Report which includes an overview of the Funds, recent developments in oil spill incidents, financial statements, membership details and the decisions of the governing bodies. The Annual Report and Incident Report for 2013 are available under the 'Publications' section of the IOPC Funds' website.

[<1>] At its October 2014 session, the 1971 Fund Administrative Council decided that the original International Oil Pollution Compensation Fund (1971 Fund), which was established in 1978, would, with effect from the expiry of the last day of the financial year 2014 (31 December 2014), be dissolved and its legal personality cease to exist.

Financial Regulations and Internal Regulations

The Rules and Regulations of the IOPC Funds, including the Financial and Internal Regulations, are available on the IOPC Funds' website under the 'Structure' page within the 'About Us' section. It will be seen that Section 14 of the Financial Regulations deals specifically with matters relating to the external audit. Prospective candidates are also invited to familiarise themselves with the other sections of both the Financial and Internal Regulations.

Audit Body

The Audit Body was established by the governing bodies of the IOPC Funds in October 2002 to carry out the functions of an audit committee. From the Audit Body's Composition and Mandate, which is annexed to the above-mentioned Financial Regulations, it will be seen that the Mandate extends beyond the scope of the external audit. The Audit Body normally meets three times a year and it seeks to work closely with the External Auditor in order to understand the focus of audit work at the planning stage and to understand the conclusions subsequently reached and any issues arising. In this regard, the Audit Body and External Auditor hold two closed sessions a year. It should also be noted that, at its second meeting, held in March 2003, the Audit Body decided that, given the size of the Organisations, there was no need for an internal audit function.

The Audit Body is responsible for reviewing the tenders received from nominated candidates. The review by the Audit Body is likely to include a request for attendance at interview for shortlisted candidates. The Audit Body will subsequently make a recommendation to the October 2015 sessions of the governing bodies of the Funds for the appointment of the External Auditor to the Funds, including the length of the term of office. The timetable for appointment of the External Auditor to the IOPC Funds (from the financial year (calendar year) 2016 for such a period as the governing bodies deem appropriate) is attached as Annex II.

Audit approach

As stated in Regulation 12.1 of the IOPC Funds' Financial Regulations, the financial statements are prepared in accordance with the Financial Regulations and stated accounting policies and in compliance with International Public Sector Accounting Standards, where appropriate.

The External Auditor is expected to monitor the financial aspects of the Secretariat's activities, to ensure that all income and expenditure has been properly accounted for. This includes the financial aspects of the claims handling procedures, whether carried out in London or, as often occurs when there are major oil pollution incidents involving the Funds, at local claims offices set up by the Funds to assist in the claims handling process and to help claimants understand the compensation regime.

The scope of the external audit coverage currently extends to all incomings and outgoings related to the Secretariat and all items appearing on the balance sheet, together with oversight of the financial control procedures maintained to provide assurance that claims handling is conducted appropriately and conscientiously. The external audit does not extend to reviewing the settlements reached in relation to specific incidents as this is specialised work which is unlikely to fall within the normal expertise of an External Auditor.

Candidates should include in their written submission in detail how they would propose to approach and conduct the audit of the Funds. It should also include an indication of the number and level of staff to be involved in the audit and of the expected duration(s) of on-site working. Although the submission may be written in any of the three official languages of the Funds, ie English, French and Spanish, the working language of the accounting function of the Funds, and that of the Audit Body is English and so candidates should be able to demonstrate their ability to work in this language.

Staffing

The tender document should provide details of the national and international activities of the audit office tendering for the position as well as the range of audit activities envisaged and the resources and audit specialities that could be of benefit to the Funds. Commercial firms nominated by Member States should provide details of the key personnel to be allocated to the assignment, including an indication of their previous experience.

The Funds seek a balance of continuity and experience within the External Audit team along with some injection of fresh minds and initiatives. Thus the likely duration of availability of key members of the audit team to remain involved in the audit should be indicated.

Costs

The tender documents should set out the proposed audit fee (expressed in Pounds sterling) and an estimate of the total number of auditor-days, analysed by grade of staff, which would be devoted to the audit of the 2016 Financial Statements of each Fund. The documents should indicate whether these fees are inclusive of anticipated secretarial and other support costs, and travel and accommodation expenses of the External Auditor and his/her staff should they not be based in London. The resource plan should also include attendance at meetings of the Audit Body which usually occur in March/April, June and December each year and at the regular sessions of the governing bodies of the Funds which take place in October each year (a total of at least four full days of attendance at these meetings should be included). Any other assumptions made in determining costs should be stated.

Any additional costs incurred by the successful candidate in gaining initial familiarisation with the accounting systems and procedures of the Funds will need to be absorbed within the normal audit fees applicable in the first year of appointment. Any candidate who does not accept this approach should make that clear within their tender documents, and indicate what additional costs they seek to recover. The term of the appointment is determined by the Funds' governing bodies; however, candidates should initially assume a four year term of office and should indicate proposed fee levels for each year, setting out any assumptions made as to scope of work and resources allocated to the engagement.

Confidentiality

The Funds operate in numerous jurisdictions and documentation is subject to strict confidentiality. Candidates should provide formal written confirmation that complete confidentiality of all documentation of the Funds will be guaranteed in all jurisdictions where the relevant information/document is present and that there are no circumstances such as freedom of information legislation (whether applicable in the Member State or elsewhere) or use of sub-contracted staff which could cause this confidentiality to be breached.

Further details

The Secretariat would be pleased to provide any further information or clarification that may be required. Interested candidates may, if they so wish, make arrangements to meet the Secretariat during January and February 2015 in order to learn the way the financial systems operate and to familiarise themselves with audit arrangements.

Deadline for submission of tenders

Nominations or indication of interest should reach the IOPC Funds' Secretariat as early as possible, and in any case not later than 30 January 2015, and written tenders should reach the IOPC Funds' Secretariat no later than 13 March 2015, in order to allow sufficient time for review, shortlisting and possible interview and/or further inquiries and subsequent forwarding of the Audit Body's recommendation for consideration by the governing bodies in October 2015.

Interviews for those candidates who are shortlisted will take place in early June 2015.

Factors and criteria for selection of the External Auditor

The list of factors which follow are intended to assist candidates to know the matters which the Audit Body expects to use as the framework for its evaluation.

Required factors:

- Audit organisation must be Auditor-General (or equivalent organisation) of a Member State or a commercial audit firm with the requisite capabilities, nominated by a 1992 Fund Member State or identified by the Audit Body;
- Experience of auditing financial statements prepared under International Public Sector Accounting Standards;
- Identification of the key issues relevant to the IOPC Funds ;
- Appreciation of the distinct roles of the Secretariat, the Audit Body, the Investment Advisory Body and the Funds' governing bodies, and hence of the appropriate relationships with each;
- Understanding of the Funds' Financial and Internal Regulations, the budgetary process, the risk management process, the procurement process and the claims-handling process, and an ability to develop an audit approach which takes account of these existing processes and disciplines;
- Relevant experience of auditing organisations comparable with the IOPC Funds;
- Robustness and professional competence of the people who lead the team;
- Reasonable continuity assured for key persons yet with some rotation acceptable at the more junior levels;
- Transparency of the audit fee and value for money;
- Appropriate transitional arrangements; and
- All Audit Body meetings and associated papers are in English so the audit organisation must be able to communicate effectively in this language.

Desired factors:

- Economy in use of the Secretariat's time given its available resources;
- Clarity and conciseness of communications and ability to build trust and confidence;
- Service and communication 'philosophy', preparedness, enthusiasm, follow-up;
- Availability, and experience in use, of electronic audit techniques;
- Commitment to continuous review and improvement and demonstration of past innovation; and
- Constructive attitude to problem solving – not just the technical complexities and requirements of the audit process and function.

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ANNEX II

TIMETABLE FOR APPOINTMENT OF THE EXTERNAL AUDITOR TO THE IOPC FUNDS

October 2014	Governing bodies instruct the Director to invite tender proposals from interested candidates for appointment as the IOPC Funds' External Auditor.
December 2014	Director invites nominations from all 1992 Fund Member States and commercial firms with the requisite capabilities identified by the Audit Body.
January-February 2015	Familiarisation meetings between the Secretariat and external audit candidates as required.
30 January 2015	Deadline for submission of nominations by Member States and formal notification of intent from commercial firms with the requisite capabilities identified by the Audit Body (not tenders).
13 March 2015	Tender submission deadline for both Member States and commercial firms.
April 2015	Shortlisting of candidates at meeting of the Audit Body. Selected candidates to be invited to attend for interview in June 2015.
June 2015	Interview of shortlisted candidates. Selection of External Auditor to be recommended to governing bodies for approval at October 2015 sessions.
October 2015	Governing bodies appoint External Auditor to audit Financial Statements for the years 2016-2019 (inclusive) (or for any such other period as may be decided by the governing bodies).
2016	Audit of 2015 Financial Statements by current External Auditor.
October 2016	Current External Auditor presents their report on the 2015 Financial Statements to the governing bodies. Responsibility of current External Auditor ceases on presentation of this report.
December 2016	External audit strategy for audit of 2016 Financial Statements is discussed at meeting of the Audit Body with the new External Auditor.
2017	Audit of 2016 Financial Statements by the new External Auditor.

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ANNEX III

INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS

'Providing compensation for oil pollution damage resulting from spills of persistent oil from tankers.'

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THE INTERNATIONAL REGIME FOR COMPENSATION FOR OIL POLLUTION DAMAGE

Explanatory note

December 2014

INTRODUCTION

Compensation for pollution damage caused by spills from oil tankers is governed by an international regime elaborated under the auspices of the International Maritime Organization (IMO). The framework for the regime was originally the 1969 International Convention on Civil Liability for Oil Pollution Damage (1969 Civil Liability Convention) and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (1971 Fund Convention). This 'old' regime was amended in 1992 by two Protocols, and the amended Conventions are known as the 1992 Civil Liability Convention and the 1992 Fund Convention. The 1992 Conventions entered into force on 30 May 1996.

The 1971 Fund Convention ceased to be in force on 24 May 2002 and the International Oil Pollution Compensation Fund 1971 (1971 Fund) will be dissolved and its legal personality will cease to exist with effect from 31 December 2014. A large number of States have also denounced the 1969 Civil Liability Convention. Therefore this note deals with the 'new regime', ie the 1992 Civil Liability Convention and the 1992 Fund Convention.

The **1992 Civil Liability Convention** governs the liability of shipowners for oil pollution damage. The Convention lays down the principle of strict liability for shipowners and creates a system of compulsory liability insurance. The shipowner is normally entitled to limit his liability to an amount which is linked to the tonnage of his ship.

The **1992 Fund Convention**, which is supplementary to the 1992 Civil Liability Convention, establishes a regime for compensating victims when the compensation under the applicable Civil Liability Convention is inadequate. The **International Oil Pollution Compensation Fund 1992,** generally referred to as the **IOPC Fund 1992** or the **1992 Fund** was set up under the 1992 Fund Convention. The 1992 Fund is a worldwide intergovernmental organisation established for the purpose of administering the regime of compensation created by the 1992 Fund Convention. By becoming Party to the 1992 Fund Convention, a State becomes a Member of the 1992 Fund. The Organisation has its headquarters in London.

As at 1 December 2014, 133 States had ratified or acceded to the 1992 Civil Liability Convention, and 114 States had ratified or acceded to the 1992 Fund Convention. The States Parties are listed in the Annex.

1992 CIVIL LIABILITY CONVENTION

Scope of application

The 1992 Civil Liability Convention applies to **oil pollution damage** resulting from spills of **persistent** oil from **tankers**.

The 1992 Civil Liability Convention covers pollution damage suffered in the **territory, territorial sea or exclusive economic zone (EEZ)** or equivalent area of a State Party to the Convention. The flag State of the tanker and the nationality of the shipowner are irrelevant for determining the scope of application.

'**Pollution damage**' is defined as loss or damage caused by contamination. In the case of environmental damage (other than loss of profit from impairment of the environment) compensation is restricted to costs actually incurred or to be incurred for reasonable measures to reinstate the contaminated environment.

The notion of pollution damage includes measures, wherever taken, to prevent or minimise pollution damage in the territory, territorial sea or EEZ or equivalent area of a State Party to the Convention ('**preventive measures**'). Expenses incurred for preventive measures are recoverable even when no spill of oil occurs, provided that there was a grave and imminent threat of pollution damage.

The 1992 Civil Liability Convention covers spills of **cargo and/or bunker oil** from laden, and in some cases unladen sea-going vessels constructed or adapted to carry oil in bulk as cargo (but not to dry cargo ships).

Damage caused by **non-persistent oil,** such as gasoline, light diesel oil, kerosene etc, is not covered by the 1992 Civil Liability Convention.

Strict liability

The owner of a tanker has strict liability (ie he is liable also in the absence of fault) for pollution damage caused by oil spilled from his tanker as a result of an incident. He is exempt from liability under the 1992 Civil Liability Convention only if he proves that:

a) the damage resulted from an act of war or a grave natural disaster, or
b) the damage was wholly caused by sabotage by a third party, or
c) the damage was wholly caused by the negligence of public authorities in maintaining lights or other navigational aids.

Limitation of liability

The shipowner is normally entitled to limit his liability under the 1992 Civil Liability Convention. The limits were increased by some 50.37% on 1 November 2003 as follows. The increased limits apply to incidents occurring on or after that date:

a) for a ship not exceeding 5 000 units of gross tonnage, 4 510 000 Special Drawing Rights (SDR) (US$6.60 million);
b) for a ship with a tonnage between 5 000 and 140 000 units of tonnage, 4 510 000 SDR (US$6.60 million) plus 631 SDR (US$924) for each additional unit of tonnage; and
c) for a ship of 140 000 units of tonnage or over, 89 770 000 SDR (US$131.3 million)[<1>].

[<1>] The unit of account in the 1992 Conventions is the Special Drawing Right (SDR) as defined by the International Monetary Fund. In this document, the SDR has been converted into US dollars at the rate of exchange applicable on 1 December 2014 ie 1 SDR = US$ 1.463550.

If it is proved that the pollution damage resulted from the shipowner's personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result, the shipowner is deprived of the right to limit his liability.

Channelling of liability

Claims for pollution damage under the 1992 Civil Liability Convention can be made only against the registered owner of the tanker concerned. This does not preclude victims from claiming compensation outside this Convention from persons other than the owner. However, the Convention prohibits claims against the servants or agents of the owner, members of the crew, the pilot, the charterer (including bareboat charterer), manager or operator of the ship, or any person carrying out salvage operations or preventive measures. The owner is entitled to take recourse action against third parties in accordance with national law.

Compulsory insurance

The owner of a tanker carrying more than 2 000 tonnes of persistent oil as cargo is obliged to maintain insurance to cover his liability under the 1992 Civil Liability Convention. Tankers must carry a certificate on board attesting the insurance coverage. When entering or leaving a port or terminal installation of a State Party to the 1992 Civil Liability Convention, such a certificate is required also for ships flying the flag of a State which is not Party to the 1992 Civil Liability Convention.

Claims for pollution damage under the 1992 Civil Liability Convention may be brought directly against the insurer or other person providing financial security for the owner's liability for pollution damage.

Competence of courts

Actions for compensation under the 1992 Civil Liability Convention against the shipowner or his insurer may only be brought before the Courts of the State Party to that Convention in whose territory, territorial sea or EEZ or equivalent area the damage occurred.

1992 FUND CONVENTION

Supplementary compensation

The 1992 Fund pays compensation to those suffering oil pollution damage in a State Party to the 1992 Fund Convention who do not obtain full compensation under the 1992 Civil Liability Convention for one of the following reasons:

a) the shipowner is exempt from liability under the 1992 Civil Liability Convention because he can invoke one of the exemptions under that Convention; or
b) the shipowner is financially incapable of meeting his obligations under the 1992 Civil Liability Convention in full and his insurance is insufficient to satisfy the claims for compensation for pollution damage; or
c) the damage exceeds the shipowner's liability under the 1992 Civil Liability Convention.

In order to become Parties to the 1992 Fund Convention, States must also become Parties to the 1992 Civil Liability Convention.

The 1992 Fund does not pay compensation if:

a) the damage occurred in a State which was not a Member of the 1992 Fund; or
b) the pollution damage resulted from an act of war or was caused by a spill from a warship; or
c) the claimant cannot prove that the damage resulted from an incident involving one or more ships as defined (ie a sea-going vessel or seaborne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo).

Limit of compensation

The maximum amount payable by the 1992 Fund in respect of an incident occurring before 1 November 2003 was 135 million SDR (US$197 million), including the sum actually paid by the shipowner (or his insurer) under the 1992 Civil Liability Convention. The limit was increased by some 50.37% to 203 million SDR (US$297.1 million) on 1 November 2003. The increased limit applies only to incidents occurring on or after this date.

Competence of courts

Actions for compensation under the 1992 Fund Convention against the 1992 Fund may only be brought before the Courts of the State Party to that Convention in whose territory, territorial sea or EEZ or equivalent area the damage occurred.

Experience in past incidents has shown that most claims are settled out of court.

Organisation of the 1992 Fund

The 1992 Fund has an **Assembly**, which is composed of representatives of all Member States. The Assembly is the supreme organ governing the 1992 Fund, and it holds regular sessions once a year. The Assembly elects an **Executive Committee** comprising 15 Member States. The main function of this Committee is to approve settlements of claims.

The 1992 Fund shares a Secretariat with the 1971 Fund and the Supplementary Fund (see sections 4 and 6.2 below). The joint Secretariat is headed by a Director, and has at present 25 staff members.

Financing of the 1992 Fund

The 1992 Fund is financed by contributions levied on any person who has received in one calendar year more than 150 000 tonnes of crude oil and heavy fuel oil (**contributing oil**) in a State Party to the 1992 Fund Convention.

Basis of Contributions

The levy of contributions is based on reports of oil receipts in respect of individual contributors. Member States are required to communicate every year to the 1992 Fund the name and address of any person in that State who is liable to contribute, as well as the quantity of contributing oil received by any such person. This applies whether the receiver of oil is a Government authority, a State-owned company or a private company. Except in the case of associated persons (subsidiaries and commonly controlled entities), only persons having received more than 150 000 tonnes of contributing oil in the relevant year should be reported.

Oil is counted for contribution purposes each time it is received at a port or terminal installation in a Member State after carriage by sea. The term **received** refers to receipt into tankage or storage immediately after carriage by sea. The place of loading is irrelevant in this context; the oil may be imported from abroad, carried from another port in the same State or transported by ship from an off-shore production rig. Also oil received for transhipment to another port or received for further transport by pipeline is considered received for contribution purposes.

Payment of Contributions

Annual contributions are levied by the 1992 Fund to meet the anticipated payments of compensation and administrative expenses during the coming year. The amount levied is decided each year by the Assembly. The 1992 Fund has a General Fund which covers expenses for administration. The General Fund also covers compensation payments and claims-related expenditure, to the extent that the aggregate amount payable by the Fund does not exceed a given amount per incident (4 million SDR). If an incident gives rise to substantial payments of compensation and claims-related expenditure by the 1992 Fund, a Major Claims Fund is established to cover payments in excess of the amount payable from the General Fund for that incident.

The Director issues an invoice to each contributor, following the decision taken by the Assembly to levy annual contributions. Each contributor pays a specified amount per tonne of contributing oil received. A system of deferred invoicing exists whereby the Assembly fixes the total amount to be levied in contributions for a given calendar year, but decides that only a specific lower total amount should be invoiced for payment by 1 March in the following year, the remaining amount, or a part thereof, to be invoiced later in the year if it should prove to be necessary.

The contributions are payable by the individual contributors directly to the 1992 Fund. A State is not responsible for the payment of contributions levied on contributors in that State, unless it has voluntarily accepted such responsibility.

Level of Contributions

Payments made by the 1992 Fund in respect of claims for compensation for oil pollution damage may vary considerably from year to year, resulting in fluctuating levels of contributions. The following table sets out the contributions levied by the 1992 Fund during the period 1996-2014.

Annual contributions	Date due	Total contribution (£)	Contribution per tonne of contributing oil (£)
1996	01.02.1997 01.09.1997	4 000 000 10 000 000	0.0110440 0.0188066
1997	01.02.1998 *Maximum deferred levy*	9 500 000 *30 000 000*	0.0142952 *(No deferred levy made)*
1998	01.02.1999 01.09.1999	28 200 000 9 000 000	0.0400684 0.0134974
1999	01.09.2000	53 000 000	0.0552651
2000	01.03.2001 *Maximum deferred levy*	49 500 000 *43 000 000*	0.0545770 *(No deferred levy made)*
2001	01.03.2002 *Maximum deferred levy*	41 000 000 *21 000 000*	0.0428439 *(No deferred levy made)*
2002	01.03.2003	31 000 000	0.0274055
2003	01.03.2004 *Maximum deferred levy*	82 000 000 *40 500 000*	0.0605038 *(No deferred levy made)*
2004	01.03.2005	38 400 000	0.0282410
2005	01.03.2006 *Maximum deferred levy*	0 *5 500 000*	 *(No deferred levy made)*
2006	01.03.2007	3 000 000	0.0020156
2007	01.03.2008	3 000 000	0.0019699
2008	01.11.2008 01.03.2009 *Maximum deferred levy*	50 000 000 10 000 000 *85 500 000*	0.0328304 0.0064870 *(No deferred levy made)*
2009	01.03.2010 *Maximum deferred levy*	0 *95 000 000*	 *(No deferred levy made)*
2010	01.03.2011 *Maximum deferred levy*	53 800 000 *65 000 000*	0.0351858
2011	01.03.2012 *Maximum deferred levy*	43 500 000 *5 500 000*	0.0290893
2012	01.03.2013 *Maximum deferred levy*	5 000 000 *20 000 000*	0.0032582
2013	01.03.2014	13 300 000	0.0088398
2014	01.03.2015	3 800 000	0.0024869

Reimbursements to contributors

On closure of a Major Claims Fund when all claims and expenses for the incident have been settled, the balance of the Major Claims Fund is repaid to the contributors. The reimbursements from 1996-2014 are set out in the table below.

Major Claims Fund	Date due	Total reimbursement (£)	Reimbursement per tonne of contributing oil (£)
Nakhodka	01.03.2004	37 700 000	0.0568302
Osung N°3	01.03.2004	3 700 000	0.0056367
Nakhodka	01.03.2005	600 000	0.0009048
Erika	01.03.2012	25 000 000	0.0224042
Erika	01.03.2014	26 200 000	0.0234796

INTERNATIONAL OIL POLLUTION COMPENSATION SUPPLEMENTARY FUND

On 3 March 2005 a third tier of compensation was established by means of a Supplementary Fund under a Protocol adopted in 2003. So far 31 States have ratified or acceded to the Protocol.

The Supplementary Fund provides additional compensation over and above that available under the 1992 Fund Convention for pollution damage in the States that become Parties to the Protocol. As a result, the total amount available for compensation for each incident for pollution damage in the States which become Members of the Supplementary Fund is 750 million SDR (US$1 097 million), including the amounts payable under the 1992 Civil Liability Convention and the 1992 Fund Convention, 203 million SDR (US$297.1 million).

The Supplementary Fund only pays compensation for pollution damage for incidents which occur after the Protocol has entered into force for the State concerned.

Membership of the Supplementary Fund is optional and any State which is a Member of the 1992 Fund may join the Supplementary Fund.

Annual contributions to the Supplementary Fund will be made in respect of each Member State by any person who, in any calendar year, has received total quantities of oil exceeding 150 000 tonnes after sea transport in ports and terminal installations in that State. However, the contribution system for the Supplementary Fund differs from that of the 1992 Fund in that, for the purpose of paying contributions, at least 1 million tonnes of contributing oil will be deemed to have been received each year in each Member State.

The Supplementary Fund has a General Fund which only covers administrative expenses, and so a Claims Fund will be set up for any incident for which the Supplementary Fund has to pay compensation. No incidents have occurred which have involved the Supplementary Fund. The following table sets out the contributions levied in 2006 to meet the Supplementary Fund's administrative expenses:

Annual contributions	Date due	Total contribution (£)	Contribution per tonne of contributing oil (£)
2006	01.03.2007	1 400 000	0.0017223

The Supplementary Fund, which is administered by the 1992 Fund Secretariat (see section 3.4), has its own Assembly composed of representatives of its Member States.

STOPIA 2006 AND TOPIA 2006

The two-tier international compensation regime created by the 1992 Civil Liability and Fund Conventions was intended to ensure an equitable sharing of the economic consequences of marine oil spills from tankers between the shipping and oil industries. In order to address the imbalance created by the establishment of the Supplementary Fund, which will be financed by the oil industry, the International Group of P&I Clubs (a group of 13 mutual insurers that between them provide liability insurance for about 98% of the world's tanker tonnage) has introduced, on a voluntary basis, a compensation package consisting of two agreements, the Small Tanker Oil Pollution Indemnification Agreement (STOPIA) 2006 (STOPIA 2006), and the Tanker Oil Pollution Indemnification Agreement (TOPIA) 2006 (TOPIA 2006). These contractually-binding agreements entered into force on 20 February 2006.

The 1992 Fund and the Supplementary Fund will in respect of incidents covered by STOPIA 2006 and TOPIA 2006 continue to be liable to compensate claimants in accordance with the 1992 Fund Convention and the Supplementary Fund Protocol respectively. The Funds will then be indemnified by the shipowner in accordance with STOPIA 2006 and TOPIA 2006. Under STOPIA 2006 the limitation amount is increased on a voluntary basis to 20 million SDR (US$29.2 million) for tankers up to 29 548 gross tonnage for damage in 1992 Fund Member States. Under TOPIA 2006, the Supplementary Fund is entitled to indemnification by the shipowner of 50% of the compensation payments it has made to claimants if the incident involved a ship covered by the agreement.

STOPIA 2006 and TOPIA 2006 also provide that a review should be carried out after ten years of the experience of pollution damage claims during the period 2006-2016, and thereafter at five-year intervals.

CONCLUSIONS

The advantages for a State being Party to the 1992 Civil Liability Convention and the 1992 Fund Convention can be summarised as follows. If a pollution incident occurs involving a tanker, compensation is available to governments or other authorities which have incurred costs for clean-up operations or preventive measures and to private bodies or individuals who have suffered damage as a result of the pollution. For example, fishermen whose nets have become polluted are entitled to compensation, and compensation for loss of income is payable to fishermen and to hoteliers at seaside resorts. This is independent of the flag of the tanker, the ownership of the oil or the place where the incident occurred, provided that the damage is suffered within a State Party.

The 1992 Civil Liability Convention and the 1992 Fund Convention provide a wider scope of application on several points and much higher limits of compensation than the Conventions in their original versions. For these reasons, it is recommended that States which have not already done so should accede to the 1992 Protocols to the Civil Liability Convention and the Fund Convention (and not to the 1969 Convention) and thereby become Parties to the Conventions as amended by the Protocols (the 1992 Conventions). The 1992 Conventions would enter into force for the State in question 12 months after the deposit of its instrument(s) of accession.

States which are already Parties to the 1969 Civil Liability Convention are advised to denounce that Convention at the same time as they deposit their instruments in respect of the 1992 Protocols, so that the denunciation of that Convention would take effect on the same day as the 1992 Protocols enter into force for that State.

As regards the Supplementary Fund Protocol, a State will have to consider whether, in the light of its particular situation, ratification of or accession to the Protocol is in the interests of that State.

* * *

ANNEX

States Parties to both the
1992 Civil Liability Convention and the
1992 Fund Convention
as at 1 December 2014
(and therefore Members of the 1992 Fund)

113 States for which 1992 Fund Convention is in force		
Albania	Greece	Papua New Guinea
Algeria	Grenada	Philippines
Angola	Guinea	Poland
Antigua and Barbuda	Hungary	Portugal
Argentina	Iceland	Qatar
Australia	India	Republic of Korea
Bahamas	Ireland	Russian Federation
Bahrain	Islamic Republic of Iran	Saint Kitts and Nevis
Barbados	Israel	Saint Lucia
Belgium	Italy	Saint Vincent and the Grenadines
Belize	Jamaica	
Benin	Japan	Samoa
Brunei Darussalam	Kenya	Senegal
Bulgaria	Kiribati	Serbia
Cambodia	Latvia	Seychelles
Cameroon	Liberia	Sierra Leone
Canada	Lithuania	Singapore
Cape Verde	Luxembourg	Slovakia
China[<2>]	Madagascar	Slovenia
Colombia	Malaysia	South Africa
Comoros	Maldives	Spain
Congo	Malta	Sri Lanka
Cook Islands	Marshall Islands	Sweden
Côte d'Ivoire	Mauritania	Switzerland
Croatia	Mauritius	Syrian Arab Republic
Cyprus	Mexico	Tonga
Denmark	Monaco	Trinidad and Tobago
Djibouti	Montenegro	Tunisia
Dominica	Morocco	Turkey
Dominican Republic	Mozambique	Tuvalu
Ecuador	Namibia	United Arab Emirates
Estonia	Netherlands	United Kingdom
Fiji	New Zealand	United Republic of Tanzania
Finland	Nigeria	
France	Niue	Uruguay
Gabon	Norway	Vanuatu
Georgia	Oman	Venezuela (Bolivarian Republic of)
Germany	Palau	
Ghana	Panama	

1 State which has deposited an instrument of accession, but for which the 1992 Fund Convention does not enter into force until date indicated

Nicaragua	4 April 2015

<2> The 1992 Fund Convention applies to the Hong Kong Special Administrative Region only.

States Parties to the Supplementary Fund Protocol
as at 1 December 2014
(*and therefore Members of the Supplementary Fund*)

31 States Parties to the Supplementary Fund Protocol		
Australia	Greece	Poland
Barbados	Hungary	Portugal
Belgium	Ireland	Republic of Korea
Canada	Italy	Slovakia
Congo	Japan	Slovenia
Croatia	Latvia	Spain
Denmark	Lithuania	Sweden
Estonia	Montenegro	Turkey
Finland	Morocco	United Kingdom
France	Netherlands	
Germany	Norway	

States Parties to the 1992 Civil Liability Convention
but not to the 1992 Fund Convention
as at 1 December 2014
(and therefore not Members of the 1992 Fund)

20 States for which 1992 Civil Liability Convention is in force			
Azerbaijan	Indonesia	Peru	Togo
Chile	Kuwait	Republic of Moldova	Turkmenistan
China	Lebanon	Romania	Ukraine
Egypt	Mongolia	Saudi Arabia	Viet Nam
El Salvador	Pakistan	Solomon Islands	Yemen

States Parties to the 1969 Civil Liability Convention
as at 1 December 2014

34 States Parties to the 1969 Civil Liability Convention		
Azerbaijan	Georgia	Mongolia
Benin	Ghana	Nicaragua
Brazil	Guatemala	Peru
Cambodia	Guyana	Saint Kitts and Nevis
Chile	Honduras	Sao Tomé and Principe
Costa Rica	Indonesia	Saudi Arabia
Dominican Republic	Jordan	Senegal
Ecuador	Kazakhstan	Syrian Arab Republic
Egypt	Kuwait	Turkmenistan
El Salvador	Lebanon	United Arab Emirates
Equatorial Guinea	Libyan Arab Jamahiriya	
Gambia	Maldives	

Note: the 1971 Fund Convention ceased to be in force on 24 May 2002