



International Oil Pollution  
Compensation Funds

<b>Agenda Item 3</b>	IOPC/MAR22/3/6	
<b>Date</b>	23 February 2022	
<b>Original</b>	English	
<b>1992 Fund Assembly</b>	92AES26	
<b>1992 Fund Executive Committee</b>	92EC78	●
<b>Supplementary Fund Assembly</b>	SAES10	

## INCIDENTS INVOLVING THE IOPC FUNDS — 1992 FUND

### INCIDENT IN ISRAEL

#### Note by the Secretariat

<b>Objective of document:</b>	Information to be noted.
<b>Summary:</b>	<p>In February 2021, the Government of Israel contacted the 1992 Fund requesting assistance with oil found along the Israeli coast. The Israeli Government reported that tar balls had begun to wash up along its coastline and that it believed a spill had occurred in the waters of the exclusive economic zone (EEZ) of Israel. However, the source of the spill had not been identified.</p> <p>Tar balls affected the entire Mediterranean coastline of Israel to varying degrees. Clean-up operations were carried out under the direction of the Marine Environment Protection Division of the Israeli Ministry of Environmental Protection following their National Contingency Plan, with local authorities organising the response on the beaches.</p> <p>Initial efforts to identify the cause of the spill centred on identifying vessels within the vicinity of the spill location. Analyses of the polluting oil carried out by two laboratories in Israel indicated that the oil found along the coastline was crude oil, and the authorities believed that the oil was released from a tanker, i.e., a ship as defined by the 1992 Civil Liability Convention (CLC).</p> <p>Following receipt of the information from the Israeli authorities, the 1992 Fund engaged experts specialising in the analysis and fingerprinting of petroleum oil and requested that they travel to Israel to collect samples of the tar balls from different sites for analysis and investigate possible sources of the pollution. The result of the analysis of the samples and the investigations carried out by the 1992 Fund experts was that the pollution was caused by crude oil, and it could not have originated from any other source but a passing oil tanker.</p> <p>Initial estimates of the cost of the response to the oil spill so far are in the region of ILS 55 million (£13 million)<sup>&lt;1&gt;</sup>. Further costs and claims for economic losses are expected. Bulk clean-up operations were completed by mid-April 2021.</p>
<b>Recent developments:</b>	In July 2021, the 1992 Fund Executive Committee decided that the pollution which has affected the coastline of Israel could be considered as a spill from an unknown source

<1> The exchange rate used in this document is based on the exchange rate as at 31 December 2021 of £1 = ILS 4.2156.

(a so-called 'mystery spill') and that, for this reason, the 1992 Civil Liability and Fund Conventions would apply to this incident. The Executive Committee therefore authorised the Director to pay compensation with respect to the incident.

Whilst there is some circumstantial evidence that the spill might have originated from the *MT Emerald*, there is no proof that this tanker was indeed the source of the spill.

A number of claims for economic losses have been submitted. More claims, including a claim by the Israeli Ministry of Environmental Protection for clean-up related activities, are expected in the near future.

**Action to be taken:** 1992 Fund Executive Committee

The 1992 Fund Executive Committee is invited to:

(a) take note of the information contained in this document.

## 1 Summary of incident

Ship	Unknown
Date of incident	17.02.21 (date of the oil reaching the shoreline)
Place of incident	Israeli EEZ (presumed)
Cause of incident	Unknown (presumed to be crude oil washing)
Quantity of oil spilled	Unknown
Area affected	Israeli coastline (approximately 170 km) with tar balls
Flag State of ship	Unknown
Gross tonnage	Unknown
P&I insurer	Unknown
CLC limit	Unknown
CLC + Fund limit	SDR 203 million or ILS 943 024 320 (£223.7 million) <sup>&lt;2&gt;</sup>
Legal proceedings	No legal proceedings commenced to date

## 2 Background information as provided by the Israeli authorities

- 2.1 On 17 February, tar balls of a substance reported to be crude oil<sup><3></sup>, began to wash up along the Israeli coastline, ranging in severity from medium-heavy pollution to very light, dispersed tar balls. The pollution affected the entire coastline to varying degrees.
- 2.2 An investigation carried out by the Israeli Government concluded that, sometime between the 1 and 2 February 2021, an oil spill incident occurred within the offshore waters of the Israeli exclusive economic zone (EEZ), to the west-northwest of the coastline and that the resulting oil spill was the cause of the contamination of the Israeli coastline.
- 2.3 The Israeli Marine Environment Protection Division responded under their National Contingency Plan and took control of the overall response to the spill, utilising the local authorities who were in charge

<sup><2></sup> The conversion of SDR 203 million into Israeli New Shekel (ILS) was made on the basis of the value of that currency vis-à-vis the Special Drawing Rights (SDR) on the date of the adoption of the Executive Committee's Record of Decisions of its 76th session, i.e., 23 July 2021 at the rate of SDR 1 = ILS 4.645440, giving a total amount available for compensation of ILS 943 024 320 (£223.7 million).

<sup><3></sup> According to the testing conducted by The Hebrew University of Jerusalem.

of organising the response on the beaches. A company was tasked to remove the oil waste for disposal.

- 2.4 Clean-up operations were carried out with the deployment of personnel from municipal authorities, nature and parks authorities and government departments as well as volunteers. The total number of people involved was between 7 000 and 12 000 per day. They were organised and monitored by an Israeli non-governmental organisation (NGO) and the local authorities.
- 2.5 Clean up operations were largely finished by mid-April 2021, although removal of tar from different locations, mainly the centre and northern part of the country as far as the northern border, continued into the early summer. By the end of April 2021, some 1 360 tons of debris and oil waste had been collected and taken away from the beaches to the treatment facility.
- 2.6 Bans on fishing and on bathing were imposed immediately after the tar balls first washed ashore. The fisheries restrictions were lifted in early March 2021. The bathing prohibitions were removed in mid-March 2021.

### **3 Claims for compensation**

- 3.1 The Israeli authorities had estimated that the total clean-up costs for the spill so far would be in the region of ILS 55 million (£13 million) as follows:
- ILS 30 million (£7.1 million) for costs incurred by local coastal authorities;
  - ILS 10 million (£2.4 million) for waste treatment and disposal;
  - ILS 5 million (£1.2 million) for monitoring and marine research;
  - ILS 5 million (£1.2 million) for surveillance, investigation, inspection and control operations; and
  - ILS 5 million (£1.2 million) for running volunteering campaigns (operations and equipment).
- 3.2 The Israeli authorities have informed the 1992 Fund that claims for the costs incurred in the response activities referred to in the paragraph above are being prepared and will be submitted in the near future.
- 3.3 One claim by a government agency for costs of sampling and monitoring activities following the spill, as well as a claim for economic losses by a surfing school, have been received. Furthermore, a claim has also been submitted on behalf of 350 fisherfolk for economic losses and property damages. These claims are being examined. Further claims are expected.
- 3.4 The 1992 Fund has engaged a local firm, with a long history of assisting P&I Clubs, to act as the focal point for this incident, in order to help potential claimants and to facilitate the submission and processing of claims, which are expected to be submitted in Hebrew. In addition, the 1992 Fund has instructed a local law firm to assist in all aspects involving local law. All necessary information technology (IT) assistance will be provided by the Secretariat.
- 3.5 The Director will report on any development with regard to this incident in future sessions of the 1992 Fund Executive Committee.

### **4 Applicability of the Conventions**

- 4.1 Israel is a party to the 1992 Civil Liability and Fund Conventions.

- 4.2 Article I(1) of the 1992 CLC defines 'ship' as: 'any sea-going vessel and seaborne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo, provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard'.
- 4.3 Article I(5) of the 1992 CLC defines 'oil' as: 'any persistent hydrocarbon mineral oil such as crude oil, fuel oil, heavy diesel oil and lubricating oil, whether carried on board a ship as cargo or in the bunkers of such a ship'.
- 4.4 Under Article 4.1 of the 1992 Fund Convention:
- 'the Fund shall pay compensation to any person suffering pollution damage if such person has been unable to obtain full and adequate compensation for the damage under the terms of the 1992 Liability Convention,
- (b) because the owner liable for the damage under the 1992 Liability Convention is financially incapable of meeting his obligations in full and any financial security that may be provided under Article VII of that Convention does not cover or is insufficient to satisfy the claims for compensation for the damage; an owner being treated as financially incapable of meeting his obligations and a financial security being treated as insufficient if the person suffering the damage has been unable to obtain full satisfaction of the amount of compensation due under the 1992 Liability Convention after having taken all reasonable steps to pursue the legal remedies available to him'.
- 4.5 At its October 2002 session, the Executive Committee endorsed the interpretation of the 1992 Fund Convention made by the Director on the point 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 (92FUND/EXC.18/14, para 3.12.13).
- 4.6 Considerations by the 1992 Fund Executive Committee
- 4.6.1 In July 2021, the Executive Committee decided that the pollution which has 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 to this incident.
- 4.6.2 The Executive Committee, therefore, authorised the Director to settle and pay claims for compensation arising from this incident to the extent that they did not give rise to questions of principle not previously decided by the Executive Committee.
- 4.6.3 The total amount of compensation available for this incident is SDR 203 million. Based on Article 4.4(e) of the 1992 Fund Convention, this amount shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the 1992 Fund as to the first date of payment of compensation. The value of the Israeli New Shekel (ILS), vis-à-vis the SDR on the date of the adoption of the Executive Committee's Record of Decisions of its 76th session, on 23 July 2021, was SDR 1 = ILS 4.645440. Therefore, the amount available for compensation for this incident is ILS 943 024 320 (£223.7 million).

## 5 Investigations into the cause of the incident

### *Investigation into the cause of the incident by the Israeli authorities*

- 5.1 The Israeli authorities began their search to identify the source of the oil spill and initially narrowed the search down to ten vessels, by discounting those vessels which were clearly not in the vicinity of the location of the spill origin. Subsequently, when it seemed that the spill occurred before 11 February and probably around 5 February (after reviewing satellite images and running an oil spill model), the circle of suspected vessels was broadened to 39 vessels, and then narrowed down to only tankers because of the laboratory results of the tar balls, indicating it was crude oil.
- 5.2 The Israeli authorities examined Automatic Identification System (AIS) data and satellite imagery which indicated that the only tanker which was identified to be sailing in the area of the spill around the estimated time of the incident was the *MT Emerald* (62 247 GT), a Panamanian-flagged vessel, registered in the Marshall Islands.
- 5.3 The Israeli authorities stated that there was no other source of crude oil in the Israeli EEZ, nor any land pipeline which could be a possible source of crude oil, in the location indicated above.
- 5.4 The Israeli authorities collected samples of the tar balls. These samples were analysed by the Israeli Institute for Energy and Environment and by the Hebrew University of Jerusalem. The result of the analysis indicated that the oil spilled was crude oil.
- 5.5 During a meeting with the Director in February 2022, the Israeli authorities informed the Director that they had tried to further investigate into the *MT Emerald's* movements at the time of the incident but they could not obtain more than the circumstantial evidence already gained and, therefore, were unable to pursue the matter further.

### *Investigations into the cause of the incident by the 1992 Fund*

- 5.6 In March 2021, the 1992 Fund engaged experts specialising in the analysis and fingerprinting of petroleum oil, to go to Israel to collect samples of the tar balls for analysis. The collected samples were brought to a laboratory in the United Kingdom and subjected to analysis. In the absence of a reference sample of the source oil, further samples collected some three weeks prior to the expert's visit were also provided by the Israeli authorities for comparison purposes.
- 5.7 Following a range of analytical procedures and an extensive literature review, the conclusions of the investigation were as follows:
  - Both the samples collected by the Fund's experts and those sent for comparison by the Israeli Government were found to have come from the same single source material.
  - The analytical evidence showed that the source oil for the pollution incident was a crude oil which, based on its chemical composition, most likely originated from washings of the cargo tanks of a crude oil tanker<sup><4></sup>.
  - From an oil composition point of view, the analytical evidence available did not allow a direct link to be made to the vessel initially suspected by the Israeli authorities of causing the pollution, the *MT Emerald*. However, based on the nature of the oil, it could potentially have emanated from an ejection of crude oil washings from a tanker in early February 2021.

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<sup><4></sup> Crude oil washing is a system whereby the cargo tanks on a tanker are cleaned out (normally) between voyages, not with water but with crude oil – the cargo itself. The solvent action of the crude oil makes the cleaning process far more effective than when water is used.

5.8 Although the result of the investigation by the Israeli authorities seemed to indicate that the spill might have originated from the *MT Emerald*, that could not be confirmed with a sufficient degree of certainty. In fact, the evidence that the *MT Emerald* was the originator of the pollution is only circumstantial and it may not be possible to prove that the oil originated from this tanker.

**6 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.

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