



International Oil Pollution
Compensation Funds

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

INCIDENTS INVOLVING THE IOPC FUNDS — 1992 FUND

TRIDENT STAR

Note by the Secretariat

Objective of document:	To inform the 1992 Fund Executive Committee of the latest developments regarding this incident.
Summary:	<p>On 24 August 2016, the tanker <i>Trident Star</i> (3 177 GT) spilled an unconfirmed quantity of marine fuel oil in the ATT Tanjung Bin (ATB) oil terminal, Port of Tanjung Pelepas (PTP), Johor, Malaysia, during loading operations. The incident appears to have resulted from the overfilling of the vessel's no. 5 port side cargo tank.</p> <p>Approximately 3.5 kilometres of an adjacent container terminal belonging to the PTP was oiled. Several cargo vessels and tugs were oiled following the incident. Some of the container terminal's berths were closed or experienced disruption of their normal activity for about three weeks due to the pollution.</p> <p>The shipowner is insured with The Shipowners' Mutual Protection and Indemnity Association (Luxembourg) (Shipowners' Club), which is a member of the International Group of P&I Associations.</p> <p>The shipowner is a party to the Small Tanker Oil Pollution Indemnification Agreement (STOPIA) 2006, whereby the shipowner indemnifies the 1992 Fund for the difference between the 1992 Civil Liability Convention (CLC) limit and the amount of compensation paid by the 1992 Fund, up to a limit of SDR 20 million (USD 28 million)^{<1>}. However, the losses in this case are below the STOPIA limit of SDR 20 million.</p> <p>Since claims arising from this incident exceed the 1992 CLC limit applicable to the <i>Trident Star</i> of RM 27.1 million (USD 6.5 million), the 1992 Fund is liable to pay compensation, albeit all payments are recovered from the shipowner's insurer under STOPIA 2006.</p> <p>Nine actions comprising 19 claimants were filed in the limitation proceedings regarding the <i>Trident Star</i> (see section 5 on Limitation proceedings). Given that the 1992 Fund is liable to pay compensation, the 1992 Fund has intervened in the limitation proceedings in order to protect the Fund's rights.</p>

<1>

In general, the exchange rates used in this document are those of 31 December 2021: USD 1 = RM 4.166 and USD 1 = SDR 0.7133.

Recent developments:	All the outstanding claims have now been settled, and corresponding legal actions have been withdrawn or are in the process of being withdrawn. This incident can therefore now be considered closed.
Relevant documents:	The online <i>Trident Star</i> incident report can be found via the Incidents section of the IOPC Funds website.
Action to be taken:	<u>1992 Fund Executive Committee</u> Information to be noted.

1 Summary of incident

Ship	<i>Trident Star</i>
Date of incident	24.08.2016
Place of incident	Malaysia
Cause of incident	Overflow
Quantity of oil spilled	Unconfirmed
Flag State of ship	Malaysia
Gross tonnage	3 177 GT
P&I insurer	Shipowners' Club
CLC Limit	SDR 4.51 million or RM 27.1 million (USD 6.5 million)
STOPIA applicable	Yes – STOPIA 2006 limit of SDR 20 million (USD 28 million)
CLC + Fund limit	SDR 203 million or RM 1 176 million (USD 282.3 million)
Claims for compensation	All claims have been settled at USD 10.9 million.
Legal proceedings	All the claims filed in the limitation proceedings have been settled out of court. The 1992 Fund has intervened in the limitation proceedings in order to protect the Fund's rights.

2 Background information

- 2.1 On 24 August 2016, the tanker *Trident Star* (3 177 GT) spilled an unconfirmed quantity of marine fuel oil in the ATT Tanjung Bin (ATB) oil terminal, Port of Tanjung Pelepas (PTP), during loading operations. The PTP is situated on the estuary of the Pulai River in Johor, Malaysia.
- 2.2 The incident seems to have resulted from the overfilling of the vessel's no. 5 port side cargo tank.
- 2.3 The oil appears to have drifted across the mouth of the Pulai River to the PTP container terminal. Approximately 3.5 kilometres of the container terminal wharf was oiled, and several cargo vessels and tugs were oiled following the incident. Some of the container terminal's berths were closed or experienced disruption of their normal activity for about three weeks.
- 2.4 Further background information is provided in more detail in the online *Trident Star* incident report.

3 Applicability of the Conventions

- 3.1 Malaysia is Party to the 1992 Civil Liability Convention (CLC) and the 1992 Fund Convention.

Details of the insurance and STOPIA 2006

- 3.2 The ship is insured with The Shipowners' Mutual Protection and Indemnity Association (Luxembourg) (Shipowners' Club), which is a member of the International Group of P&I Associations. The limitation amount applicable to the *Trident Star* in accordance with the 1992 CLC is SDR 4.51 million (USD 6.5 million). However, the shipowner is a party to the Small Tanker Oil Pollution Indemnification Agreement (STOPIA) 2006, whereby the shipowner indemnifies, on a voluntary basis, the 1992 Fund for the difference between the limitation amount applicable to the *Trident Star* under the 1992 CLC and the amount of compensation paid by the 1992 Fund, up to a limit of SDR 20 million (USD 28 million).
- 3.3 The total losses in respect of this case are below SDR 20 million (USD 28 million).

4 Claims for compensation

- 4.1 The claims for pollution damage exceeded the 1992 CLC limit applicable to the *Trident Star* i.e. USD 6.5 million. The 1992 Fund was, therefore, liable to pay compensation in respect of this incident.
- 4.2 The table below provides a summary of the claims settlement amounts:

Claimant	Settled (RM)	Settled (USD)
Clean-up contractor (two claims for first and second phase of clean up)		2 699 171
Container terminal operator	18 300 000	
Shipping companies (18)		3 830 008
TOTAL	18 300 000 (USD 4.4 million)	6 529 179

- 4.3 As the liability limit applicable to the *Trident Star* under the 1992 CLC, USD 6.5 million, was reached, the 1992 Fund started making payments to claimants. However, as STOPIA 2006 applies to this case, the shipowner's insurer has reimbursed these amounts to the 1992 Fund.
- 4.4 The last claims that remained outstanding by five claimants belonging to a group of shipping companies, totalling USD 6.6 million, were assessed by the Shipowners' Club and the 1992 Fund in USD 3.3 million. These claims have now been settled.

5 Limitation proceedings

- 5.1 The shipowner applied to the High Court of Malaya in Kuala Lumpur, Malaysia, for the commencement of limitation proceedings. The limitation decree was granted in February 2017, and the limitation fund was constituted in March 2017.
- 5.2 Since the 1992 Fund became liable to pay compensation, it has intervened in the limitation proceedings in order to protect the 1992 Fund's rights.
- 5.3 Nine actions comprising 19 claimants (the operator of the container terminal and 18 shipping companies) were filed in the limitation proceedings. All the claims have now been settled, and corresponding legal actions have been withdrawn or are in the process of being withdrawn.

6 Director's considerations

- 6.1 Claims arising from this incident exceed the 1992 CLC limit applicable to the *Trident Star*, although they have not reached the STOPIA limit of SDR 20 million (USD 28 million). The 1992 Fund has been paying compensation to claimants when the 1992 CLC limit was reached, albeit all payments have been recovered from the shipowner's insurer, the Shipowners' Club, under STOPIA 2006.
- 6.2 The Director would like to thank the Shipowners' Club for their excellent cooperation in this case, both in respect of the handling of claims and the prompt reimbursement of payments under STOPIA 2006.
- 6.3 Since all the outstanding claims have now been settled and corresponding legal actions have been withdrawn or are in the process of being withdrawn, this incident can now be considered closed.

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.
