



International Oil Pollution  
Compensation Funds

<b>Agenda Item 4</b>	IOPC/NOV24/4/4	
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<b>1992 Fund Assembly</b>	92A29	●
<b>1992 Fund Executive Committee</b>	92EC83	
<b>Supplementary Fund Assembly</b>	SAES21	●

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

### Note by the Secretariat

#### Summary:

Since March 2022, the Director has reported regularly to the IOPC Funds' governing bodies on the potential impact of sanctions on the international liability and compensation regime. As the Director has previously stated, the situation gravely concerns him due to the risk of an incident occurring involving an uninsured or unsafe vessel and the oil pollution damage that could result (document [IOPC/NOV23/11/1](#), paragraph 4.4.36).

The effect of the sanctions, and the number of vessels engaged in the shipment of sanctioned oil as part of the 'dark' or 'shadow' fleet, has led to significant changes in the usual trade routes of vessels carrying oil, which places additional risk of potential impacts upon the coastlines of many Member States.

Reference is made to the meeting documents<sup><1></sup> previously submitted to the governing bodies, which have highlighted the ongoing risks and dangers posed to the IOPC Funds' Member States and contributors arising from the continuing situation.

Specific reference is made to the issues of the restrictions which came into effect in December 2022, which govern the carriage and insurance of Russian crude oil and products, the price cap arrangement on Russian seaborne crude oil<sup><2></sup>, and the prohibition of transactions with the entities listed in Annex XIX of the European Union (EU) Regulation 833/2014<sup><3></sup> that are controlled by the Russian Federation, which may include potential shippers and contributors to the IOPC Funds.

Further reference is made to the packages of economic sanctions adopted by the Council of the European Union (EU Council) against the Russian Federation to prevent their circumvention, and to cater for further deceptive shipping practices, such as Automatic Identification System (AIS) spoofing, identity manipulation, and the requirements to notify the competent authority of any sale or transfer of

<1> Documents [IOPC/APR24/4/1](#), [IOPC/NOV23/4/3](#), [IOPC/MAY23/4/2](#), [IOPC/OCT22/4/4](#), [IOPC/OCT22/4/4/1](#) and [IOPC/OCT22/4/4/2](#) and [IOPC/MAR22/8/1](#).

<2> The price cap took effect after 5 December 2022 for crude oil and 5 February 2023 for refined petroleum products.

<3> Council of the European Union (EU) Regulation 833/2014 of 31 July 2014 concerning restrictive measures in view of the Russian Federation's actions destabilising the situation in Ukraine.

	ownership to any third country of any tanker engaged in the transport of crude oil or petroleum products listed in Annex XXV (EU Council Regulation 2023/2878).
<b>Recent developments:</b>	<p>In December 2023, at its 33rd session, the IMO Assembly urged Member States and all relevant stakeholders to promote actions to prevent illegal operations in the maritime sector by the 'dark fleet' or 'shadow fleet' (IMO document A33/6(b)/1, and Resolution A.1192(33)).</p> <p>In February and June 2024 respectively, the EU Council adopted the 13th and 14th packages of economic sanctions against the Russian Federation further limiting Russia's access to military technologies, listing additional companies and individuals involved in the Russian Federation's war effort, and targeting liquified natural gas (LNG) and future investments in, and exports to, LNG projects under construction in Russia.</p> <p>In June 2024, following the 111th session of the IMO Legal Committee, Circular LEG.1/Circ.16 was published providing guidelines for accepting insurance certificates and insurance companies, financial security providers and protection and indemnity clubs (P&amp;I Clubs).</p>
<b>Action to be taken:</b>	<p><u>1992 Fund Assembly and Supplementary Fund Assembly</u></p> <p>Information to be noted.</p>

## 1 Introduction

- 1.1 Since the introduction of the recent sanctions regime, the IOPC Funds' Secretariat has highlighted the issues, risks and dangers and the potential impact upon the international liability and compensation regime, drawing attention to both the guidance issued by the IMO Legal Committee, and the impact upon many of the Clubs in the International Group of P&I Associations (International Group), who were no longer able to insure vessels trading or carrying Russian crude oil, as they once had.
- 1.2 At the 33rd session of the IMO Assembly, which convened from 27 November to 6 December 2023, the Member States adopted Resolution A.1192(33) which called upon flag States to take measures against 'dark fleet' or 'shadow fleet' operations, specifically:
- to ensure that ships on their registers adhere to measures which prohibit or regulate ship-to-ship (STS) transfers of oil, and that such ships comply with pollution prevention requirements; and
  - to consider requiring ships on their register to update their STS plans to include notifying them when and where they are engaged in such operations.
- 1.3 The Resolution also called upon port States to:
- ensure enforcement of the safety and liability conventions;
  - notify flag States when they become aware of ships intentionally taking measures to avoid detection, such as turning off their Automatic Identification System (AIS) or Long-Range Identification and Tracking (LRIT) transmissions; and
  - monitor STS operations within their territorial seas and exclusive economic zone (EEZ) and take appropriate action when ships are not complying with maritime safety or maritime pollution prevention regulations.

## 2 Possible impact upon the IOPC Funds

- 2.1 The 1992 Fund Convention and Supplementary Fund Protocol contain no exemptions from liability for sanctionable or sanctioned events. Whilst recognising that the IOPC Funds are intergovernmental organisations and are thus not subject to domestic or international sanction regulations and legislation, a number of practical difficulties may arise if dealing with an incident involving a vessel laden with Russian oil. These include the possibility that the IOPC Funds may have to pay additional compensation if a shipowner or its insurer fails to establish a limitation fund, or have difficulties in establishing bank accounts from which to pay compensation.
- 2.2 The IOPC Funds' Secretariat has highlighted previously a number of potential impacts upon the IOPC Funds' Member States and its contributors, arising from those vessels which are attempting to circumvent the sanctions by various methods, for instance, by turning off their AIS transponders so as to disappear from coverage in order to conduct illegal STS oil transfer operations, often in dangerous waters/the open sea or in areas with little satellite coverage, thereby negating many of the IMO safety measures and putting coastlines at an increased risk of oil pollution.
- 2.3 In addition, statistics obtained recently<sup><4></sup> indicate a shift in the numbers and routes of vessels laden with Russian Federation oil along a significant number of Member States' coastlines, as the purchase of Russian Federation oil is maintained or increased. The statistics and press reports also indicate that there has been a dramatic increase in the numbers of vessels within the so-called 'dark' or 'shadow' fleet, with recent data showing numbers in the range of 600-1 100 vessels engaging in such operations. Many of these vessels are engaged with a further deceptive shipping practice, namely location manipulation, which involves a vessel transmitting a fake location. It has also been noted that many of the 'dark' fleet are older ships including some not inspected recently, having substandard maintenance, unclear ownership and severe lack of insurance' (IMO document LEG100/18/1, paragraph 5.1).
- 2.4 EU Council – packages of economic sanctions

In December 2023, and February 2024 respectively, the EU announced its 12th, and 13th packages of economic sanctions<sup><5></sup>, the first of which introduced the need to report the transfer of ownership to any third country of any tanker engaged in the transport of crude oil or petroleum products listed in Annex XXV of Regulation 833/2014, falling under the HS Code ex 8901 20.

### *EU Council – 14th package of economic sanctions*

- 2.4.1 In June 2024, the EU announced its 14th package of economic sanctions, which contained new energy-related measures targeting liquified natural gas (LNG), and measures targeting vessels which support the war efforts. As regards LNG, the package prohibits all future investments in, and exports to, LNG projects under construction in Russia. It also prohibits, after a transition period of nine months, the use of EU ports for the transshipment of Russian Federation LNG. Moreover, the package prohibits the import of Russian Federation LNG into specific terminals which are not connected to the EU gas pipeline network.
- 2.4.2 This measure also targets tankers which are part of the 'dark' fleet which circumvent the EU and Price Cap Coalition's<sup><6></sup> caps, while adopting deceptive shipping practices in complete disregard for international standards. The EU has placed 27 vessels on this list in the first round and the list can be updated regularly to address the ever-evolving involvement of vessels seeking to circumvent

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<4> Reference Clarksons Research.

<5> Introduced by Council Regulation (EU) 2023/2878.

<6> The Price Cap Coalition is composed of the G7, the European Union, and Australia.

international maritime safety standards.

## 2.5 Provision of insurance by International Group insurers – compliance with Price Cap Scheme

The Secretariat has previously reported on the EU Price Cap Scheme which was intended to curb the revenue that the Russian Federation earned from its petroleum products of Russian origin, and under which the International Group are permitted to provide P&I cover for shipments of Russian petroleum products to countries which are not part of the Price Cap Coalition, provided that the price of the cargo remains below the relevant price cap, per barrel, from the time it is loaded until it has cleared customs at the port of destination. For further details, see document [IOPC/APR24/4/1](#).

## 2.6 Provision of services by shipping registries, STS operations and the use of ageing vessels

The Secretariat has also reported on the increase in the number of ships undertaking flag transfers to those States with less enviable inspection records, and has also highlighted the high number of STS operations being undertaken often in dangerous conditions, and by old or ageing vessels, and without notifying the Member State in whose waters the operations are being conducted.

## 3 Potential mitigating actions

- 3.1 At the March 2022 sessions of the governing bodies, the 1992 Fund Administrative Council, acting on behalf of the 1992 Fund Assembly, fully encouraged Member States to adhere to the recommendations contained in the IMO draft circular LEG 109/WP.6 Annex 'Guidance on the impact of the situation in the Black Sea and the Sea of Azov on insurance or other financial security certificates'<sup><7></sup> (document [IOPC/MAR22/9/2](#), paragraph 8.1.10).
- 3.2 At the 110th session of the IMO Legal Committee held from 27 to 31 March 2023, flag States were further encouraged to comply with the suggestions detailed in IMO document LEG 110/5, by ensuring that tankers under their flag adhere to measures which lawfully prohibit or regulate STS transfers. Port States were also encouraged to ensure enforcement of the safety and liability conventions on such vessels, and to ensure that STS transfer operations are conducted in accordance with the applicable safety requirements in IMO conventions. Should those States become aware of vessels 'going dark', they should consider subjecting such vessels to enhanced inspections as authorised and notifying the vessel's flag administration as appropriate (IMO document LEG 110/18/1, paragraph 5.10).
- 3.3 In May 2023, the governing bodies recalled that the Russian Federation had stated within IMO Circular Letter 4548 of 7 April 2022, that it guaranteed fulfilment of all assumed obligations in their entirety under the international merchant shipping instruments it had previously ratified. The Russian Federation also confirmed full validity of insurance or other financial securities in respect of liability, including 'blue cards' issued by Russian insurance companies in compliance with the requirements of international conventions (document [IOPC/MAY23/9/1](#), paragraph 4.2.21).
- 3.4 Member States are now also encouraged to adhere to their obligations under Article VII of the 1992 Civil Liability Convention (1992 CLC), and their obligations pursuant to IMO Circular LEG.1/Circ. 16<sup><8></sup>, which states that when receiving an Insurance Certificate from an 'insurer'<sup><9></sup>, the Member State should verify that the insurer and the Insurance Certificate meet the criteria detailed within that Circular. This includes *inter alia*, a statement certifying that there is in force insurance or

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<7> The draft guidance was issued as IMO Circular LEG.1/Circ.12 on 7 April 2022.

<8> IMO Circular LEG.1/Circ.16 of 20 June 2024.

<9> A provider of insurance or financial security outside of the International Group P&I Clubs, including insurance companies, financial security providers and non-International Group P&I Clubs.

other financial security satisfying the requirements of the financial security article of the relevant convention.

**4 Director's Considerations**

- 4.1 The Director remains concerned about the ongoing risks involving an uninsured or unsafe vessel and the oil pollution damage that may result from an oil pollution incident.
- 4.2 The Director also encourages Member States to fully comply with their obligations both in relation to ensuring enforcement of the safety and liability conventions, and adhere to their obligations under Article VII of the 1992 CLC and pursuant to IMO Circular LEG.1/Circ. 16.

**5 Action to be taken**

1992 Fund Assembly and Supplementary Fund Assembly

The 1992 Fund Assembly and Supplementary Fund Assembly are invited to:

- (a) take note of the information contained in the document; and
- (b) provide instructions to the Director as the governing bodies may deem appropriate.
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