



International Oil Pollution
Compensation Funds

Agenda Item 10	IOPC/APR25/10/1/WP.1/1	
Date	1 May 2025	
Original	English	
1992 Fund Administrative Council	92AC25/92AES29	
1992 Fund Executive Committee	92EC84	●
Supplementary Fund Assembly	SAES13	●

DRAFT

RECORD OF DECISIONS OF THE APRIL 2025 SESSIONS OF THE IOPC FUNDS' GOVERNING BODIES

(continued)

INCIDENTS INVOLVING THE IOPC FUNDS

3 Incidents involving the IOPC Funds

3.1	Incidents involving the IOPC Funds Document IOPC/APR25/3/1		92EC	SA
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3.1.1 The 1992 Fund Executive Committee and Supplementary Fund Assembly took note of document IOPC/APR25/3/1, which contained information on documents for the April 2025 meeting relating to incidents involving the IOPC Funds.

3.1.2 The governing bodies further noted that there are currently no incidents involving the Supplementary Fund.

3.2	Incidents involving the IOPC Funds — 1992 Fund: <i>Prestige</i> Document IOPC/APR25/3/2		92EC	
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3.2.1 The 1992 Fund Executive Committee took note of the information contained in document IOPC/APR25/3/2 regarding the *Prestige* incident.

3.2.2 The Executive Committee recalled that the 1992 Fund had paid the amount available for compensation under the 1992 Civil Liability and Fund Conventions, retaining EUR 804 800 for potential liabilities.

Legal action by France against ABS in France

3.2.3 The Executive Committee recalled that in April 2010, the French Government had brought a legal action against the classification society of the *Prestige*, namely the American Bureau of Shipping (ABS) in the Court of First Instance in Bordeaux.

3.2.4 It was recalled that ABS had opposed this action, relying on the defence of sovereign immunity but that in April 2019, the Court of Cassation in France had decided that ABS could not avail itself of the defence of sovereign immunity in this case.

3.2.5 It was further recalled that, following the Court's decision, the case had gone back to the Court of First Instance in Bordeaux to consider the other issues relating to France's claim against ABS.

Legal action by the 1992 Fund against ABS in France

- 3.2.6 It was recalled that, following the decision of the 1992 Fund Executive Committee at its October 2012 session, the 1992 Fund had brought a recourse action against ABS in the Court of First Instance in Bordeaux.
- 3.2.7 It was also recalled that ABS had submitted points of defence alleging that it was entitled to sovereign immunity on the same basis as the flag State of the *Prestige*.
- 3.2.8 It was further recalled that both ABS and the 1992 Fund had argued that the issue of sovereign immunity should be dealt with as a priority by the Judge in charge of the merits, together with the other admissibility arguments raised by ABS.
- 3.2.9 The Executive Committee recalled that ABS had raised the following arguments against the admissibility of the 1992 Fund's action against ABS:
- (i) Sovereign immunity: ABS intends to challenge the question of sovereign immunity up to the level of the Court of Cassation in the hope that it might reverse its judgment of April 2019 in the case of the French State against ABS.
 - (ii) The doctrine of *res judicata* (a matter already judged): ABS argues that since the United States courts have already discharged them from any liability in the *Prestige* case, the US court decision rendered in the case of the Spanish State against ABS has *res judicata* authority before any other court. In particular, ABS has argued that, as the 1992 Fund is subrogated into the rights of the Spanish State, which was a party to the US proceedings, the US judgment binds the 1992 Fund.
 - (iii) Channelling: In the case of the *Erika* incident, the Court of Cassation expressed the view that the Registro Italiano Navale (RINA), the classification society that certified the *Erika*, was covered under Article III(4) of the 1992 CLC as persons who perform services for the ship (but the protection was denied because the Court decided that the damage had resulted from RINA's recklessness). ABS argues that, on the basis of that decision, ABS would be protected by Article III(4) of the 1992 CLC and therefore the 1992 Fund's action against ABS would not be admissible.
 - (iv) Time bar: The issue of the time bar is linked to the issue of channelling above. ABS argues that the 1992 Fund's action is time-barred under the 1992 Civil Liability and Fund Conventions, according to Article VIII of the 1992 CLC.
- 3.2.10 The Executive Committee also recalled that the 1992 Fund had replied to the arguments of ABS as follows:
- (i) Sovereign immunity: ABS cannot benefit from sovereign immunity because ABS is not an emanation of the State of the Bahamas and does not contribute to exercising the sovereignty of that State. In addition, the 1992 Fund has argued that the solution adopted by the Court of Cassation at its April 2019 judgment in the action of France against ABS should be applied in the 1992 Fund's action. In its judgment, the Court of Cassation stated the principle that even if a classification society conducts activities of certification and classification simultaneously, these activities are severable and the classification society is only entitled to benefit from sovereign immunity in the framework of its activity of statutory certification, but not for its activity of classification. The 1992 Fund's action relates to faults committed by ABS in its classification activity.
 - (ii) Authority of *res judicata* of a foreign decision: On this point, the 1992 Fund has had to accept that it would have to renounce its claim for the amounts paid in compensation in Spain, since

the decision by the United States Court of Appeal in the action by Spain against ABS, rejecting Spain's claim, had the authority of *res judicata*. The 1992 Fund nevertheless maintains the claim in subrogation of the rights of the French claimants and the Portuguese State, totalling EUR 14 365 907.98.

(iii) Channelling: Classification societies cannot benefit from channelling of liability, because:

(a) The classification society is not a 'servant or agent of the owner' of the ship, nor a 'member of the crew' (Article III(4), paragraph (a) of the 1992 CLC). According to the terms of the agreement of classification of vessels, ABS is an independent contractor and cannot act as a servant or agent of any other party.

(b) The classification society is not a 'pilot or any other person who... performs services for the ship' (Article III(4), paragraph (b) of the 1992 CLC) since it does not participate in the nautical operation of the ship, and the inspections which it is supposed to carry out on the ship are not services provided to the ship but only to the shipowner, at the latter's request or that of the ship's insurers.

(iv) Time bar: Since the 1992 CLC does not apply to actions in tort brought against third parties such as ABS, these actions are not governed by the 1992 CLC. The 1992 Fund's action against ABS would therefore be governed by French law, which provides for a 10-year limitation period. This period started to run on 13 November 2002, the date the *Prestige* sank. Since the 1992 Fund brought its action on 30 October 2012, the 1992 Fund's action is not time-barred.

(v) On the merits of the action, the 1992 Fund argues that the liability of classification societies follows the rule whereby a party who performs a contract badly shall be liable in tort to those who suffer detriment caused by that bad execution. In the case of the *Prestige*, ABS's contractual breach is based on their failure to comply with stipulations laid down in their classification regulation. In addition, in the context of the criminal proceedings in Spain, the Spanish Court concluded, on the basis of the testimony of several experts, that ABS had displayed gross negligence and recklessness.

3.2.11 It was recalled that, if the 1992 Fund's action against ABS was considered admissible by the Court, the 1992 Fund would have to prove that ABS was negligent in the way it carried out its work in respect of the classification of the vessel.

3.2.12 It was also recalled that, in September 2023 the Judge in charge of the proceedings had decided, in both the French action and the 1992 Fund action, to invite the parties to send their final submissions, on the sole questions of admissibility, by 12 December 2023 and that it was only if the actions were held admissible that the Court would re-open the proceedings to deal with the merits of the cases, mainly the cause of the incident and the liability of ABS.

3.2.13 The Executive Committee recalled that the 1992 Fund had presented its final submissions on admissibility in November 2023, largely along the same lines argued previously, with the addition of the following in regards to the channelling provisions in Article III(4) of the 1992 CLC:

(i) Following the *ejusdem generis* rule, the category of other persons performing services for the ship referred to in Article III(4) of the 1992 CLC is limited to persons other than the pilot, performing services for the ship similar to those of the pilot.

(ii) Such other person, although not a member of the crew, must be a person performing services for the ship similar to those performed by the crew. Such services must, therefore, be performed on board in the course of navigation.

February 2025 judgment

- 3.2.14 The 1992 Fund Executive Committee noted that in February 2025, the Court of First Instance in Bordeaux had delivered a judgment deciding that the 1992 CLC applied to the 1992 Fund's action against ABS and that therefore the action was time-barred, on the basis that the recourse action had been brought at a date later than the six-year anniversary of the incident, as provided in the 1992 CLC. It was noted that the judgment had also found that ABS did not have the right to benefit from sovereign immunity.
- 3.2.15 The Executive Committee noted that in its decision, the Court argued as follows:
- (i) The compensation system established by the 1992 CLC applies to all pollution damage falling within the scope of the Convention as defined in Article II of the 1992 CLC.
 - (ii) As quoted by ABS, under the French Constitution, duly ratified or approved treaties or agreements shall, upon their publication, have an authority superior to that of domestic laws.
 - (iii) Since the 1992 CLC applies to the incident resulting from the sinking of the Prestige, in the Court's view the time-bar provisions established by Article VIII of the 1992 CLC apply to all liability actions brought in relation to this damage.
- 3.2.16 The Executive Committee noted that the same Court had issued a judgment in the action of France against ABS, deciding that the action by France was time-barred.
- 3.2.17 The Executive Committee noted that the Director recommended he be authorised to appeal the judgment, on the basis of the following considerations:
- (i) The 1992 CLC does not apply to actions in tort brought against third parties such as ABS and therefore these actions should not be governed by the 1992 CLC.
 - (ii) The 1992 Fund's action against ABS should therefore be governed by French law, which provides for a 10-year limitation period. This period started to run on 13 November 2002, the date the Prestige sank and, since the 1992 Fund brought its action on 30 October 2012, the 1992 Fund's action is not time-barred.

Debate

- 3.2.18 All the delegations that spoke agreed with the Director's view expressed in section 6 of document IOPC/APR25/3/2, that the 1992 CLC does not apply to actions in tort brought against third parties such as ABS and that therefore these actions should not be governed by the 1992 CLC, but by national law. It was considered that this would be consistent with the spirit and text of the Conventions.
- 3.2.19 It was stated that the applicable limitation period in this case should be that provided under French law, which in this case would not have expired. It was also stated that the application in this case of the six-year time-bar period in the 1992 CLC would have implications for the 1992 Fund's ability to recover costs. It was therefore crucial for the 1992 Fund to take all available legal avenues to protect its interests and those of Member States.
- 3.2.20 In particular, the view was expressed that the six-year time-bar under Article VIII of the 1992 CLC only relates to claims under the 1992 CLC, against the shipowner, and should not be extended to actions brought by the 1992 Fund against third parties which fall outside the 1992 CLC. Attention was drawn to Article III.5 of the 1992 CLC which states that the Convention does not prejudice any rights of recourse of the owner against third parties.
- 3.2.21 It was also considered that this case raised important questions regarding the scope and applicability of

the 1992 CLC, and that appealing would be important not only for safeguarding the Fund's interests but also to preserve the integrity of the international regime, which benefits all Member States.

- 3.2.22 In view of the above considerations, all delegations that intervened agreed that the Director should be authorised to appeal the judgment by the Court of First Instance in Bordeaux.

1992 Fund Executive Committee decision

- 3.2.23 The 1992 Fund Executive Committee decided to authorise the Director to appeal the judgment by the Court of First Instance in Bordeaux.

- 3.2.24 The Executive Committee noted that the Director would continue to monitor the incident and would report any developments at the next session of the governing bodies.

3.3	Incidents involving the IOPC Funds — 1992 Fund: <i>Redfferm</i> Document IOPC/APR25/3/3		92EC	
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- 3.3.1 The 1992 Fund Executive Committee took note of document IOPC/APR25/3/3, which contained information relating to the *Redfferm* incident.

- 3.3.2 The Executive Committee recalled that in January 2012, the Secretariat was informed of an incident that had occurred in March 2009 at Tin Can Island, Lagos, Nigeria, when the inland-certified barge *Redfferm* sank, following a transhipment operation from the tanker *MT Concep*.

- 3.3.3 The barge sank, spilling an unknown quantity (estimated to be between 100 and 650 tonnes) of cargo/residue of low pour fuel oil (LPFO) into the waters surrounding the site, which then impacted upon the neighbouring Tin Can Island area.

- 3.3.4 The Executive Committee also recalled that at the time of the incident, the barge *Redfferm* was used to tranship LPFO from a sea-going tanker, the *MT Concep*, to a shore-based power plant because of its reduced draft and size compared to the *MT Concep*. The Executive Committee further recalled that no evidence had been submitted of any sea-going voyages undertaken by the barge *Redfferm*.

Reasons for rejection of claims

- 3.3.5 It was recalled that in February 2014, the 1992 Fund had rejected the claims submitted for the following reasons:

- (i) the barge *Redfferm* was not a 'ship' under Article I(1) of the 1992 Civil Liability Convention (1992 CLC);
- (ii) there were a large number of discrepancies between the claimed losses and other sources of information on the number of items of fishing gear in the Lagos lagoon area; and
- (iii) there was a lack of information submitted to prove the claimants' identities and occupations.

Legal proceedings

- 3.3.6 It was also recalled that in March 2012, a claim for USD 26.25 million was filed by 102 communities against the owner of the *MT Concep*, the owner of the *Redfferm*, the agent of both the *MT Concep* and the *Redfferm*, and the 1992 Fund.

- 3.3.7 It was further recalled that in February 2013, the 1992 Fund had applied to be removed from the proceedings as a defendant and replaced as an intervenor on the basis that primary liability for the spill rested with the owner of the *Redfferm*. The 1992 Fund Executive Committee recalled that at first

instance, the Judge had denied the 1992 Fund's application and that the 1992 Fund had appealed the decision.

- 3.3.8 The 1992 Fund Executive Committee also recalled that on a number of occasions throughout 2014 and 2015, the 1992 Fund's lawyers had written to the Registrar of the Court of Appeal, requesting that the 1992 Fund's appeal against the first instance ruling be listed for a hearing date, and that a date was set for May 2016. It was noted that, thereafter, the legal proceedings had continued very slowly until October 2017 when the Nigerian Court of Appeal referred the case back to the Federal High Court.
- 3.3.9 The 1992 Fund Executive Committee further recalled that in early May 2018, the agent of the owner of the barge *Redfferm* had filed an application seeking a stay of the proceedings pending in the Federal High Court, arguing that its appeal related to a jurisdictional issue which should be heard in the Court of Appeal. It was recalled that the Court of Appeal had subsequently adjourned the hearing of the application until January 2019.
- 3.3.10 It was also recalled that in May 2018, the claimants had filed an amended statement of claim, increasing the claim from the previously filed total of USD 26.25 million to USD 92.26 million. It was further recalled that as a result of the transfer to the Federal High Court, and in view of the amended statement of claim filed by the claimants, the 1992 Fund was obliged to file a defence. The 1992 Fund Executive Committee recalled that during 2019, no further substantive developments took place in the legal proceedings.
- 3.3.11 The 1992 Fund Executive Committee also recalled that in February 2020, the matter was listed for trial but was adjourned until March 2020 when the claimants made an application for a default judgment against the owner/charterer of the *Redfferm*. The case was adjourned, but the court hearing did not take place due to the impact of the COVID-19 pandemic.
- 3.3.12 The 1992 Fund Executive Committee further recalled that there were no substantive developments in 2020 or 2021, but noted that in February 2022, a First Instance Judge delivered a summary judgment against the owner/charterer of the *MT Concep* (the first defendant) and the owner/charterer of the barge *Redfferm* (the second defendant) and awarded the claimants their claim in the sum of USD 92.26 million and USD 5 million as 'general damages'.
- 3.3.13 It was recalled that the Judge had not referred to the Memorandum of Appearance and Statement of Defence filed by the first defendant, or to the counter-affidavit filed by the 1992 Fund in opposition to the claimants' application for final judgment against the first and second defendants.
- 3.3.14 It was also recalled that the first and second defendants had filed appeals to set aside the summary judgment on the grounds of fraud, on the basis that the Court had been misled into believing that the first defendant had failed to enter appearance or file a defence, when it had in fact done both.
- 3.3.15 It was further recalled that in early June 2022, the claimants' lawyer had filed garnishee proceedings against all the defendants including the 1992 Fund. The 1992 Fund's lawyers had filed pleadings seeking to remove the 1992 Fund from the list of defendants.
- 3.3.16 The 1992 Fund Executive Committee recalled that in November 2022, the Judge had upheld the default judgment and garnishee order against the first defendant, dismissed the default judgment against the second defendant, and struck out the default judgment and garnishee proceedings against the 1992 Fund.
- 3.3.17 The 1992 Fund Executive Committee also recalled that in February 2023, the claimants' lawyer wrote to the 1992 Fund requesting payment of the judgment. No response was given and no compensation has been paid as the Director has not been authorised to make payment of compensation arising from this incident.

- 3.3.18 The 1992 Fund Executive Committee noted that in February 2024, the claimants' lawyer had been granted the leave of the Court to renew the writ of summons, and in May 2024 the Judge had set a trial date of July 2024, but that on that date, no Counsel appeared for the claimants. It was noted that the 1992 Fund's lawyer had reminded the Judge that an application asking the Court to dismiss the claim against the 1992 Fund was still pending, and a date was set in September 2024 to hear the application.
- 3.3.19 The 1992 Fund Executive Committee further noted that at the hearing, the 1992 Fund's application to dismiss the suit was argued. The judge adjourned the matter for a ruling.

Developments since November 2024

- 3.3.20 It was noted that in January 2025, the Judge had dismissed the 1992 Fund's application, giving reasons at odds with the order sought, and had held that the same application had been previously argued and dismissed. It was also noted that the 1992 Fund's lawyers had filed an appeal against the ruling on two grounds, namely that the judge failed to make a finding (and that the claim filed by the claimants was time-barred), and that he failed to consider the contents of the affidavits filed by the parties. It was noted that the appeal was accompanied by an application for a stay of the proceedings against the 1992 Fund, pending the appeal. It was further noted that at a hearing in March 2025, the Judge had refrained from giving judgment as it was not ready.

Statement by the delegation of Nigeria

- 3.3.21 The delegation of Nigeria made the following statement:

'Nigeria extends its appreciation for the Secretariat's thorough and transparent update on the *Redfferm* incident. We recognise the considerable efforts made by the 1992 Fund in navigating the complex legal and procedural challenges associated with this matter. Nigeria acknowledges the unique difficulties posed by the late notification of the incident and the challenges in establishing the barge's status under Article I(1) of the 1992 CLC. We commend the 1992 Fund's careful adherence to the established legal framework and its commitment to ensuring that claims are assessed objectively, transparently, and in strict accordance with international conventions.

Nigeria therefore remains firmly committed to supporting the integrity of the IOPC Funds' compensation regime and upholding the principles that safeguard the credibility of the international maritime claims system. We fully endorse the 1992 Fund's prudent and legally sound approach in resisting premature or unsubstantiated claims. Nigeria reaffirms its dedication to strengthening cooperation with the IOPC Funds and maintaining high standards of maritime governance, and we look forward to working constructively with all stakeholders to ensure that outcomes in cases such as *Redfferm* continue to respect the letter and spirit of the 1992 Fund Convention.'

1992 Fund Executive Committee

- 3.3.22 The 1992 Fund Executive Committee noted the comments of the delegation of Nigeria and also noted that the Director would continue to monitor the incident and report any developments at the next session of the Executive Committee.

3.4	Incidents involving the IOPC Funds — 1992 Fund: <i>Agia Zoni II</i> Document IOPC/APR25/3/4		92EC	
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- 3.4.1 The 1992 Fund Executive Committee took note of document IOPC/APR25/3/4, relating to the *Agia Zoni II* incident.

Limitation fund claims evaluation procedure

- 3.4.2 The Executive Committee recalled that the Limitation Fund Administrator had concluded the evaluation procedure of the claims filed at the Limitation Court (totalling EUR 94.4 million) by publishing their provisional assessments totalling EUR 45.45 million.
- 3.4.3 The Executive Committee also recalled that the 1992 Fund had filed pleadings against the Limitation Fund in respect of the claims it had paid but which had not been subrogated, due to the short period (six months) set under Greek law for filing claims against the Limitation Fund, which had expired in May 2018. The Executive Committee further recalled that court hearings had taken place in 2020 to deal with the eight appeals lodged against the Limitation Fund Administrator's assessments.
- 3.4.4 It was recalled that in June 2022, a judgment was made by the Piraeus Multi-Member Court of First Instance which generally upheld the Limitation Fund Administrator's assessments but denied the 1992 Fund's appeal. It was also noted that the 1992 Fund had appealed and that following the hearing in September 2024, a judgment was awaited.

Investigation into the cause of the incident

- 3.4.5 The 1992 Fund Executive Committee recalled that two investigations had been conducted into the cause of the incident which had each reached different conclusions: one determining that the *Agia Zoni II* sank after an explosion, and the other that it sank after the seawater ballast valves were opened. It was also recalled that the Marine Accident Investigation Council (ASNA) report considered that the incident was attributed to the deliberate and negligent actions of:
- (i) the shipowner;
 - (ii) the two crew members on board at the time of the incident;
 - (iii) the General Manager of the shipowning company;
 - (iv) the Designated Person Ashore of the shipowning company; and
 - (v) representatives of the salvor/clean-up contracting company.
- 3.4.6 The Executive Committee further recalled that the Greek Mercantile Marine, as the supervisory body overseeing disciplinary matters for seafarers, had initiated a disciplinary tribunal against the crew members mentioned in the ASNA report who were on board the *Agia Zoni II* at the time of the incident, and the senior representative of the salvor mentioned in the ASNA report.
- 3.4.7 It was recalled that in June 2021, the disciplinary tribunal had published its findings and held that the master was liable in negligence for the loss of the ship, but the tribunal did not examine the ASNA report's criticism of the salvors for their delayed antipollution response in sealing off and pumping out the wreck.
- 3.4.8 It was noted that the 1992 Fund's lawyers had been provided with a copy of the criminal file for the incident by the District Attorney, which reported a decision of the criminal judges sitting in Council which concluded that there appeared strong indications of criminal liability against five of the nine parties originally examined on the grounds that:
- (a) as per the opinion of all experts, the ship was intentionally sunk in order to cause pollution;
 - (b) according to all experts (except the National Technical University of Athens), the sinking was caused by the opening up from within the ship of the ballast water valves of the bottom starboard ballast tanks 2, 3 and 4, and by leaving open the engine room portholes. This could

only have been done by the two crewmen who remained on board (there was no indication of any third party boarding and leaving secretly);

- (c) notwithstanding the progressive starboard list of the ship, the two crewmen did nothing and notified no one;
- (d) the Greek Coast Guard was first notified at 0210 hours by another ship close by, without either of the above two crewmen on board, the master or the owning company having called earlier;
- (e) notwithstanding that the second clean-up company had previously contacted the shipowning company and its antipollution vessel had started operating onsite, the owners of the *Agia Zoni II* awarded the salvage and antipollution contract at 0630 hours with delay, to the first clean-up company which has no experience in that line of work; and
- (f) the closing and sealing of the 11 cargo tank covers was achieved by that company, 53 hours after the ship sank, which was considered a very long timeframe.

3.4.9 It was also noted that in view of the above, the two crew members who remained on board, were indicted for intentionally:

- (i) causing malicious maritime pollution, that could and did damage the environment and third-party properties, by unscrewing the cargo tanks' covers from which oil leaked into the sea following the ship's starboard list, which they caused by intentionally allowing ballast water into the bottom starboard ballast tanks 2, 3 and 4;
- (ii) sinking the ship by illegally opening the starboard valves of the bottom ballast tanks 2, 3 and 4, and opening the engine room port hole which endangered human life; and
- (iii) discharging polluting materials into the sea.

3.4.10 It was further noted that the master, the owning company representative and the representative of the first clean-up company were indicted as instigators of all above criminal actions, with the aim of causing extensive maritime pollution in order to benefit from the remuneration for antipollution works.

3.4.11 The 1992 Fund Executive Committee recalled that the decision of the Council of criminal judges committed the engine room foremaster, the AB seaman, the master, the shipowning company representative and the representative of the first clean-up company to trial, and also noted that the decision contained negative remarks about the first clean-up company.

3.4.12 The Executive Committee further noted that a full trial of the five persons listed above had started on 24 October 2024, at which a number of witnesses were examined. The proceedings re-commenced in early 2025, and were expected to conclude by May 2025. It was therefore considered not appropriate to comment further on the examinations that had taken place to date.

Claims for compensation

3.4.13 It was noted that the 1992 Fund had received 424 claims amounting to EUR 100.21 million and one claim for USD 175 000 and that it had approved 418 claims. It was also noted that the 1992 Fund had paid 192 claims totalling EUR 16.92 million in compensation. It was also noted that further offers of compensation and advance payments had been made to a number of claimants whose responses were awaited.

Statement by the delegation of Greece

3.4.14 The delegation of Greece made the following statement:

'First of all, allow us, once again to express the high appreciation of the Greek State for all payments made so far by the 1992 Fund to the persons who suffered pollution damage from the *Agia Zoni II* incident, as well as for the ongoing endeavours of the 1992 Fund's experts to assess the rest of the claims.

Notwithstanding judicial proceedings currently taking place and their outcomes and in total respect of the 1992 Fund's internal assessment process of these outcomes, we would also emphasise the need and underline the importance of ensuring seamless process on the compensation payments to all those who are entitled to compensation from the *Agia Zoni II* incident in a prompt and effective manner.

Moreover, we would also like to express our appreciation to the Secretariat for providing us with an update on the recent developments of the *Agia Zoni II* incident.

Having heard the summary on the said incident, we would just like to contribute to the discussion by stating that: (a) the appeals against decision no. 1891/2022 of the Multi-Member Court of First Instance of Piraeus were examined by the Three-Member Court of Appeal of Piraeus on 19 September 2024 and the issuance of a final judgement is expected and (b) the court hearing regarding the amended claim by the Greek State for liquid waste disposal costs was initially set for May 2024 and after a new postponement is set for May 2025. As reflected in paragraphs 4.2.1 of document IOPC/APR25/3/4 the amended claim was paid in February 2024.

Furthermore, with regard to the references made in paragraph 6.4.1 of document IOPC/APR25/3/4 under deliberation relating to the 'Impact of the investigative reports on the 1992 Fund's payment of compensation', we would like to point out that there is a difference in wording compared to the previous versions of the document and therefore, we would like to note the following:

As has been expressed during previous sessions of the 1992 Fund Executive Committee, an unappealable penal judgment would be required if any persons were to be held to have intentionally or negligently caused the pollution damage.

Furthermore, to our understanding, the legal interpretation of Article 4, paragraph 3 of the 1992 Fund Convention leads to the conclusion that, with respect to preventive measures, the 1992 Fund would not be entitled to invoke contributory deliberate act or negligence on the part of the claimant as grounds for the 1992 Fund's exoneration from paying compensation.

As regards the references made to our national legislation in paragraphs 6.5.3 and 6.5.4 of document IOPC/NOV23/3/9, we note that international Conventions prevail over domestic law, as supported by Article 28 of the Greek Constitution.

Moreover, we would like to highlight the legal advice that the 1992 Fund has received from its lawyers as reflected in paragraphs 6.5.6, 6.5.7 and 6.5.8 of document IOPC/NOV23/3/9.

With regard to the investigation into the cause of the *Agia Zoni II* incident, as it is stated in the document under deliberation, the main proceedings of the criminal case for the said incident commenced in October 2024, before continuing in 2025. Following the conclusion of the trial, the court will issue its judgement. Therefore, the issuance of an irrevocable decision is still pending.'

Debate

- 3.4.15 In response to the statement by the delegation of Greece, the Secretariat stated that the legal advice the 1992 Fund had received was not to pay further compensation to one of the indicted parties until the outcome of the ongoing criminal proceedings had been determined. Once those criminal proceedings had been concluded and a judgment issued, the situation would be clear as to whether the 1992 Fund should pay the outstanding claims or seek to recover all sums paid from any party held liable for causing the incident.

1992 Fund Executive Committee

- 3.4.16 The 1992 Fund Executive Committee noted the information reported and the statement by the delegation of Greece. The Executive Committee noted that that the Director would continue to monitor the incident and would report any developments at the next session of the governing bodies.

3.5	Incidents involving the IOPC Funds — 1992 Fund: <i>Princess Empress</i> Document IOPC/APR25/3/5		92EC	
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- 3.5.1 The 1992 Fund Executive Committee took note of the information contained in document IOPC/APR25/3/5 regarding the *Princess Empress* incident.
- 3.5.2 The Executive Committee recalled that the pollution damage resulting from the *Princess Empress* incident had affected the coasts of Oriental Mindoro to varying degrees and that the oil had also travelled to the Caluya archipelago, which is situated south of Mindoro Island, affecting the islands of Semirara and Liwagao.
- 3.5.3 It was recalled that the ship was insured with the Shipowners' Mutual Protection and Indemnity Association (Luxembourg) (Shipowners' P&I Club), part of the International Group of P&I Associations (International Group) and that the Small Tanker Oil Pollution Indemnification Agreement (STOPIA) 2006 (as amended 2017)^{<1>} applied to this incident.
- 3.5.4 The Executive Committee recalled that claims relating to this incident had exceeded the limit of liability of the shipowner under the 1992 CLC. It was also recalled that, although the 1992 Fund had started paying compensation when the 1992 CLC limit had been reached, the shipowner's insurer had reimbursed the 1992 Fund for the amounts paid in compensation, up to the STOPIA 2006 limit of SDR 20 million. It was recalled, however, that the STOPIA 2006 limit had also been reached.
- 3.5.5 It was further recalled that the 1992 Fund and the Shipowners' P&I Club had opened a claims submission office (CSO) in Calapan, Oriental Mindoro and set up a number of temporary collection centres in different areas, some of which were not easily reachable.
- 3.5.6 It was also recalled that efforts had been made to compensate claimants in the fisheries sector as soon as assessments were ready and that as with the collection of claims, a process was in place to reach legitimate claimants to provide compensation. The Executive Committee noted that these efforts had resulted in over 32 000 fisheries claims paid by the end of 2024.

Claims situation

- 3.5.7 The Executive Committee took note of the information contained in section 6 of document IOPC/APR25/3/5 concerning the claims situation and the update provided by the Secretariat.

^{<1>} From this point forward, references to 'STOPIA 2006' should be taken to read 'STOPIA 2006 (as amended 2017)'.

- 3.5.8 The Executive Committee noted that the CSO had so far registered a total of 39 822 claims, mainly in the fisheries sector, with a total claimed amount of PHP 1 901.98 million, USD 26.5 million, EUR 2.7 million and £64 500. It was also noted that the 1992 Fund and the Shipowners' P&I Club had so far paid 32 987 claims with totals amounting to some PHP 1 060.6 million, USD 26.2 million, EUR 2.7 million and £64 500.
- 3.5.9 It was further noted that a total of 3 478 claims had been rejected.

Fisheries

- 3.5.10 The Executive Committee noted that the CSO had registered 36 918 claims in the fisheries sector, with a total claimed of PHP 1 753.32 million.
- 3.5.11 It was recalled that the completion of a fisheries study by local university experts engaged by the Club and the Fund, finalised in March 2024, had allowed the assessment of the bulk of claims in the fishing category and that as a result, 23 238 claims were approved at that time. The Executive Committee noted that, given the logistics and the high number of claims, the payment process for the 23 238 fishers had taken several months to complete, starting in April 2024 and finishing in October 2024.
- 3.5.12 It was recalled that, in addition to the above, in October 2024 the 1992 Fund and the Shipowners' P&I Club had approved the assessment of claims from 9 030 fish traders. The Executive Committee noted that the payment process for these fish traders had been carried out in November 2024, except for one very remote municipality for which the corresponding payments will be made in the near future.
- 3.5.13 The Executive Committee also noted that, in February 2025 the 1992 Fund and the Shipowners' P&I Club had approved an additional assessment of a total of 2 697 claims comprising claims from fishers and fish traders not previously assessed, and claims from the fish processing and marine farming sub-sectors. It was noted that the payment process in respect of these claims was ongoing.
- 3.5.14 The Executive Committee noted that 32 914 claims in the fisheries sector, totalling PHP 1 053 million, had been paid and that 2 971 claims had been rejected.

Tourism

- 3.5.15 The Executive Committee noted that the CSO had received 2 891 claims in the tourism sector, totalling PHP 121.2 million, that 997 claims had been approved at PHP 3.5 million, and that 420 claims had been rejected.

Intervention by the delegation of the Philippines

- 3.5.16 The delegation of the Philippines expressed appreciation for the fast action taken by the shipowner's insurer and the 1992 Fund in assisting those affected by the pollution, in setting up a CSO which paved the way to the fast processing of claims, and that in spite of the challenges created by claimants not having bank accounts, the 1992 Fund had found an alternative way to compensate claimants. That delegation also expressed gratitude for the Secretariat's visit to the Philippines in January 2025 to meet stakeholders and address their concerns. The delegation also noted that the huge progress made in the settlement of claims thanks to the efforts and collaboration of all parties concerned. The delegation further stated that the Government of the Philippines recognised the importance of submitting claims ahead of the time-bar deadline, and that it was still compiling the institutional claims and would notify the 1992 Fund once the claims were ready.

1992 Fund Executive Committee

- 3.5.17 The 1992 Fund Executive Committee noted that the Director would continue to monitor the incident and would report any developments at the next session of the governing bodies.

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| 3.6 | Incidents involving the IOPC Funds — 1992 Fund: <i>Gulfstream</i>
Document IOPC/APR25/3/6 | | 92EC | |
|-----|--|--|-------------|--|
- 3.6.1 The 1992 Fund Executive Committee took note of document IOPC/APR25/3/6 which contained information relating to the *Gulfstream* incident.
- 3.6.2 The 1992 Fund Executive Committee recalled that the articulated barge *Gulfstream*, towed by the tug *Solo Creed*, had capsized on 5/6 February 2024, spilling an unknown quantity of its 4 652 mt of persistent Bunker Fuel C cargo, polluting some 15 km of the coastline of Tobago. Subsequently traces of oil and tar balls were washed up on the coast of Bonaire (Kingdom of the Netherlands), which were cleaned up by the local authorities.
- 3.6.3 The Executive Committee also recalled that the barge was on a voyage from Pozuelo's Bay, Bolivarian Republic of Venezuela, to Guyana, and that the Tobago Emergency Management Agency (TEMA) had triggered the National Oil Spill Contingency Plan to manage the response to the spill.
- 3.6.4 The Executive Committee further recalled that the 1992 Fund had mobilised experts to provide assistance to the authorities, and that in early March 2024, the Deputy Director/Head of Claims Department and a Claims Manager had visited Trinidad and Tobago for a fact-gathering visit and to meet with representatives from the Ministry of Energy and Energy Industries (MEEI). It was noted that subsequent visits to Trinidad and Tobago had been made by the Director and Claims Manager.
- 3.6.5 It was recalled that the oil had been tested and proven to be persistent as required pursuant to Article I(5) of the 1992 CLC, and that the barge complied with the definition of 'ship' pursuant to Article I(1) of the 1992 CLC, so the 1992 Civil Liability and Fund Conventions apply to this incident.
- 3.6.6 It was also recalled that initial information regarding the ownership, registration and classification of the tug and barge prior to the incident was detailed in document [IOPC/APR24/3/6](#) which summarised that although the tug was registered in Tanzania, there was no clear evidence of the ownership, or of any insurance being in place for the barge laden with oil, due to a number of incomplete or falsified registration documents which had been provided to the authorities. A subsequent claim made by a businessman, that he was the true owner of the barge, is believed to be an attempt to lay a false trail away from the true owners of the barge and tug.
- 3.6.7 The Executive Committee recalled that the history of the auction sale of the barge, its movements after being aground on a beach for some seven months, its serious maintenance issues, lack of survey data or insurance, and appearance in satellite footage in the region of Pozuelo's Bay, Venezuela (a major petroleum port), were detailed in document IOPC/APR24/3/6.
- 3.6.8 The Executive Committee also recalled that document IOPC/APR24/3/6 stated that an online database had located the barge *Gulfstream* in Pozuelo's Bay, Venezuela, on 26 January 2024. The tug and barge were visually matched near this location in Pozuelo's Bay on 27, 29, 30 and 31 January 2024.
- 3.6.9 The Executive Committee further recalled that on 3 February 2024, after leaving Pozuelo's Bay, satellite imagery showed the tug and barge heading northeast, with the barge on a long tow. Notably, the satellite images of the barge showed that it was already leaking an oily substance, leaving behind a slick that stretched for at least 40 km. As no such trail was spotted beforehand, it is believed that the *Gulfstream* took on a cargo from Venezuela while in Pozuelo's Bay, possibly via a ship-to-ship transfer.
- 3.6.10 It was recalled that on 6 February 2024, satellite imagery showed the barge *Gulfstream* capsized surrounded by a large oil spill, approximately 16 nautical miles southeast of Tobago. According to a document purportedly showing a request to book a pilot for the tug *Solo Creed* and its barge tow *Culie Boy*, the barge was destined for the Vreed en Hoop terminal of Guyana Power and Light, Guyana's state-owned electric utility in fulfilment of a tender process for a number of shipments. Guyana Power and

Light has subsequently denied any involvement with the incident. However, the existence of further additional contracts providing oil to entities in Guyana have been mentioned, as to which no conclusions have been reached. The Trinidad and Tobago authorities are continuing their investigations and therefore, it has not been possible to ascertain the ultimate destination of the cargo, or its owner.

Search for the tug, its ownership, registration and classification post-incident

- 3.6.11 It was recalled that subsequent to the incident, searches for the location of the *Solo Creed* tug by the authorities in Trinidad and Tobago, who requested the assistance of neighbouring States and various flag States, eventually resulted in the authorities learning that the tug *Solo Creed* had been arrested in Angola by the Angolan authorities for breaching the boundaries of a number of oil field exclusion zones.
- 3.6.12 It was recalled that the authorities in Trinidad and Tobago had contacted local lawyers in Angola to effect an arrest of the tug which could possibly lead to a judicial sale, and to attempt to ascertain further details of its ownership. It was also recalled that the vessel had been arrested with the intention to sell it and to ascertain further details of its owners at the time of the incident. It was further recalled that the tug had been located and arrested in Angola, but had escaped detention. Its location was still unknown despite efforts to trace it.
- 3.6.13 The Executive Committee noted that there was a lack of any definitive information regarding the ownership of the barge *Gulfstream* at the time of the incident. The Executive Committee recalled that ship registration documents provided by the Zanzibar Maritime Authority indicated that the listed owner of the *Solo Creed*, during its voyage towing the barge *Gulfstream*, showed the owner as an officer of a Panamanian company which also owned several other vessels which transit between Caribbean, Colombian and Venezuelan ports, often appearing to sail 'dark' with Automatic Identification System (AIS) tracking data disabled.
- 3.6.14 The Executive Committee recalled that subsequent to the incident, a 'new' Certificate of Registration was provided by the Zanzibar Maritime Authority dated 13 February 2024 (some six or seven days after the incident), this time listing the owner of the tug as a company based in Georgetown, Guyana. It has not been possible to locate that company in the Guyana Commercial Registry, and enquires by the Trinidad and Tobago authorities are continuing.

Oil removal from barge

- 3.6.15 It was noted that oil removal operations were undertaken by the salvors engaged by the authorities in Trinidad and Tobago, with pipelines rigged from the capsized barge to the shoreline. Once collected, the oil was taken by road tankers to a waiting oil tanker for discharge at a refinery in Trinidad, and a total of 31 998 barrels of oil was removed and delivered to the refinery.
- 3.6.16 It was also noted that the authorities in Trinidad and Tobago had stated that it was their intention to sell the recovered oil at the best available market price to an international buyer, likely through the refinery's normal marketing arrangements (considering that the oil does have a high sulphur content), in order to defray the costs incurred by the authorities and thus reduce their claim against the 1992 Fund, but that it faced difficulties due to the likely origin of the oil.

Sale of barge

- 3.6.17 The Executive Committee noted that the barge had been sold for scrap in March 2025.

Applicability of the Conventions

- 3.6.18 It was recalled that at the time of the incident, Trinidad and Tobago was Party to the 1992 CLC and the 1992 Fund Convention. The limit of liability of the owner of the barge was estimated to be SDR 4.51

million. It was noted that at the time of the incident, neither the 1992 CLC or the 1992 Fund Convention were implemented into domestic legislation in Trinidad and Tobago, but that the Secretariat had been engaging with the State Attorney's office in Trinidad and Tobago to discuss the proper implementation of the Conventions into domestic law.

Claims for compensation

- 3.6.19 It was noted that as at 28 April 2025, 290 claims for compensation totalling USD 30.3 million, covering some of the clean-up operations and including 171 claims in the fisheries sector in Tobago, had been submitted to the focal point office. These claims are being assessed by the 1992 Fund's experts.
- 3.6.20 It was also noted that claims amounting to £13 633, EUR 45 328 and USD 3 434 had been submitted by the authorities in Bonaire who undertook surveillance prior to, and clean-up operations following, the arrival of the oil on its coastline on 26 February 2024.
- 3.6.21 The 1992 Fund Executive Committee noted that further costs relating to the oil recovery operation from the barge had yet to be submitted and no estimates were available for losses likely to be claimed in the tourism sector. It was noted that the Secretariat is engaging with potential claimants to ascertain the extent of such losses.

Limitation proceedings

- 3.6.22 The Executive Committee noted that as at 28 April 2025, no limitation proceedings had been commenced by the registered owner of the barge, who was yet to be identified, and no legal proceedings had been commenced against the 1992 Fund.
- 3.6.23 The Executive Committee noted that the Director was pleased to note that the clean-up operations had been concluded in Tobago, but was however concerned that this incident involved a barge which appeared to have no insurance, was in poor condition and for which no registered owner had yet been identified.
- 3.6.24 The Executive Committee noted that the Director encouraged the authorities in Trinidad and Tobago to pursue all available avenues to identify the true owner(s) of the barge and tug at the time of the incident, and to use all available resources to hold the owners accountable for the pollution and expenses incurred, as it appeared that there were a number of questions still to be answered regarding the certification, ownership and registration of the barge *Gulfstream* and its lack of insurance, as well as the legality of its cargo.

Intervention by the delegation of Trinidad and Tobago

- 3.6.25 The delegation of Trinidad and Tobago stated that it was grateful for the assistance provided by the Secretariat and whilst the oil pollution had been cleared up, there remained a number of items still to be resolved including the sale of the oil, the treatment of the waste oil and locating the tug *Solo Creed*. Noting that there were difficulties with the sale of the oil due to the unknown origin of the oil, the delegation stated that steps were being taken to find a satisfactory outcome. Regarding the waste oil, the delegation stated that a lengthy procurement process had been undertaken to identify a suitable contractor and progress was being made.
- 3.6.26 The delegation stated that it had received assistance from other delegations including Jamaica and Costa Rica regarding the origin of the oil, and had also received assistance from Panama who had assisted in identifying who was the agent on behalf of the owner of the barge.

Debate

- 3.6.27 One delegation stated that it was unfortunate that the owners of the barge and tug were still unidentified and recalled that the 1992 Fund Assembly had adopted Resolution N°14 at the November 2023 sessions of the governing bodies raising awareness of the risk of uninsured and unsafe ships, and had issued Guidance for Member States investigating the circumstances surrounding an oil pollution incident involving uninsured and unsafe ships. That delegation urged all Member States and all relevant parties, including the authorities in Trinidad and Tobago and Angola, to follow Resolution N°14 and the Guidance document, and to cooperate with the Secretariat to undertake further investigations to identify the owners and insurers of the vessels involved in the incident. That delegation also stressed the importance of proper implementation of the first tier of the international liability and compensation regime (the 1992 CLC), and stressed its regret that this incident had set another unfortunate precedent. These views were supported by another delegation.
- 3.6.28 Another delegation stated that as a CARICOM Member State, it stood firmly with the authorities of Trinidad and Tobago, and stated its commitment to supporting their efforts. That delegation urged other Member States to assist in bringing the matter to a swift conclusion.
- 3.6.29 The delegation of Panama made the following statement (original Spanish):

‘Allow me to begin by expressing, on behalf of the delegation of the Republic of Panama, our deepest regret for the passing of our great friend and spiritual guide, Pope Francis, the Pope of young people. May God receive him in his rightful place.

Returning to the matters at hand, the Republic of Panama thanks the Secretariat for the updates presented in document IOPC/APR25/3/6. We take this opportunity to state that, to date, our Administration has not been contacted by any entity to enquire about or verify information related to the owner of the tugboat *Solo Creed*, identified with IMO number 7505994.

It is of utmost importance for our Administration to emphasise that the tugboat *Solo Creed* is not, nor has it been in the past, registered in the Panamanian Registry of Ships. Furthermore, at the time of the incident, its owner was not a legal entity incorporated under Panamanian jurisdiction.

Additionally, we wish to reiterate our concerns reflected in the proposal presented by our delegation in document IOPC/APR25/1/5, in which we highlighted the need to establish effective mechanisms for prior communication between the Secretariat and the delegations that worthily represent Member States, prior to the disclosure of information — whether verbal or written — that could affect the image or reputation of a State internationally.

It should be recalled that, in previous sessions, statements have been made mentioning Panamanian-flagged vessels and the Republic of Panama, by both Member States and the Secretariat, without presenting clear evidence or conducting prior consultation with our competent authorities to verify the facts. This situation reaffirms the importance and relevance of the proposal we have submitted. In this regard, we reiterate our firm commitment to collaborate in any investigation that requires it, providing all the information at our disposal, with the aim of supporting the affected States, the IOPC Funds, and any other relevant organisations. All the above is focused on strengthening transparency, promoting constructive dialogue, and fostering mutual respect.’

3.6.30 The 1992 Fund Executive Committee noted the information and the interventions made by all the delegations that spoke. The Executive Committee noted that the Director would continue to monitor the incident and would report any developments at the next session of the Executive Committee.

3.7	Incidents involving the IOPC Funds — 1992 Fund: <i>Marine Honour</i> Document IOPC/APR25/3/7	92EC	
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3.7.1 The 1992 Fund Executive Committee took note of document IOPC/APR25/3/7 on the *Marine Honour* incident.

3.7.2 The Executive Committee recalled that on 14 June 2024, the product tanker *Marine Honour* was stationary at Pasir Panjang Terminal, Singapore, when it was struck by the hopper dredger *Vox Maxima*. This caused the *Marine Honour* to contact the vessel it was alongside, the *Ever Blink*. The collision breached the hull of the *Marine Honour* resulting in intermediate fuel oil (IFO) 380 being released into the environment. The Executive Committee noted that following further enquiries by the Secretariat, the quantity of oil spilled is understood to have been closer to an estimated 817 m³.

Impact of spill

3.7.3 The Executive Committee recalled that the spill had affected areas along the coast of Singapore. Oil also reached the southern coast of Johor and the East Johor Strait in Malaysia.

Response operations

3.7.4 It was recalled that clean-up and response operations in Singapore were completed by the Singapore authorities on 3 September 2024. Clean-up operations in Malaysia were completed on 16 July 2024.

Claims for compensation

3.7.5 The 1992 Fund Executive Committee noted that the shipowner and its insurer, QBE Insurance (Singapore) Pte Ltd (QBE), had submitted claims for clean-up costs, the costs for mitigating the risk of further pollution and a hull-cleaning programme for affected pleasure craft. As at 28 April 2025, QBE's claims totalled SGD 7 634 003 and USD 18 276 681. It was also noted that as at 28 April 2025, the 1992 Fund had approved amounts of USD 2 631 927, SGD 2 477 764, USD 2 770 592 and USD 1 189 082 in relation to QBE's claims for clean-up costs. It was also noted that further claims submitted by QBE were being assessed and additional claims were expected.

3.7.6 The Executive Committee noted that QBE's expenditure as a result of the incident had exceeded the 1992 CLC limit. In consideration of this, the 1992 Fund agreed to make a provisional payment to QBE for USD 11 million, which included the approved amounts and was determined in anticipation of forthcoming assessments by the international experts involved in the incident from its inception.

3.7.7 Regarding the costs of the Singapore Government's response operations, the Executive Committee noted that the Maritime Port Authority of Singapore (MPA) had submitted a claim for SGD 4 140 620 and that Sentosa Development Corporation had submitted a claim for SGD 986 608. It was also noted that further claims from government agencies in Singapore were expected, likely to be in the region of SGD 15 million.

3.7.8 It was further noted that claims from the affected fishing communities in Malaysia were expected.

3.7.9 The Executive Committee noted that as at 28 April 2025, 309 claims had been submitted to the claims submission office (CSO) for a total of approximately SGD 19.5 million and USD 19 million. It was noted that as at 28 April 2025, 107 offers had been made to claimants excluding QBE which amounted to approximately SGD 1.5 million, and approximately SGD 600 000 had been paid in compensation or was

in the process of being paid.

- 3.7.10 The Secretariat reported that estimates of the impact of the incident indicate that claims will not surpass the 1992 Fund's limit.

Limitation proceedings

- 3.7.11 The 1992 Fund Executive Committee recalled that the owner of the *Marine Honour* and QBE had limited their liability under the 1992 CLC and constituted the limitation fund on 18 October 2024.
- 3.7.12 It was also recalled that on 17 October 2024, the Singapore High Court had granted an application made by the owner of the *Vox Maxima* to limit liability under the Convention on Limitation of Liability for Maritime Claims, 1976, as modified by the 1996 Protocol (LLMC 76/96). It was noted that the Court had granted an application by the 1992 Fund to extend the deadline to submit its claim.

Director's considerations

- 3.7.13 The Executive Committee noted the Director's gratitude to the Singapore Government for its efficient response to the incident, MPA for the meeting it had hosted with the 1992 Fund, and QBE for its continued cooperation in the handling of the incident.

Intervention by the delegation of Singapore

- 3.7.14 The delegation of Singapore expressed gratitude to the Director and the Secretariat for the close cooperation with the Singapore Government agencies involved in the incident. The delegation was also pleased to note that progress had been made in processing claims and paying compensation.

Statement by the delegation of Malaysia

- 3.7.15 The delegation of Malaysia made the following statement:

'We wish to provide a comprehensive update on the current status of the claims process following the *Marine Honour* oil spill incident that occurred off the coast of Johor on 17 June 2024.

Following the incident, the Department of Fisheries (DOF) and the Pengerang Area Fishermen's Association (PNKP) initiated a joint investigation to assess the environmental and socio-economic impact of the spill. The incident caused widespread concern among the coastal fishing community, leading to the lodging of 167 police reports by affected fishermen.

The oil spill adversely impacted four major fishing bases, namely Kg. Sungai Musoh, Teluk Ramunia, Sungai Rengit and Sungai Buntu.

These areas, heavily reliant on small-scale fisheries, suffered significant disruption. The investigation, which spanned approximately three weeks, confirmed that fishing operations were completely suspended during this period, resulting in a total loss of income for the affected fishermen.

In response, PNKP, in close collaboration with DOF, prepared and submitted the relevant claims for compensation on behalf of the fishermen to the owner of the vessel *Marine Honour* on 15 January 2025. In early February 2025, the vessel owner responded, requesting that the documentation be resubmitted using the format prescribed by the IOPC Funds. This request is in line with international best practices and allows for a structured and transparent evaluation of the claims.

At present, PNKP is working diligently to revise and reformat the claim documents to comply with the IOPC Funds' guidelines. It is anticipated that the revised documentation will be submitted by June 2025, marking a key step forward in securing redress for the impacted communities.'

1992 Fund Executive Committee

3.7.16 The 1992 Fund Executive Committee noted that the Director would continue to monitor the incident and report any developments at the next session of the Executive Committee.

3.8	Incidents involving the IOPC Funds — 1992 Fund: <i>Terranova</i> Document IOPC/APR25/3/8		92EC	
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3.8.1 The 1992 Fund Executive Committee took note of document IOPC/APR25/3/8 regarding the *Terranova* incident.

3.8.2 The Executive Committee recalled that on 25 July 2024, the *Terranova* capsized and sank in water approximately 23 metres deep on the east side of Manila Bay, Philippines, after encountering heavy weather during Typhoon Gaemi. Despite the rapid launch of search and rescue operations, one crewmember lost their life. The vessel was carrying 1 468 896 litres of IFO 230 at the time.

Cargo removal and clean-up operations

3.8.3 The 1992 Fund Executive Committee recalled that in total 97% of the cargo had been recovered from the vessel during at-sea response activities.

3.8.4 It was noted that on 23 October 2024 the Philippines Coast Guard issued the vessel owner with a wreck removal order, on the basis that the remaining 3% of cargo remained a continuing hazard to the marine environment and that the location of the wreck would create a hazard to vessel anchoring and other operations.

Claims for compensation

3.8.5 The Executive Committee recalled that the 1992 Fund and Steamship Mutual had taken steps to jointly establish claims submission offices (CSOs) in the provinces of Bataan and Cavite in the Philippines, to facilitate the submission of claims for compensation resulting from the incident.

3.8.6 It was noted that the CSO in Bataan opened on 11 October 2024 and, as at 15 March 2025, had collected 2 693 claims. The CSO in Cavite opened on 16 January 2025 and, as at 15 March 2025, had collected 6 959 claims.

Interim payments

3.8.7 The Executive Committee noted that an agreement on interim payments with Steamship Mutual in respect of the incident had been signed on 11 November 2024.

Director's considerations

3.8.8 The Executive Committee noted that estimates of the impact of the incident indicate that claims for pollution damage have surpassed the 1992 CLC limit applicable to the *Terranova* and with the anticipated level of claims it is considered likely that the claims will exceed the STOPIA 2006 (as amended 2017) limit.

3.8.9 The Executive Committee noted the Director's gratitude to the Government of the Philippines and to the local authorities in the affected areas, for their assistance during visits by members of the Secretariat

to the Philippines, and his appreciation of Steamship Mutual's active response to this incident and ongoing cooperation with the 1992 Fund.

Intervention by the delegation of the Philippines

- 3.8.10 The delegation of the Philippines thanked the Secretariat for the document and stated its appreciation for the proactive steps taken by the 1992 Fund in the establishment of the CSOs and the implementation of the claims-handling system. The delegation thanked the Director and the Secretariat for their visit to the Philippines in January 2025 and engaging with local government units and various national government agencies. The delegation noted that these meetings were helpful to the claims submission process and that high-level meetings with the secretaries of Transport and Justice provided insight.
- 3.8.11 The delegation of the Philippines welcomed the signing of the Interim Payment Agreement, which allowed the Director to make interim payments with respect to claims resulting from this incident, which was important to the government of the Philippines and the affected claimants.
- 3.8.12 That delegation also reported that it is actively working to improve maritime safety standards, to strengthen enforcement measures and exploring advanced technologies for oil recovery. The delegation reaffirmed its commitment to international cooperation and to the principles of the IOPC Funds, and its dedication to protecting the marine environment and coastal communities from the adverse effects of oil pollution.

1992 Fund Executive Committee

- 3.8.13 The 1992 Fund Executive Committee noted that the Director will continue to monitor the incident and report any further developments at the next session of the Executive Committee.

3.9	Incidents involving the IOPC Funds — 1992 Fund: Incidents in the Russian Federation Document IOPC/APR25/3/9		92EC	
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- 3.9.1 The 1992 Fund Executive Committee took note of document IOPC/APR25/3/9 on two incidents in the Russian Federation.
- 3.9.2 The Executive Committee noted that on 15 December 2024 two oil tankers, *Volgoneft 212* and *Volgoneft 239* were caught in a storm at the southern end of the Kerch Strait entering into the Black Sea. As a result of the storm the *Volgoneft 212* split in two and sank, resulting in the death of one crew member. The *Volgoneft 239* also split in two, with the fore part sinking and the aft part running aground near the Port of Kavkaz.
- 3.9.3 It was also noted that both vessels were carrying a cargo of mazut, with a total volume of approximately 8 450 tonnes of cargo, of which it is estimated that 2 400 to 5 000 tonnes spilled from both vessels.

Impact of the spill

- 3.9.4 The Executive Committee noted that early satellite imagery indicated two separate oil slicks in the area of the Kerch Strait, with the oil appearing to have been carried in an easterly direction and making landfall on 17 December 2024 in the Anapsky and Temryuksky Districts. States of emergency were declared in the Anapsky and Temryuksky Districts on 17 December 2024 and a regional state of emergency was declared in Krasnodar Krai on 25 December 2024. By early January 2025, oil was also being reported in Sevastopol, on the Crimean peninsula.
- 3.9.5 The Executive Committee noted that the Russian Federation had reported that the area of the spill extended to 2 800 square metres and impacted more than 300 kilometres of coastline. It was noted

that a Federal Emergency Regime and a Government Commission had been established by decree on 10 January 2025.

Response operations

- 3.9.6 The 1992 Fund Executive Committee noted that the Russian Federation had advised that 28 vessels were involved in pollution response in the Black Sea and that 455 interagency monitoring groups had been organised, utilising aviation, drones, sea vessels and divers. More than 5 000 people and 600 units of equipment were employed in the response activities and 18 stations for the rescue of wildlife species were organised.
- 3.9.7 The Executive Committee also noted the information provided by the Russian Federation detailing specific clean-up efforts relating to the collection and processing of oily water and the removal of contaminated sand and soil.

Applicability of the Conventions

- 3.9.8 The Executive Committee noted that the Russian Federation is Party to both the 1992 CLC and the 1992 Fund Convention. Therefore, the CLC limitation applicable to each vessel is SDR 4.51 million.
- 3.9.9 The *Volgoneft 212* and *Volgoneft 239* are believed to be insured with the Russian National Reinsurance Company.

Director's considerations

- 3.9.10 The Executive Committee noted that the Director has had informal discussions with members of the Russian delegation, and that the 1992 Fund had received an update on the progress of the response on 7 February 2025.

Statement by the delegation of the Russian Federation

- 3.9.11 The delegation of the Russian Federation made the following statement:

'On 15 December 2024, in the southern part of the Kerch Strait, several kilometres from the coast, in stormy conditions two tankers *Volgoneft 212* and *Volgoneft 239* were broken up with an interval of about two hours. There was no collision of the vessels. These were two separate accidents.

Both tankers made voyages between the ports of the Russian Federation and carried a cargo of petroleum products (heavy fuel oil) with a total volume of about 9 000 tonnes.

After the breakage of the tankers, both parts of the *Volgoneft 212* tanker, as well as the fore part of the *Volgoneft 239*, sank, and the stern part of the second tanker was stranded ashore near the Cape Panagia. The crews of both tankers were evacuated, and unfortunately one person died.

The incidents were classified as very serious marine casualties. The State Emergency situation was declared by the Government.

As a result of the accidents, about 3 100 tonnes of petroleum products (heavy fuel oil) were spilled from both vessels.

In the course of the investigation process, the law enforcement authorities have initiated criminal cases. All necessary investigative actions are on the way.

Twenty-eight vessels were involved in localisation and pollution response in the Black Sea area.

The work of 455 interagency monitoring groups has been organised. The aviation, drones, vessels, special crafts of the Ministry of Emergency Situations of the Russian Federation, as well as divers are involved in the situation monitoring process.

The Russian Federation is taking all necessary measures to localise and neutralise the consequences of these accidents.

As of 25 April 2025, approximate 1 000 kilometres of the coast were examined in Kuban and Crimea regions. Hundreds of thousands of tonnes of contaminated sand, soil and pebbles have been collected.

The stern part of *Volgoneft 239* was aground near Cape Panagia. The remaining oil was pumped out and then the stern part was cut into pieces. By the beginning of March 2025, the work on dismantling of the stern part of the *Volgoneft 239* tanker was completed ahead of schedule, 744 tonnes of metal were handed over for recycling. After the completion of the disposal of the stern part of *Volgoneft 239* the cleaning of the area commenced and has been already completed. The Ministry of Emergency Situations continues daily monitoring of the situation in the emergency zone until the consequences of the accident are completely eliminated.

The situation in the area where the sunken fragments of the ships are located remains stable; no fuel oil leaks from the tanks have been recorded. Divers continue monitoring and controlling the condition of the sunken fragments of *Volgoneft 212* and *Volgoneft 239*. Inspections of all sunken fragments show that the fragments are in the same condition.

The procedure for recovering the wreckage of both tankers has been determined at the governmental level. The project is now on the way.

According to the Federal Agency for Fishery, the situation with bioresources in the Black Sea remains consistently positive. No negative impact from the oil spill on fish and seafood production has been recorded. Based on the results of the studies of the Black Sea waters in the aquatic bioresources fishing zone, no deviations in the quality of the caught fish and seafood have been recorded. Fishing is carried out at a distance from polluted areas and is carried out in a normal mode. No traces of fuel oil were found in the fishing areas or on the fishing gear used in the fishery.

The investigation of the main course of the accidents is still in the process. It is expected that the official results of the investigation will be announced at the governmental level.

The Russian Federation is considering the official application to be made to the IOPC Funds for the compensation.

The Arbitration Court of the Krasnodar region decided to invite the IOPC Funds as the third party to consider a civil dispute over the wreck of the tankers. The official notification to the Secretariat is expected to follow through the Ministry of Justice of the Russian Federation.'

Statement by the delegation of Ukraine

3.9.12 The observer delegation of Ukraine made the following statement:

'Ukraine would like to take part in today's discussion regarding the incident involving the Russian tankers that occurred on 15 December 2024 in the area of the Kerch Strait, and share with the participants the data we have to date. This disaster occurred in close proximity to Ukraine, and

its consequences have been fully felt by us as well.

First and foremost, we would like to express our sincere appreciation to the Secretariat for submitting the document addressing the situation that the Russian Federation is seeking, by all possible means, to obscure from the attention of the international community. At the same time, we kindly urge the Secretariat and Member States, in their consideration of these incidents, to pay particular attention to the status of the Kerch Strait. We recall that, following the occupation of part of Ukraine's territory, the aggressor state unilaterally proclaimed the strait as its internal waters, in flagrant violation of international law and in breach of Ukraine's sovereign rights.

Now, turning directly to the incident itself: under storm conditions, two Russian tankers, *Volgoneft 212* and *Volgoneft 239* – both technically outdated and unfit for transporting heavy fuel oil under such circumstances – collided, causing a large-scale oil spill. This disaster triggered a chain of severe environmental consequences across the Black Sea region.

The initial contamination struck the coastline of the Krasnodar region in Russia. However, under the influence of currents and wind conditions, the heavy fuel oil spread across the Kerch Strait, affecting the Crimean coastline, particularly areas near the city of Kerch and nature reserves such as the Opukskiy Nature Reserve.

Satellite monitoring using Sentinel-1 imagery began on 17 December 2024 and confirmed ongoing pollution along the southern and western Crimean coasts. By January 2025, oil slicks up to 15 kilometres in length were visible between the Crimean and Caucasian coastlines. On 24 January 2025, clumps of heavy fuel oil were indeed detected along the Odesa region coastline, specifically in the Lymanska, Tuzlivska, and Serhiivska communities. Samples were collected and transferred to laboratories for chemical analysis and risk assessment.

The disaster severely impacted the whole Black Sea ecosystem, causing the death of over 700 seabirds and 61 dolphins, threatening protected areas, and posing long-term risks to biodiversity, fisheries, and human health due to toxic oil contamination.

As of today, pollution remains heavily concentrated in the Kerch Strait as well as along the southern and western coasts of Crimea. The physicochemical properties of the heavy fuel oil cause it to gradually settle, creating a serious risk of secondary contamination through sediments. In addition, localised pollution has been confirmed along the northwestern Black Sea coast. Ukrainian scientific institutions are continuing comprehensive environmental monitoring to assess the long-term impacts of this disaster on marine ecosystems and coastal areas.

This environmental disaster and the Russian Federation's irresponsible behaviour have inflicted long-lasting harm upon the Black Sea and its littoral states. By operating obsolete tankers, failing to inform the international community, and delaying an effective response, Russia has caused a catastrophe that cannot be resolved within months – its consequences will be felt for generations.

The Russian Federation not only failed to ensure safe shipping by operating aged and unsuitable vessels but also actively concealed the scale of the incident. It failed to promptly inform neighbouring countries and international organisations about the spill. As a result, effective international response measures were delayed, and the management of the consequences was poorly organised, leading to enormous environmental and economic losses, estimated at billions of dollars, which will affect the region for decades.

We call on the Russian Federation to act responsibly, comply with international law, and ensure

transparency in its actions. It is imperative to promptly inform the global community about such emergencies, rather than concealing or minimising the scale of disasters.

We also urge the IOPC Funds and its Member States to continue monitoring this situation, keep it within the focus of their activities, and ensure that those responsible are held accountable.'

Statement by the delegation of France

3.9.13 The delegation of France made the following statement (original French):

'I have the honour to take the floor on behalf of the Polish Presidency of the European Union, since the credentials of the Polish delegation, as noted at the beginning of the meeting, regrettably could not be accepted by the IOPC Funds. I do so with the permission of the Head of the Polish delegation and on behalf of the other Member States of the EU and the European Commission.

On the matter at hand, we reiterate the constant position of the EU regarding the territorial integrity and sovereignty of Ukraine, as recalled by the Ukrainian delegation, and we are particularly concerned about the incidents involving the *Volgoneft-212* and *Volgoneft-239* vessels, which were originally designed for river transport and later converted for maritime transport - as these incidents not only affect the Russian Federation but also Ukraine and the Black Sea region.

We acknowledge the significant challenges in addressing and managing such incidents, particularly when they occur in the context of armed conflict, where access to information, cooperation and coordination can be significantly limited. However, such incidents can have devastating and long-term impacts on marine ecosystems, biodiversity, fisheries, and human health, as seen in the Black Sea region, where pollution remains a serious concern.

Continuous environmental monitoring remains essential to fully assess and mitigate the consequences of such disasters.

We call upon the Russian Federation to inform the IOPC Funds of the actions it has taken as a flag State in response to this situation and what measures it intends to undertake in order to prevent similar incidents in the future.'

Statement by the delegation of the United Kingdom

3.9.14 The delegation of the United Kingdom made the following statement:

'The UK would like to join others including France, and their statement on behalf of EU Member States and the European Commission in expressing concern about the marine pollution that has resulted from this incident. This delegation would also like to remind Russia of their responsibility to safeguard the marine environment and the suitability, safety and security of shipping, and calls for Russia to comply fully with their international obligations in this regard.

This is also an opportunity to further remind all Member States of the importance of fulfilling IMO Assembly Resolution 1183(33) and the obligations on flag and port States to ensure that oil spill incidents do not pose environmental risks.

As such the UK similarly echoes the calls for the Russian Federation to further advise the IOPC Funds on what actions it has taken, and what actions it will take in future to prevent reoccurrence, and on its monitoring, to allow the Director to continue monitoring the situation and report on any developments.'

Debate

3.9.15 One delegation shared the views expressed by the delegation of France. Another delegation expressed its condolences regarding the crew member who lost their life as a result of the incident involving the *Volgoneft 212*. That delegation also expressed its appreciation to the Secretariat for the information provided in the document. That delegation noted that a formal request for assistance had not been received from the Russian Federation and as a result the Secretariat had not yet been able to fully investigate the circumstances of the incidents. That delegation further noted that on a preliminary basis the incidents appeared to fall within the scope of the 1992 Civil Liability and Fund Conventions, but that an investigation would need to be done to determine if any events enumerated in Article IV(2) of the 1992 Fund Convention were applicable in this case. That delegation further stated that 1992 Fund Assembly Resolution N°12 would also be an issue. The delegation expressed its hope that the Secretariat, in cooperation with the Russian Federation, would have an opportunity to gather relevant information so that a decision could be reached in the future.

1992 Fund Executive Committee

3.9.16 The 1992 Fund Executive Committee noted that the Director will continue to monitor the incidents and report any developments at a future session.

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