



INTERNATIONAL
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GUIDELINES FOR PRESENTING CLAIMS FOR CLEAN UP AND PREVENTIVE MEASURES

Document submitted by France

Summary:	This document describes the importance of the Guidelines developed by the IOPC Funds for the compensation of States affected by an oil spill in the future. It also contains information relating to the legal value of these Guidelines.
Action to be taken:	<u>1992 Fund Assembly</u> (a) Note the information contained in this document; and (b) Approve the publication of the Guidelines for presenting claims for clean up and preventive measures.

1 Introduction

- 1.1 At the October 2013 session of the 1992 Fund Administrative Council, France submitted a document on the assessment methods of the IOPC Funds, in which it requested the adoption of a number of Guidelines by the 1992 Fund Assembly with a view to clarifying, for the State affected by an oil spill, the information required by the IOPC Funds when assessing its loss.
- 1.2 In response to this request, the IOPC Funds' Director undertook to publish specific guidelines on claims for compensation for clean-up operations and preventive measures, following the same model as those for the fisheries and tourism sectors. Preliminary draft guidelines were submitted to the 1992 Fund Administrative Council at its session in May 2014.
- 1.3 At the same time, during that session, France, Spain and the United Kingdom submitted a joint document to share with other States their experience in establishing a claims file following large-scale pollution. This document set out several proposals to facilitate exchanges between the affected State and the IOPC Funds in the event of an oil spill.
- 1.4 The proposals contained in this joint document pursued the same objective as the IOPC Funds Guidelines, namely to provide exhaustive information to the affected States to enable them to establish a clear and complete claims file and thus enhance their chances of rapidly reaching an amicable settlement with the IOPC Funds. It was therefore decided to embark on collaboration between the authors of this document and the IOPC Funds Secretariat to fine-tune, in time for the sessions of the governing bodies of April 2015, the Guidelines for presenting claims for clean up and preventive measures.

2 Importance of these Guidelines

- 2.1 France welcomes the constructive dialogue established with the IOPC Funds Secretariat which resulted in the elaboration of a clear and detailed document which takes into account the legal and accounting specificities of each IOPC Funds Member State, as well as the particular circumstances of each incident. It was recalled several times that the assessment must be on a case-by-case basis taking

into account the means of intervention available to the affected State and the rates available at local level.

- 2.2 Furthermore, emphasis was placed on the importance of continuous dialogue from the onset of the oil spill between the IOPC Funds and the affected State, both in operational and financial terms. In this regard, the IOPC Funds undertake to inform the affected State, as soon as possible, in writing, whether they consider that certain pollution prevention measures have proved ineffective or disproportionate and, for that reason, may not be compensated.
- 2.3 By providing Member States with all the guidance needed to produce a fully documented claims file, these Guidelines will, in future, allow faster compensation of States affected by an oil spill.
- 2.4 France therefore invites the 1992 Fund Assembly to approve the publication of the Guidelines for presenting claims for clean up and preventive measures prepared by the IOPC Funds Secretariat.

3 Legal value of these Guidelines

- 3.1 France nevertheless wishes to recall, as indicated in the preface, that the Guidelines cannot be considered to be an authoritative interpretation of the relevant international Conventions. Indeed, the 1992 Fund Assembly does not have its own legislative power and its decisions do not constitute secondary legislation under the relevant international conventions.
- 3.2 These Guidelines, therefore, only have the effect of guidance concerning IOPC Funds policy and do not have a legally binding character with respect to the Member States. As a consequence, their publication does not bind France, which moreover, does not agree with all the recommendations in these Guidelines, in particular concerning the calculation of the cost of military ships and aircraft deployed in the event of an incident, to make use of their valuable capacity to strengthen specialist anti-pollution resources.

4 Action to be taken

1992 Fund Assembly

The 1992 Fund Assembly is invited to:

- (a) Take note of the information contained in this document; and
 - (b) Approve the publication of the Guidelines for presenting claims for clean up and preventive measures.
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