



27th CEDRE information day

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Essential preparedness: Understanding the compensation system before an incident occurs

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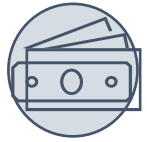


Understanding the compensation system

Overview



- Introduction to the regime
- Admissibility of claims
- Claims process
- information/training for claimants



Compensate victims of pollution damage



Sharing of cost of compensation between shipowner/insurer and oil receiver



Uniform consistent application of compensation regime

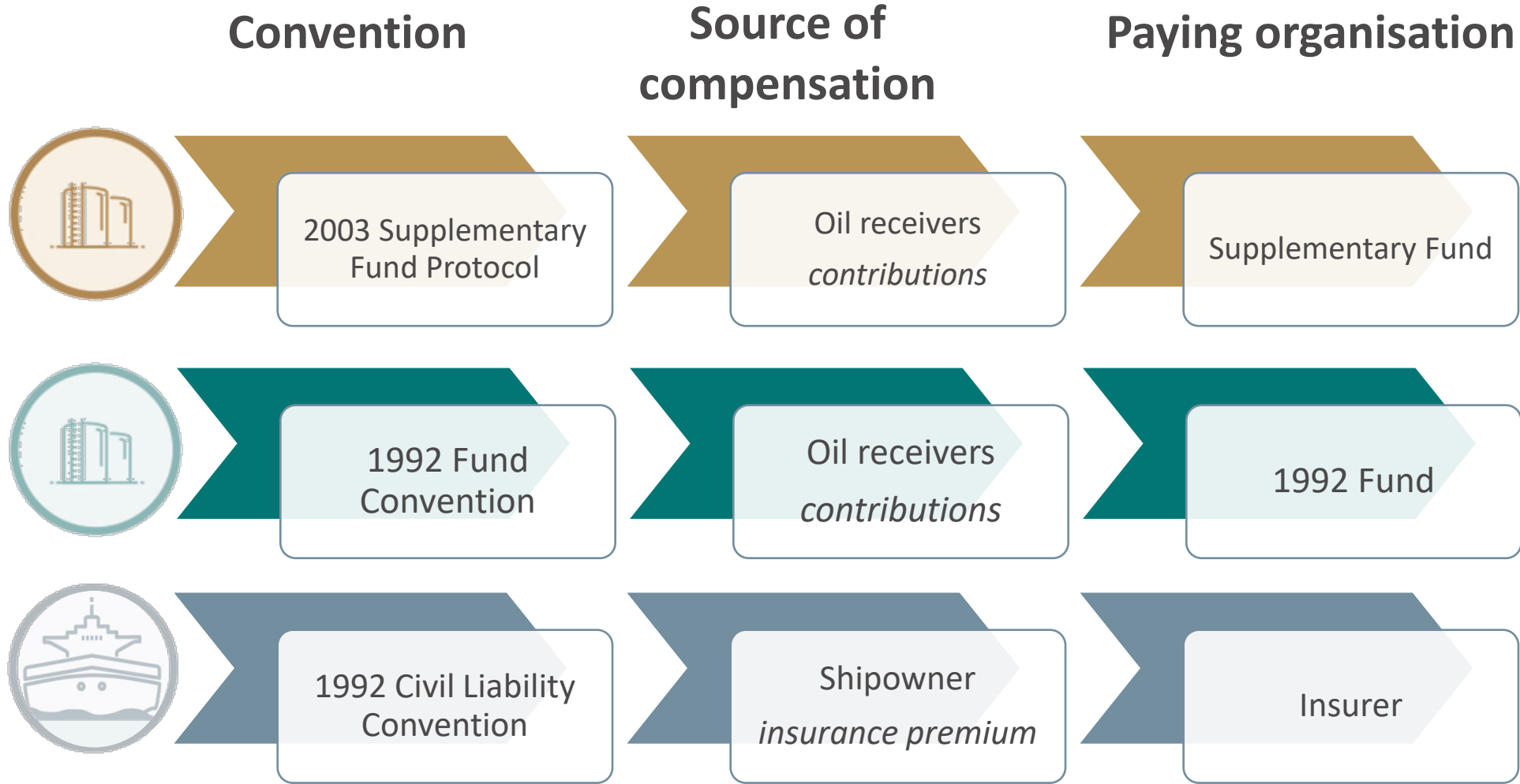


Equal treatment of all claimants



How the regime works

Three tier system



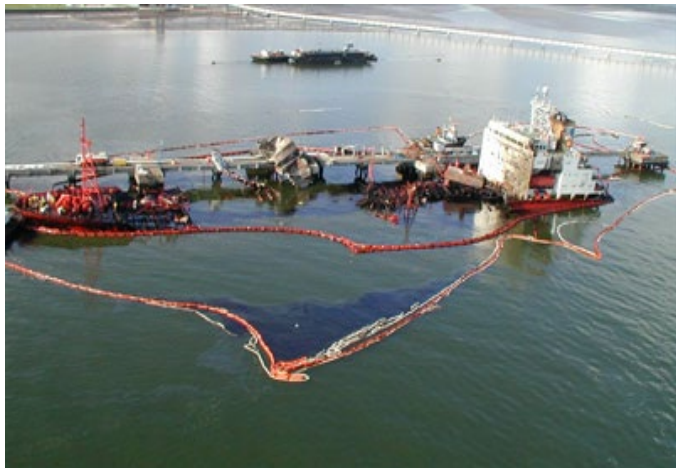


Scope of application

Definition of 'pollution damage'

- a) Loss or damage caused outside the ship by **contamination** resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur **provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to the costs of reasonable measures of reinstatement actually undertaken or to be undertaken;**
- b) Costs of **preventive measures** and further loss or damage caused by preventive measures.

Preventive measures defined as any: **reasonable measures** taken by any person after an incident has occurred to prevent or minimize pollution damage



Types of claims

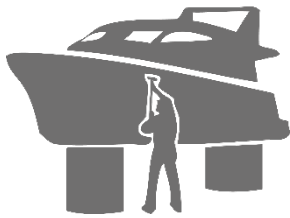
What is covered



Costs of clean-up
and preventive
measures



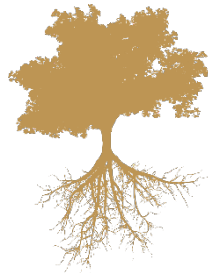
Economic losses by
fisherfolk or those
engaged in mariculture



Property
damage



Economic losses in
the tourism sector



Costs of reinstatement
to the environment





Admissibility of claims

Existing criteria and key principles



Existing criteria

- Objective criteria
- Reasonableness
- Relationship between costs and benefits

Political/social considerations are outside the scope of the Conventions

Key principles

- Occurrence of an incident is **not enough** to receive compensation
- Loss must have occurred
- Loss must be **proved**
- **Sufficient link** of causation between loss and contamination



Who?

- Anyone who has suffered a damage in a Member State as a result of a spill

What?

- Costs, including loss of profit, incurred as a consequence of the contamination



To whom?

- Insurer (directly or through its Correspondent)
- IOPC Fund
- Claims Handling Office



When?

- As soon as possible
- Time bar
- Out of court settlement





Time bar

The 1992 Conventions and Supplementary Fund Protocol



Source Rpullin

Rights to compensation under both the 1992 CLC, the 1992 Fund Convention and the Supplementary Fund Protocol shall be extinguished unless action is brought within **3 years** from the **date of damage**

However, in no case shall an action be brought after **6 years** from the **date of the incident**

Majority of claims are settled out of court within 3 years



Claim submission

Presenting a claim

How?

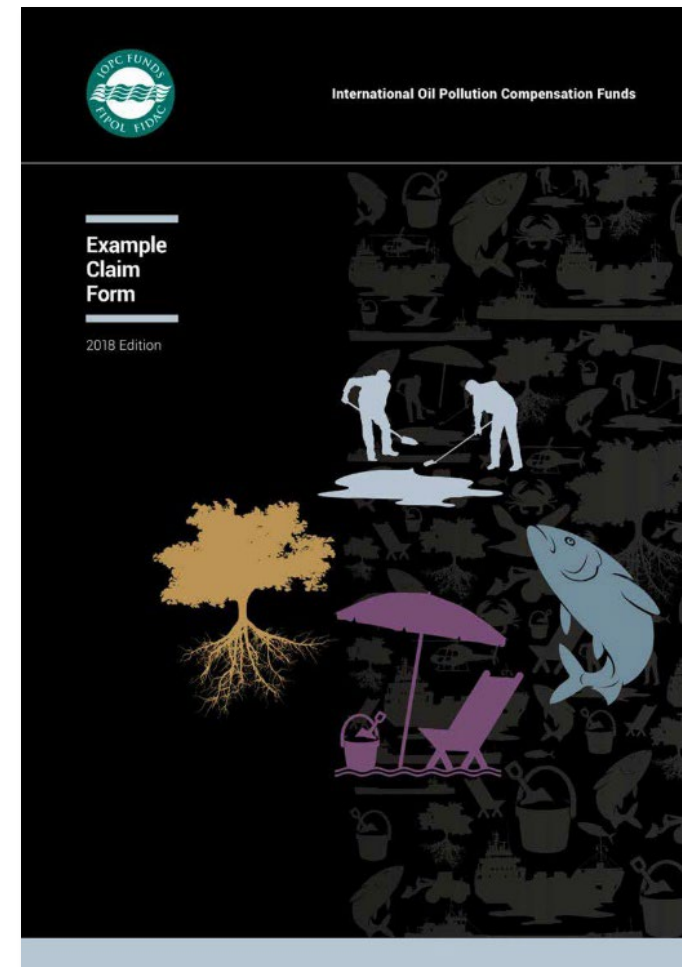
- In writing

When?

- As soon as possible

To whom?

- Shipowner/Insurer
- IOPC Funds
- Claims Handling office

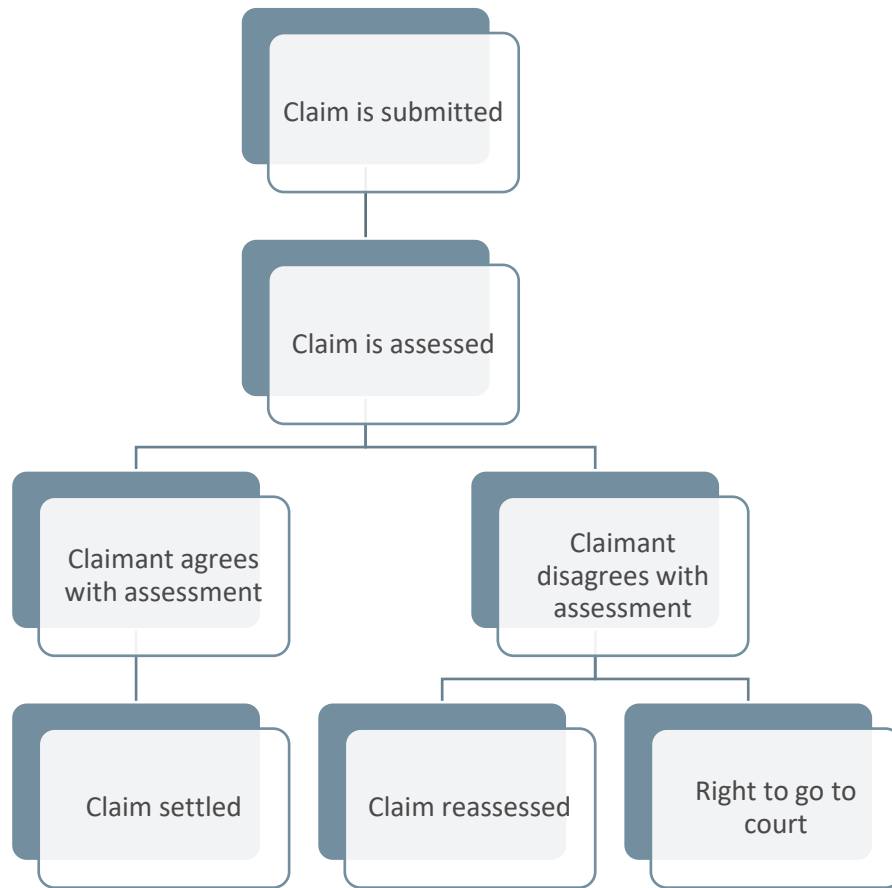


The claim must have sufficient detail to allow the insurers/Funds to assess the claim on the basis of the information submitted



Claims assessment

The claim handling process





Claim submission

Presenting a claim – Clean up

- ✓ Amount of the claim to be specified
- ✓ Any cost must be supported by invoices, receipts, worksheets, wages records etc.
- ✓ Invoices insufficient by themselves
- ✓ Maps & spreadsheets
- ✓ Narrative describing activities and linking these with expense





Claim submission

Presenting a claim – clean up



What ?	Operations
Why ?	Circumstances
When ?	Decided, implemented, terminated
Where ?	Sites
What with ?	Resources
By whom ?	Government, Industry, Contractors..
How much ?	Resources, Costs + Rates



Claim submission

Presenting a claim – Property damage

- ✓ Extent of pollution damage to property
- ✓ Description and photographs
- ✓ Original price with receipt/invoice
- ✓ Cost of repair work, cleaning or replacement of items
- ✓ Invoice of costs incurred
- ✓ Age of damaged items
- ✓ Information on normal repair and maintenance schedules





Claim submission

Presenting a claim – Economic Losses

- ✓ Link of causation
- ✓ Comparative earnings
 - ✓ For fisheries-related claims, monthly breakdown of quantity of each marine product caught, harvested or processed
- ✓ Saved overheads
- ✓ Method of calculation of the loss





Claim assessment

Assessment criteria

- Link of causation
- Costs must be reasonable
- Expenses must actually be incurred (or to be incurred)
- Claim assessment:
 - Did actions take place?
 - Were actions reasonable?
 - Were losses actually incurred?
 - Does the claim reflect actions? Losses?
 - Do the sums add up?





Claim assessment

Role of experts

- ✓ Local surveyors and international experts
- ✓ Jointly appointed by the IOPC Funds and P&I Club
 - Advise and assist
 - Investigate damage & monitor clean-up
 - Offer guidance on admissibility of claims
- ✓ Submit recommendations to the Fund & Club
- ✓ Role only **advisory**



Only the Fund & P&I Club approve claims



Information services, online

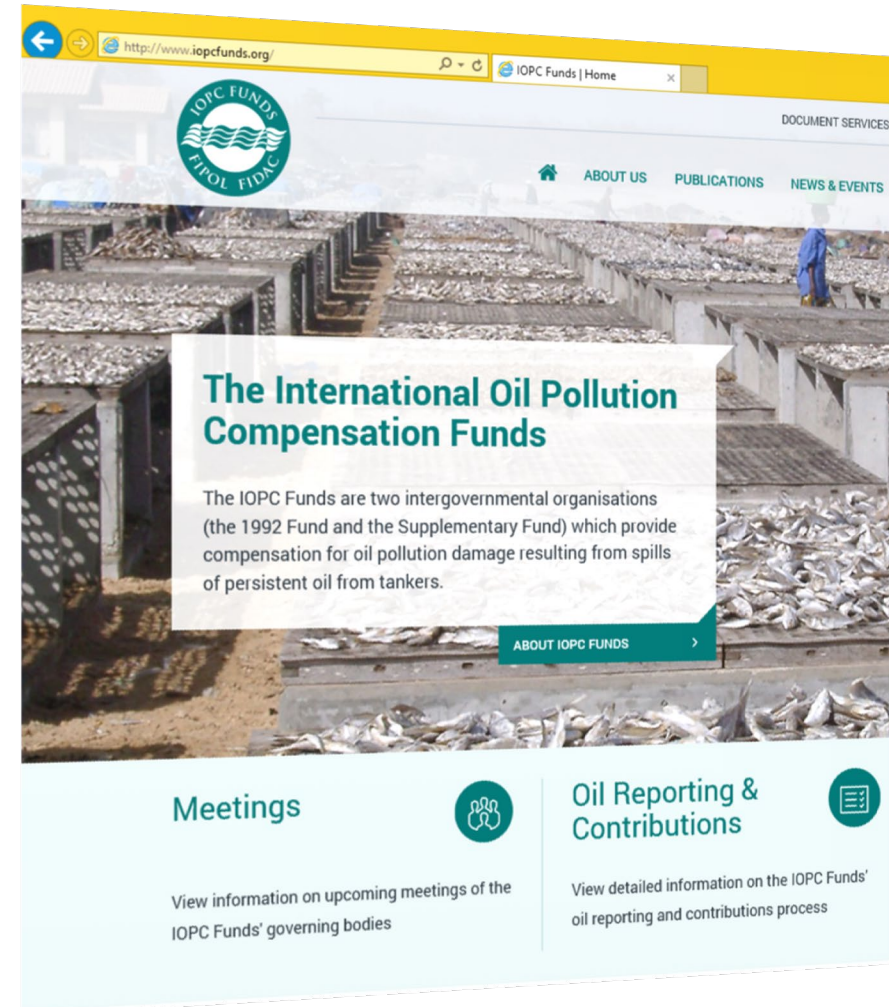
www.iopcfunds.org

Available in all three working languages of the Funds: English, French & Spanish

Interactive features allows users to easily find the latest information on

- Incidents (both open and closed)
- Member and non-Member States
- Claims and compensation

Meeting documents (past and present) available to search and download from Document Services portal





Information services

Seminars, workshops and exhibitions



>130 seminars and workshops in the last 5 years

Webinars

The Fund may also be invited to participate in **oil spill exercises** with other stake holders, so that the compensation aspect can be considered

Guidelines for claimants

- Guidelines for presenting claims in the fisheries, mariculture and fish processing sectors
- Guidelines for claims in the tourism sector
- Guidelines for presenting claims for clean up and preventive measures
- Guidelines for presenting claims for environmental damage
- Example Claim Form

Guidelines for Member States

- Guidance for Member States on measures to facilitate the claims handling process
- Guidelines on management of fishing restrictions
- Consideration of the definition of ship under the 1992 CLC





Conclusions



- It is useful to know the compensation system to be ready when an incident happens.
- The Fund provides information to claimants to facilitate claims handling
- Information also available online and in publications to show claimants how to submit claims
- Knowledge of the Fund's admissibility criteria can help in decision making taking into account the possibility of cost recovery



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