



International Oil Pollution Compensation Funds

Agenda Item 4	IOPC/OCT16/4/4/1	
Date	12 September 2016	
Original	English	
1992 Fund Assembly	92A21	●
1992 Fund Executive Committee	92EC67	
Supplementary Fund Assembly	SA13	●

INTERIM PAYMENTS

Submitted by the International Group of P&I Associations

Summary:	<p>The International Group of P&I Associations (International Group) has continued to work closely with the Consultation Group, established at the October 2015 session of the 1992 Fund Administrative Council, and the Director, to clarify the basis on which interim payments are made in respect of claims where the 1992 Civil Liability Convention (1992 CLC) limit is exceeded and which are funded both by the P&I Club and the 1992 Fund.</p> <p>The agreement that has now been reached with the Consultation Group and that is presented to the 1992 Fund Assembly and Supplementary Fund Assembly for approval, in the form of a draft Agreement on standard terms relating to interim payments, would conclude the work on this subject matter in a manner that is acceptable to the International Group.</p>
Action to be taken:	<p><u>1992 Fund Assembly and Supplementary Fund Assembly</u></p> <p>Information to be noted.</p>

1 Introduction

- 1.1 The International Group of P&I Associations (International Group) welcomes the proposed Agreement containing standard terms and conditions under which an International Group P&I Club (Club) would commence payment of compensation and when, and under what conditions, the IOPC Funds would take over payments.
- 1.2 The draft Agreement has been submitted with the endorsement of the International Group.
- 1.3 Approval by the 1992 Fund Assembly in October 2016 would conclude the work first started in 2008 when the International Group raised the issue of the funding of interim payments with the 1992 Fund.
- 1.4 As was mentioned by the International Group in document [IOPC/OCT09/10/1](#) submitted to the 1992 Fund Assembly in October 2009 and in document [IOPC/APR15/4/4/1](#) submitted to the 1992 Fund Assembly in April 2015, the possibility was considered as far back as 1999 (see document [71FUND/EXC.60/12/1](#), [92FUND/EXC.2.6.1](#)) of apportioning payments between the Club and the IOPC Funds such that any interim payments funded by the Club would only cover the 1992 Civil Liability Convention (1992 CLC) portion of the total amount that each claimant would be entitled to under the 1992 CLC/Fund Convention system.

2 Proposed Draft Template Agreement

- 2.1 Approval of the draft Agreement will ensure that a mechanism is in place whereby compensation can be provided for claims in a speedy and efficient manner in a situation where the total costs of claims exceeds, or might exceed, the amounts available under the 1992 CLC and 1992 Fund Convention. The draft Agreement addresses the issues of immunity and established claims in a manner that is acceptable to the International Group.
- 2.2 It is also recognised that the draft Agreement could be modified on a case-by-case basis by the parties as they deem fit to address specific circumstances and that, in each case, any such agreement would need to be submitted to, and agreed by, the 1992 Fund Executive Committee.
- 2.3 Whilst the International Group recognises that sessions of the 1992 Fund Executive Committee can be scheduled at relatively short notice, inevitably this could lead to a short delay in the payment of compensation immediately following an incident, or in assurances of it being given.
- 2.4 In addition, in circumstances where the Executive Committee does not agree to waive immunity as part of any such agreement, then it is likely that no agreement on interim payments would be reached and Clubs would simply follow the procedures established in the 1992 CLC and establish a limitation fund in the relevant court without making any interim payments, or seek an agreement with the Member State concerned as occurred in the *Hebei Spirit* incident.
- 2.5 Approval of the draft Agreement submitted by the Consultation Group for consideration would, however, ensure that the two parties have now found common ground on this fundamental subject that is essential to the functioning and operation of the compensation system.
- 2.6 The International Group extends its appreciation to the Consultation Group, the Consultation Group's external advisers and the Director for the work undertaken, and liaison with, the International Group in reaching an agreement for presentation to the 1992 Fund and Supplementary Fund Assemblies.

3 Action to be taken

1992 Fund Assembly and Supplementary Fund Assembly

The 1992 Fund Assembly and Supplementary Fund Assembly are invited to take note of the information contained in this document.
