


# The role of the IOPC Funds in the protection of the marine environment now and in the future

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International Oil Pollution Compensation Funds



18 October 2023

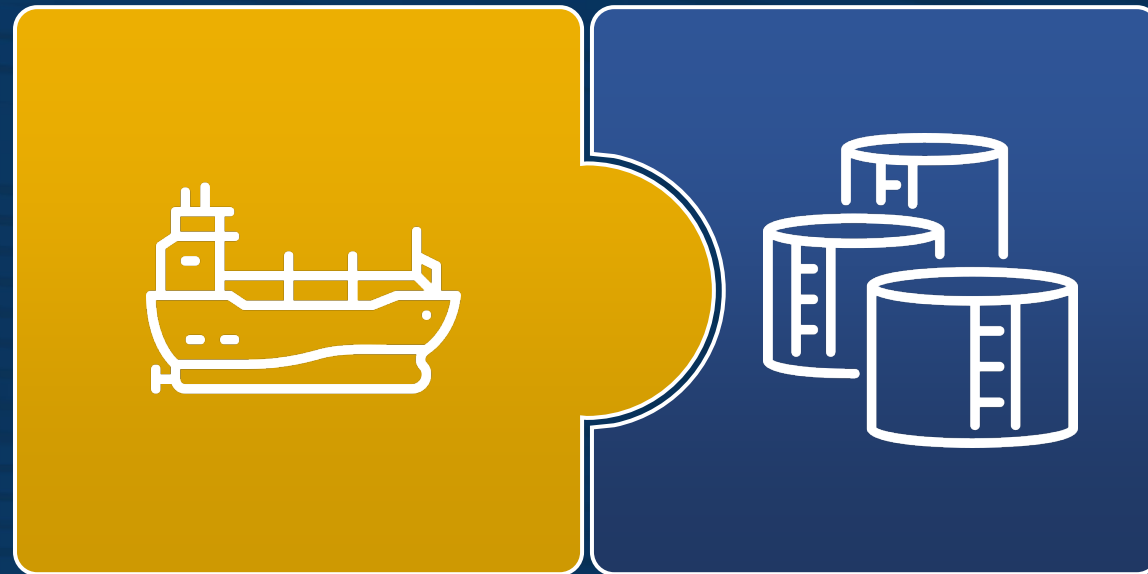
An aerial photograph of a large port area at dusk. The sky is a deep blue with some light clouds. In the foreground and middle ground, numerous large cargo ships and tankers are visible, some with cranes on their decks. The water is dark blue. In the background, there are several large gantry cranes and other port infrastructure. The overall scene is industrial and maritime.

Providing compensation for oil pollution damage resulting  
from spills of persistent oil from tankers

A form of “insurance company” for States,  
managed by States

# ┌ The IOPC Funds - Who we are

The cost of oil spills is shared between the **shipowner** and the **oil industry**



# Why do we exist?



## 1967

Torrey Canyon ran aground  
**Environmental disaster**

**120 000 tonnes** of crude oil spilled

Fishing waters and livelihoods impacted

## Issue

Victims not protected

No international rules on liability  
and compensation in the event of  
an oil spill

## Outcome

Establishment of an international  
regime for compensation for  
victims of oil pollution

# The international liability and compensation regime

## Legal framework

### Previous regime

1969 Civil Liability  
Convention

**(33 Member States)**

1971 Fund  
Convention

**(dissolved in 2014)**

### Current regime

1992 Civil Liability  
Convention  
(1992 CLC)

**(146 Member States)**

1992 Fund  
Convention

**(121 Member States)**

2003  
Supplementary  
Fund Protocol

**(32 Member States)**

# The international regime

## Basic principles



Compensate victims of pollution damage



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



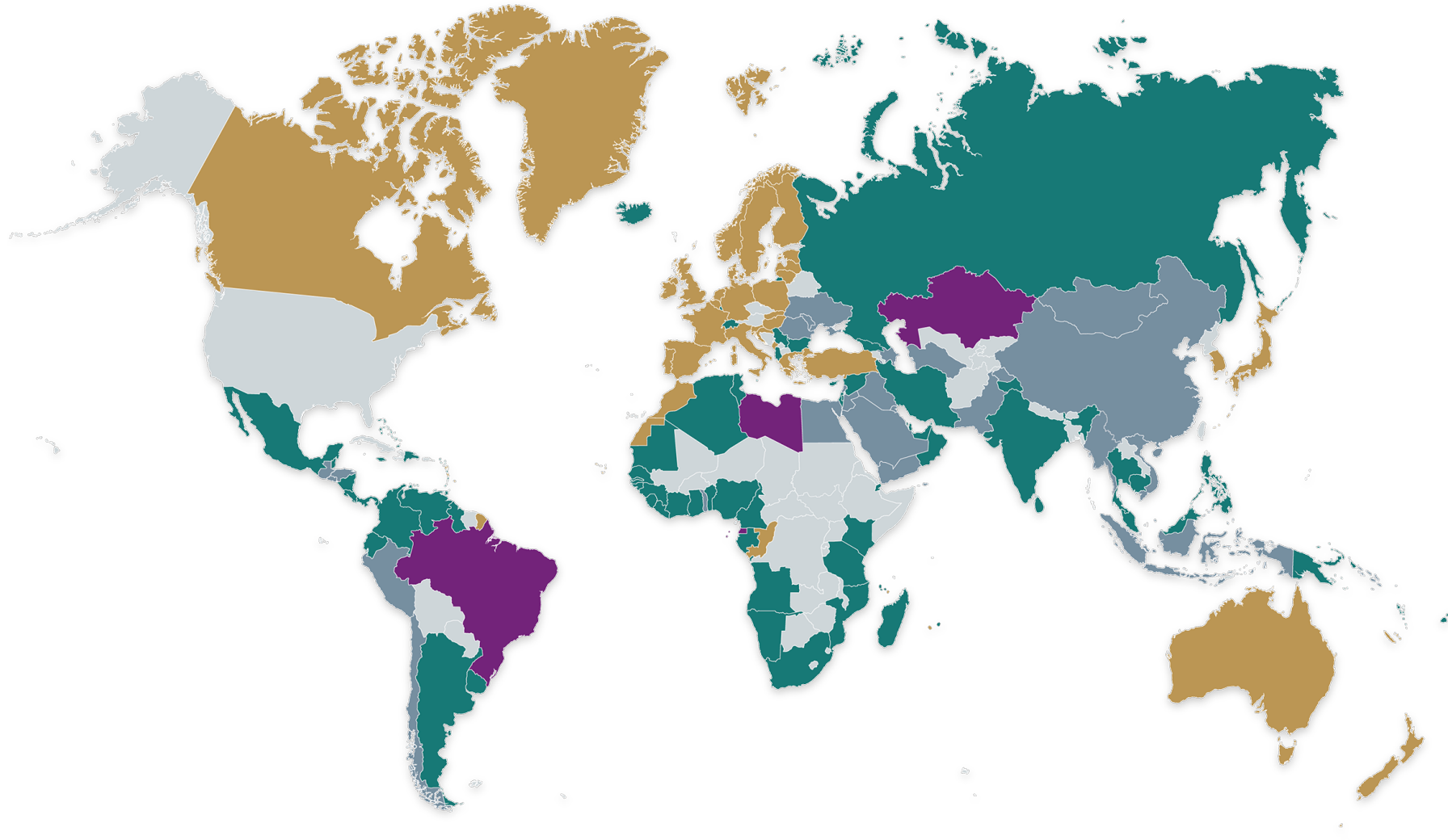
Uniform consistent application of compensation regime



Equal treatment of all claimants



# States Party to the Conventions



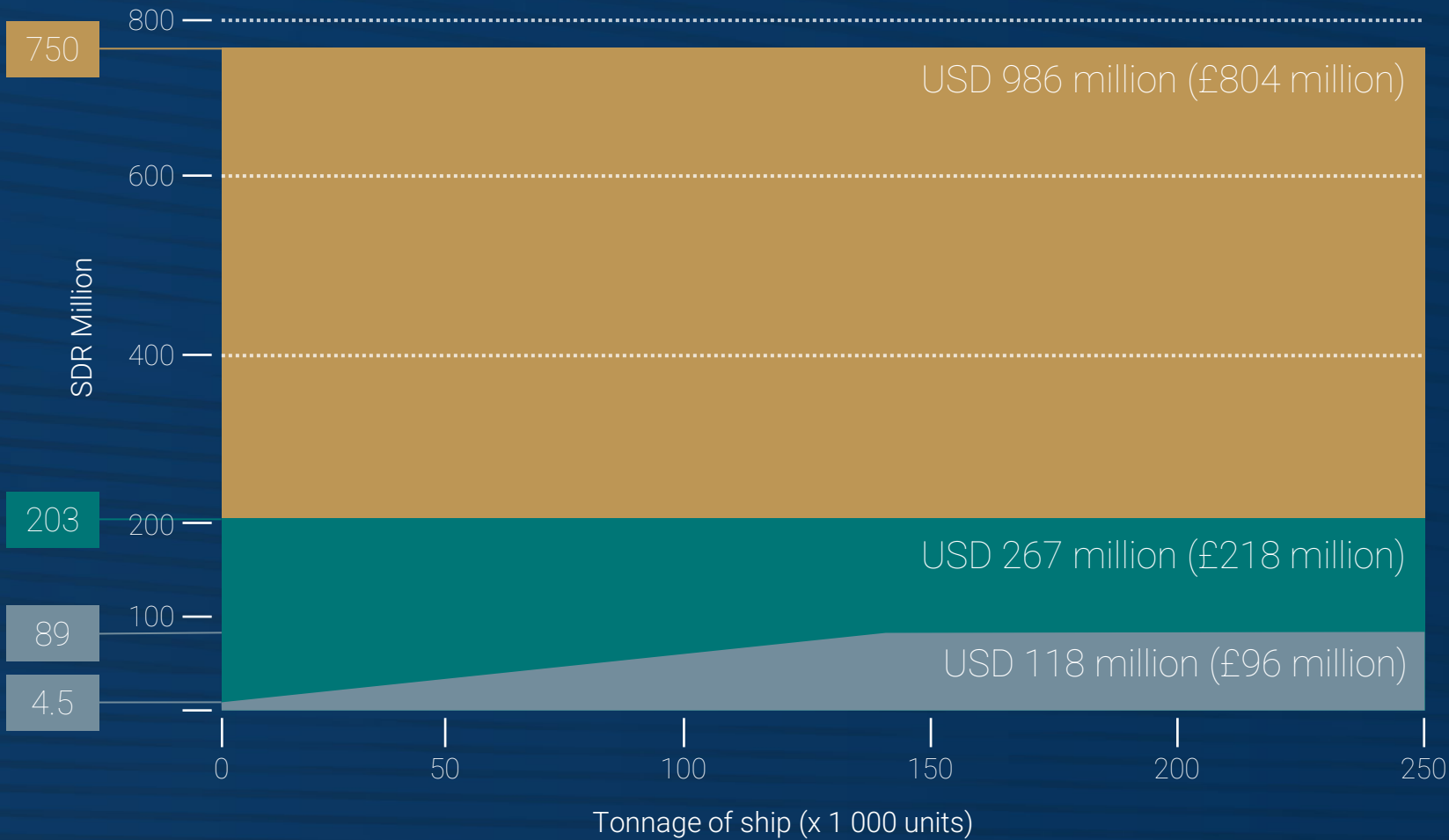
Supp. Fund  
---  
32 Member States  
---  
SDR 750m

1992 Fund  
---  
121 Member States  
---  
SDR 203m

1992 CLC  
---  
146 Member States  
---  
SDR 89m

1969 CLC  
---  
32 Member States  
---  
SDR 14m

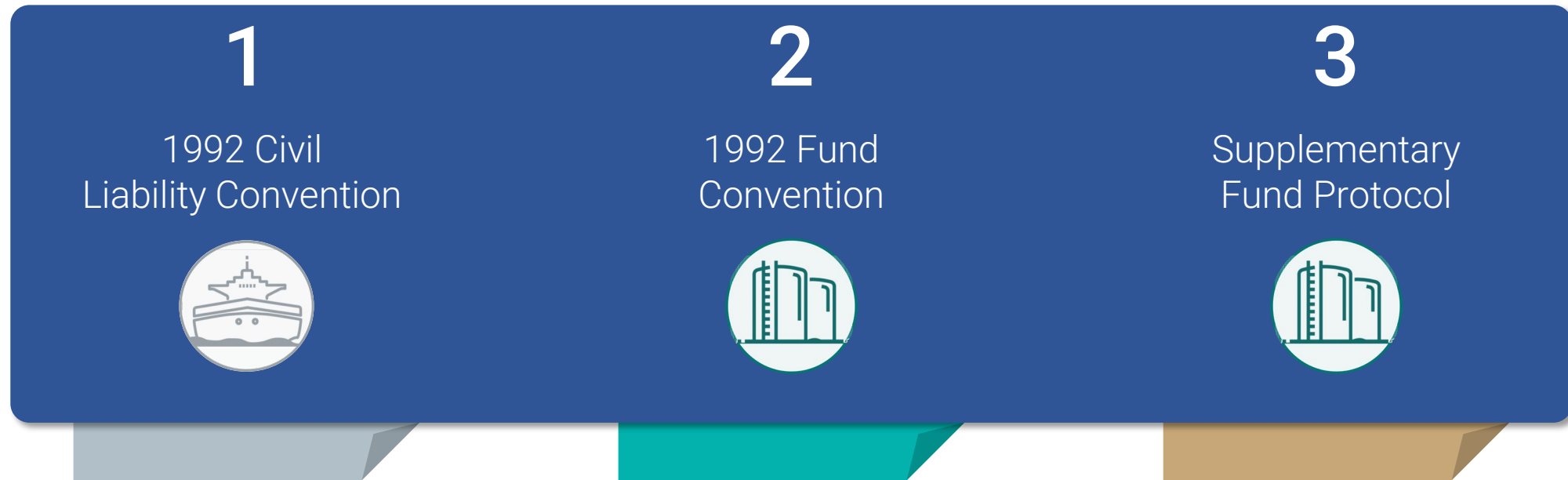
# Limits of liability



How much can be paid in compensation?



# Who finances the regime?



SDR 89 million  
=  
USD 118 million

SDR 203 million  
=  
USD 267 million

SDR 750 million  
=  
USD 986 million



# The 1992 CLC

- ✓ Strict liability of registered shipowner
- ✓ Limitation of liability based on the gross tonnage of the ship
- ✓ Compulsory third-party insurance and certificate
- ✓ Direct action against insurer

## Exceptions to Liability

Act of war / force majeure | Sabotage | Negligence by public authority

## No limitation of liability

if damage caused by owner's personal act or omission, committed with intent or recklessly and with knowledge of the likely damage





# 1992 Fund Convention

## Pays compensation when:

- ✓ Damage exceeds shipowner's liability under the 1992 CLC
- ✓ Shipowner financially incapable of meeting their obligations
- ✓ No liability under the 1992 CLC

## Maximum compensation :

- ✓ SDR 203 million, including 1992 CLC

## Limited exceptions

Damage from act of war

State ship

Claimant unable to prove incident involved a ship





# Supplementary Fund Protocol

## Pays compensation when:

- ✓ Damage exceeds the 1992 Fund's limit

## Maximum compensation :

- ✓ SDR 750 million, including 1992 CLC and 1992 Fund

Financed by contributions from oil receivers in State Parties to the Supplementary Fund Protocol

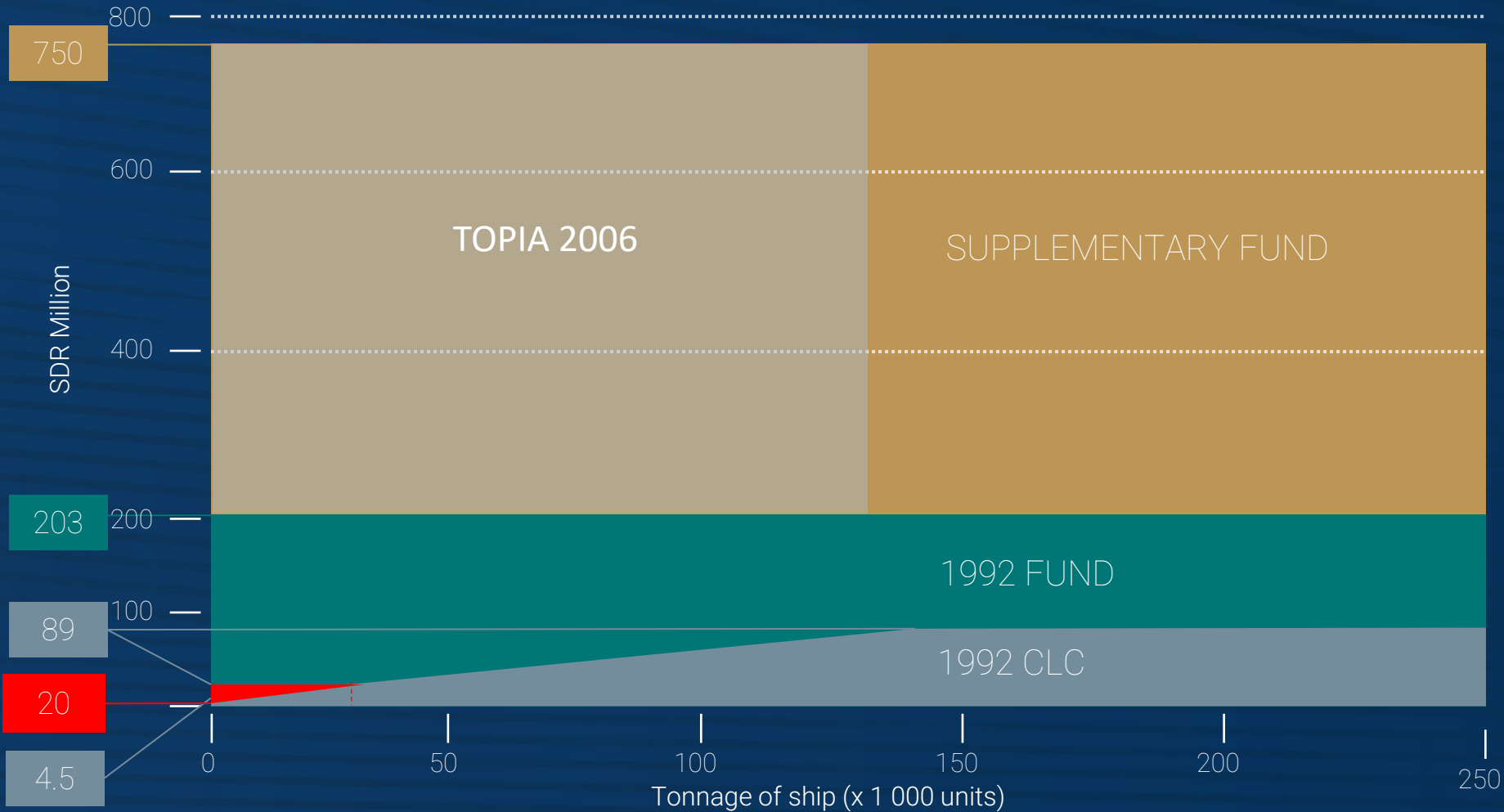
Minimum contribution:

1 million tonnes in each State Party



# STOPIA and TOPIA

## Shipowners' voluntary indemnification agreements



### STOPIA

Ships up to  
29 548 GT

### TOPIA

50% of  
incidents  
covered by the  
Supplementary  
Fund

# Budget of the 1992 Fund

What are contributions for?

## General Fund

(Based on prior year 's oil reports)

**Administrative budget**

**Working capital**

Loans to Major Claims Funds

**Minor claims costs**

Incident costs <SDR 4 million

## Major Claim Funds

(Based on receipts on the year before the incident)

**Incident costs >SDR 4 million**

Compensation

Assessment costs

Legal costs

# Levy and invoicing

How do we calculate contributions?

Total contribution levied (£)



Total of contributing oil received in all Member States (Metric Tonnes)



Amount per Tonne of oil received (£ per T)

Quantity of oil received by each contributor (Metric Tonnes)



The Amount per Tonne (£ per T)



Amount to be paid by that contributor in Pounds Sterling (£)

# Total Oil (1992 Fund)

Contributing Oil Received in 2021

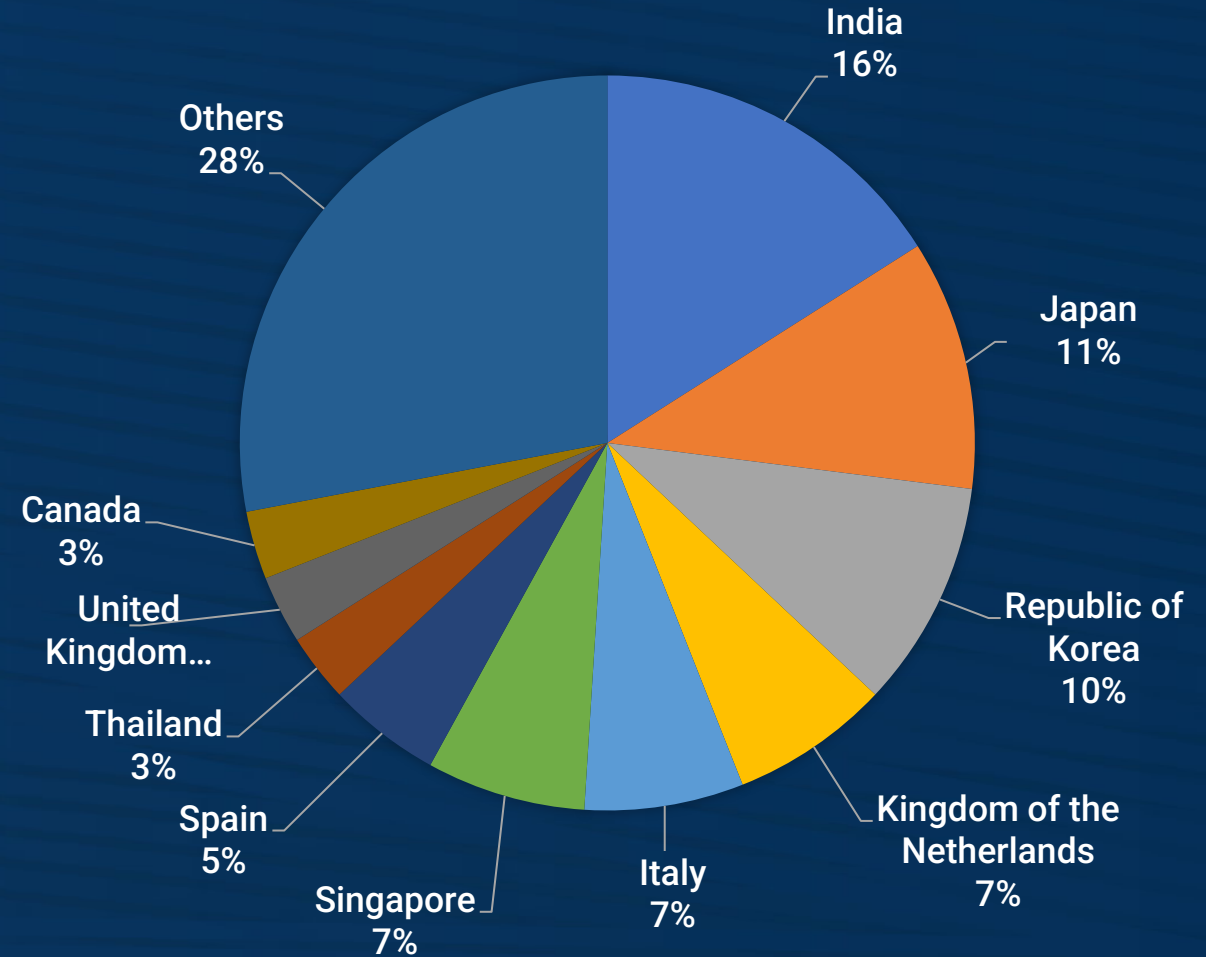
## Total received:

1 343 467 925 tonnes

10 States represent 72% of contributions

40 States reported nil tonnages

21 States yet to complete reporting





# Total Oil (Supplementary Fund)

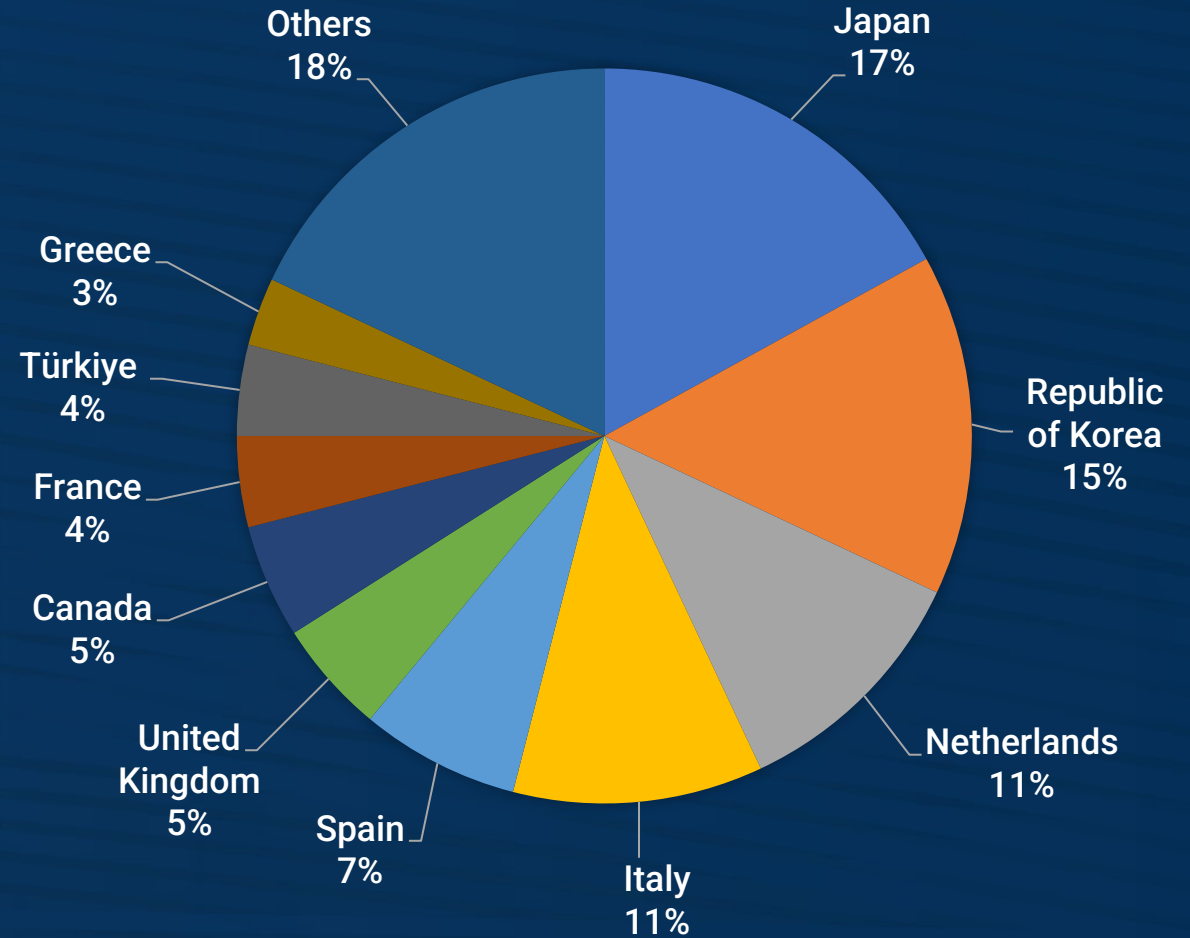
Contributing Oil Received in 2021

**Total received:**

**867 195 799 tonnes**

**10 States represent 82% of contributions**

**8 States reported less than 1 million tonnes**



# Key stakeholders



**Shipowners**

**Oil Receivers**

**Member States**

## First tier

Paid by the ship's insurers under the 1992 CLC.

## Second & Third Tier

>420 oil receivers finance the 1992 Fund.

>130 oil receivers also finance Supplementary Fund

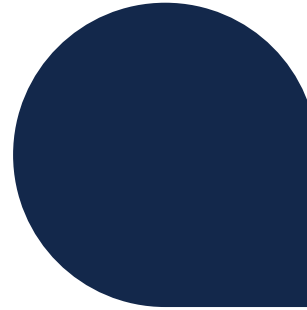
## Governance

The Member States decide on compensation, policy matters and management of the organisations.

# The role of the IOPC Funds

In general

- ✔ Administer the 1992 Fund Convention and the Supplementary Fund Protocol
- ✔ Establish criteria for admissibility of claims
- ✔ Assess claims and pay compensation to victims when applicable
- ✔ Decide on the level of payments
- ✔ Receive oil reports and contributions



Member States & Secretariat working together

# How do the IOPC Funds work?

## IOPC Funds Governing Bodies

1992 Fund  
Executive Committee



1992 Fund  
Assembly

Supplementary  
Fund Assembly

## In Member States

Fund Lawyers

Technical Experts

Local Claims Handling Offices



**Director  
& Secretariat**



Gaute Sivertsen  
Director



## Oversight

Audit Body



## Advisory

Investment Advisory Body

# The role of the IOPC Funds

During an incident

## Cooperation with various stakeholders

Cooperate with the P&I Clubs (joint experts/ assessments & costs / CHO set up)

Meet with authorities, the public and the media

Regular visits to affected sites / meeting with claimants

Report to 1992 Fund Executive Committee

**Cooperation** is key to effective incident response and costs recovery



# Types of claims



Clean-up activities & preventive measures



Property damage



Environmental damages & post spill studies



Tourism sector



Fisheries and mariculture sector

Any damage directly linked to a spill could receive compensation

# Key principles



01

Occurrence of an incident is not enough to receive compensation

02

A loss must have occurred

03

Sufficient link of causation between the damage / loss, and the contamination

04

Claimant must prove his/her loss

# Following an incident

## Member States' initiatives

- ✓ **Early notification** to enable Club/Fund/experts to attend on-site
- ✓ Identification of **focal point**/person in charge vis-à-vis the Fund
- ✓ **Member States** can facilitate dialogue between Fund/experts and responders or potential claimants





# Common issues with major incidents

Coordination and Surveillance  
(aerial / vessels / shoreline)

Salvage operations

Clean up at sea (dispersants / oil recovery)

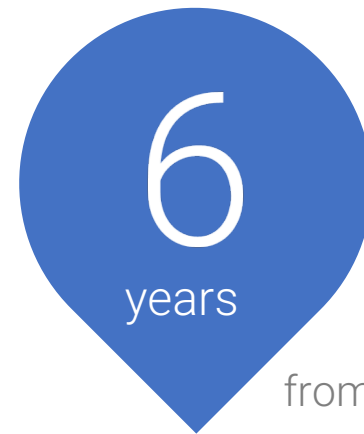
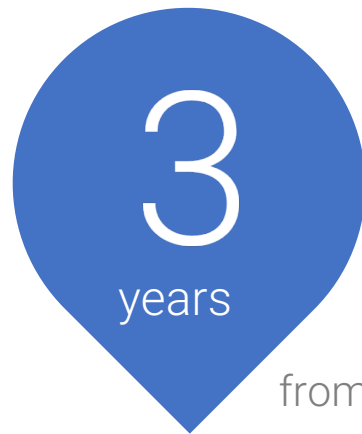
Role & position of the authorities; “Media pollution”; Public opinion; Volunteers.

Shoreline protection and cleanup

Record keeping



# Claim Time Limit



from the damage

from the incident



An amicable agreement should be found with the Fund within 3 years from the damage

Absolute cut-off  
no action after 6 years

# The system in practice - *Hebei Spirit* incident



**Amount spilled**  
10 800T



**Coastline affected**  
375km



**Amount claimed**  
KRW 4.2 billion



**Compensation available**  
KRW 340 billion

**Total number  
of claims**  
128 464

# Hebei Spirit incident

Not enough compensation under the 1992CLC/1992 Fund

Supplementary Fund not in place

Three bilateral agreements between insurer/Government/Fund

Government paid all established losses in excess of the 1992 CLC/1992 Fund limits



Cooperation between the main parties key to resolving the incident

# Challenges facing the 1992 Fund

## Current and future challenges



Ongoing incidents



Dealing with effects of sanctions



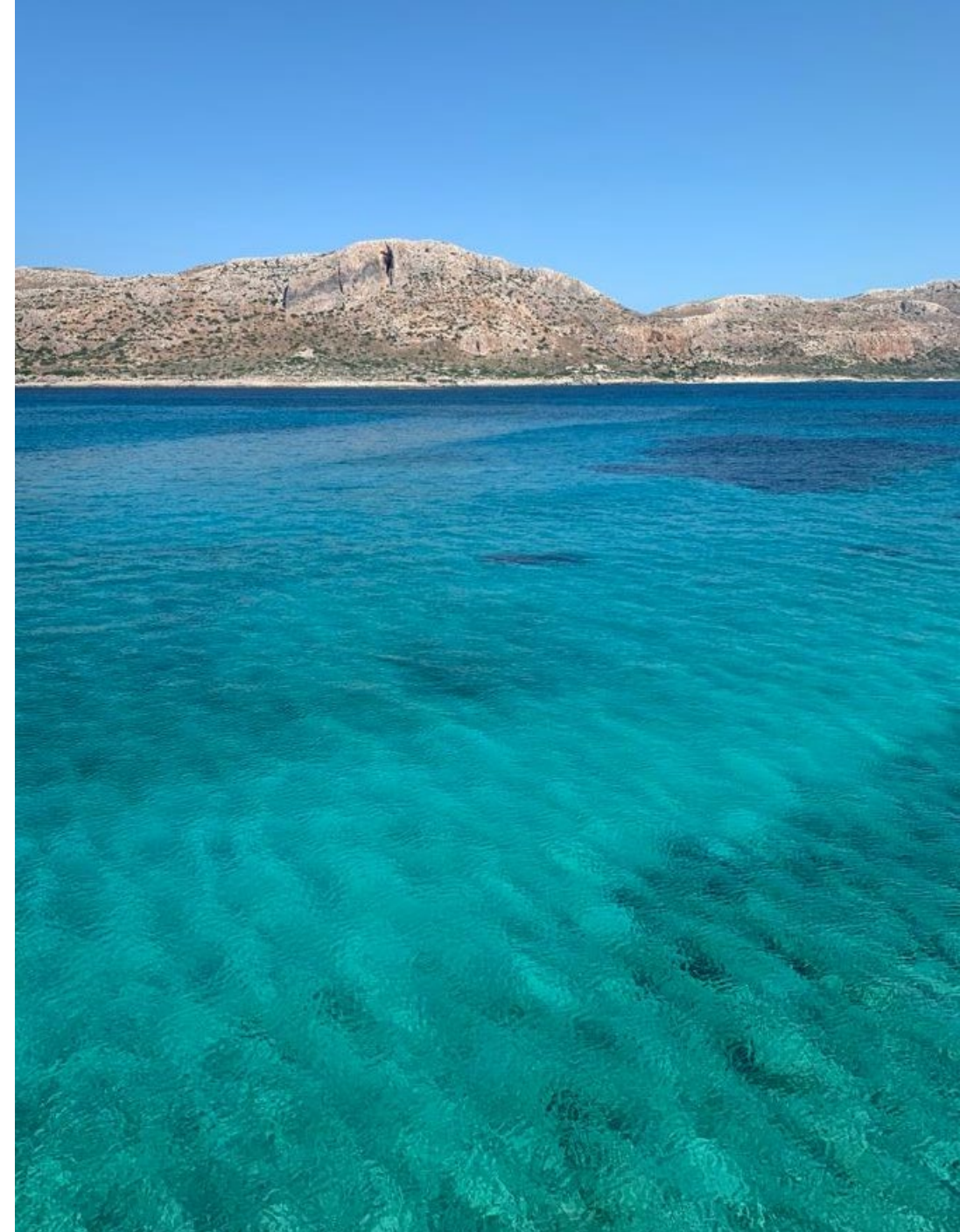
Ensuring contributions are paid



Ensuring treaty-compliant insurance arrangements



Assisting with entry into force of HNS Convention





# Adapting to new incidents

## Challenges and Solutions

The IOPC Funds constantly have to:

- adapt and be flexible
- adjust its approach
- respond to evolving situations
- develop and implement innovative solutions

**Consistently applying the criteria established by Member States**

# Ongoing incidents - *MT Princess Empress*



## Challenges

- Large number of subsistence claimants  
Approx. 95% in fishery sector
- Remote areas difficult to access
- Few claimants with bank accounts
- Political pressure intensified during ongoing elections



## Solutions

- Individual interviews conducted in open venues  
Provisional assessments & payments of claims
- Mobile claims caravans to assist  
submission of data collection
- Payment facilitated through money transfer  
service
- Engage with Authorities, claimants and media

# Dealing with effects of sanctions

Russian sanctions and substandard insurers

Results in increased risk to the environment and Member States

>10%

Tankers trying to circumvent or in violation of sanctions



Reinstating the sharing of burden between shipowners and oil industry is vital



Risk of insufficient compensation for States and victims



Risk of IOPC Funds having to pay all compensation



Results in non-conformity with IMO tanker safety standards



# Ensuring contributions are paid

Reducing inequality and unfairness



## Challenges

Small number of States never submit oil reports

Reports form the basis for levying contributions

Small number of receivers don't pay contributions

Consequence: this leads to inequality and unfairness in the regime



## Solutions

Withhold compensation payments to State authorities until resolved (Resolution 12)

Consider levying contributions based on estimates (Draft Resolution 13)

Prevent election of State to Executive Committee or Audit Body

Result should ensure equitable sharing of financial burden among contributors and availability of compensation for claimants

# Ensuring treaty-compliant insurance arrangements



Some non-IG insurers incapable/unwilling to comply with treaty obligations.



Flag State issued certificates based on unsatisfactory insurer's 'blue cards'



The 1992 Fund pays from 'ground up' (tier 1 and tier 2)



IMO guidelines for acceptance of insurance companies and financial guarantees (IMO Circ. Letter 3464)



Formation of informal Correspondence Group



Formation of association of quality non-IG insurers

# Assisting with entry into force of HNS Convention

## April 2010

Adoption of the 2010 HNS Protocol

Resolution 1 of the International Conference requests the 1992 Fund Assembly to instruct the IOPC Funds to carry out tasks necessary to set up the HNS Fund

## October 2010

1992 Fund Assembly instructed the Director

To carry out the administrative tasks for setting up the HNS Fund

To give all necessary assistance to IMO

To make preparations for the first Assembly of the HNS Fund

# Status of the 2010 HNS Convention

## 6 Contracting States



Norway (21/4/17)



Canada (23/4/18)



Turkey (23/4/18)



Denmark (28/6/18)



South Africa (16/7/19)



Estonia (10/1/22)

## 4 Signatories



France



Germany



Greece



Netherlands

## Requirements

Minimum of 12 States ratify

Including 4 States each with fleet greater than 2 million gross tonnage



Total general account's contributing cargo volume at least 40 million tonnes



Protocol enters into force 18 months later

# Conclusion

**Risk  
of incidents  
remains**

**>£753  
million**  
paid in  
compensation  
since  
1978

**>150  
incidents**  
involving the  
IOPC Funds



International compensation  
regime a **proven success**



@IOPCFunds



## International Oil Pollution Compensation Funds

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[www.iopcfunds.org](http://www.iopcfunds.org)

