OIL SPILL COMPENSATION

A Guide to the Civil Liability and Fund Conventions

IPIECA

ITOPF

Conventions

- 1992 Civil Liability Convention (1992 CLC) - supersedes 1969 CLC

- 1992 Fund Convention (1992 FC) - supersedes 1971 FC

Note:

International Oil Pollution Compensation Fund 1992 (1992 Fund) administers the system of compensation for oil pollution damage established by 1992 FC

Tanker spills

- Spills of persistent oil from tankers covered by two-tier compensation system
- Individual tanker owner / oil pollution liability insurer (P&I Club) legally liable for the first tier under 1992 CLC
- Supplementary compensation (second tier) paid by 1992 Fund, financed by oil receivers in Member States

1992 CLC

- Persistent oil includes crude oils, heavy fuel oils and lubricating oils
- Tanker owners required to maintain oil pollution insurance and to carry certificate
- Enables direct action against insurer
- Ensures approximately US$ 4.2 million for tanker of less than 5,000 gross tons
- Up to approximately US$ 84 million for tankers > 140,000 gross tons

1992 CLC / Fund

Who pays: 1992 Fund

Fund Convention

Supplementary layer

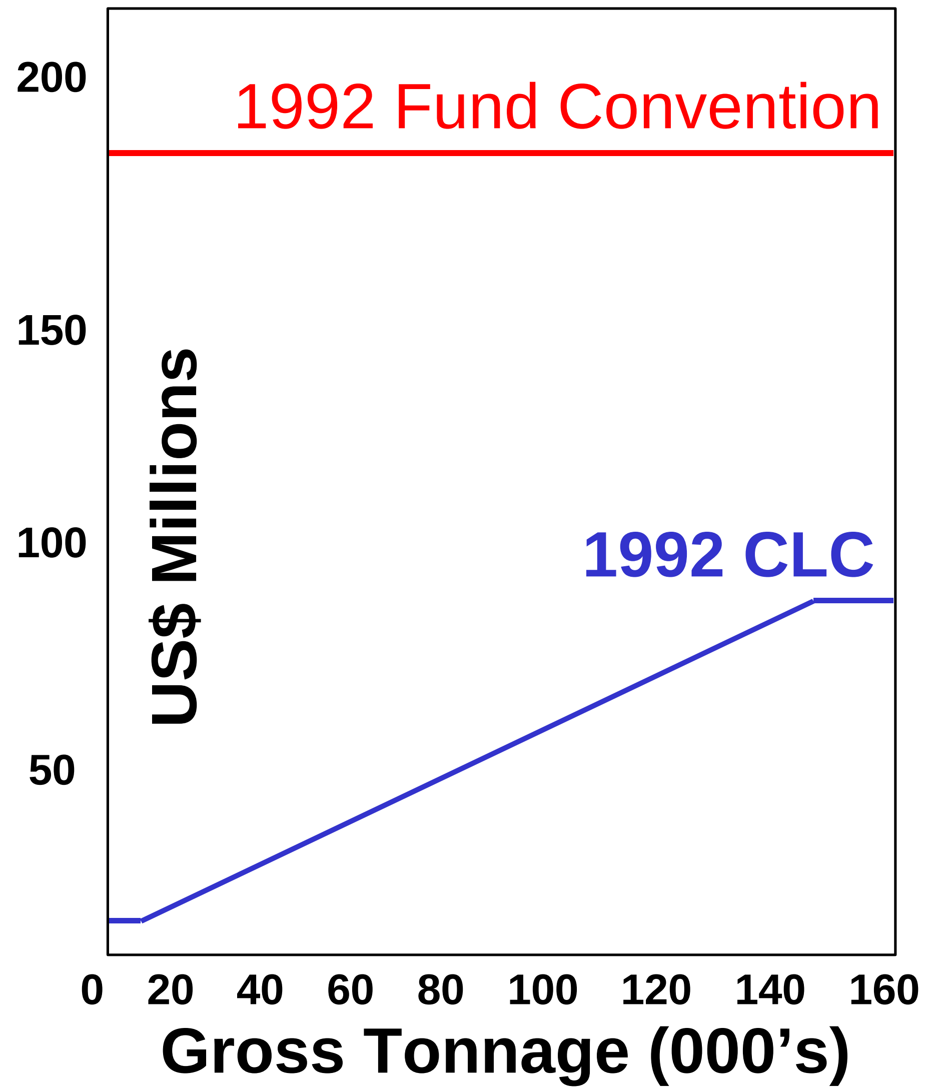
Source of money: oil receivers

Who pays: Tanker Owners

CLC

Primary layer

Source of money: Insurance (P&I Clubs)



Scope of compensation

- Reasonable pollution prevention and clean-up measures (e.g. booms, skimmers, dispersants and shoreline clean-up)
- Damage to property (e.g. oiling of fishing boats and gear)
- Economic losses (e.g. lost income by fishermen, hotel operators)
- Costs of reasonable measures to reinstate a damaged environment

Advantages of 1992 CLC

- Tanker owner and P&I Club insurer ‘strictly liable’ to pay compensation:
  - up to high levels
  - whether or not at fault
  - regardless of flag / ownership
- Provides reasonable protection for responders and high level of certainty of reimbursement for technically-justified clean-up measures and damage, which facilitates quicker response
- Prompt payment of compensation without litigation
- Government, citizens and local industry financially ‘protected’ in the event of an oil spill within EEZ

Limitations of 1992 CLC

(without 1992 Fund Convention)

- Spill must be attributed to specific tanker
- Amount of compensation determined by size of tanker regardless of amount spilled
- Spill in sensitive area from a small tanker can easily exceed available compensation
- In rare instances tanker owner may be exempt under CLC (e.g. acts of war or sabotage) or unable to pay compensation

1992 Fund

- Provides up to approximately US$ 189 million (including amount paid by tanker owner / insurer)
- Funds provided by levies on oil companies and other entities in Fund-Member States receiving >150,000 tonnes per annum of crude and / or heavy fuel oil (‘contributing oil’) after sea transport
- No direct cost to governments
- Same scope of damages as 1992 CLC

Advantages of 1992 Fund

- Amount of compensation not dependent on size of tanker
- Compensation is available even if tanker owner exempt or not insured; only exceptions are acts of war and spills from warships
- Covers bunker spills from unladen oil tankers, and cargo spills proven to be from a tanker, even if specific tanker cannot be identified
- Government, citizens and local industry financially ‘protected’ in the event of an oil spill within EEZ

Issues for governments and / or industry related to 1992 Fund

- Who pays for the 1992 Fund?
- Our local risk is small, so why should we pay into the 1992 Fund?
- Why should we pay for a spill in another part of the world?
- Why do governments need to leave the 1971 Fund and join the 1992 Fund?
- Why the greater emphasis from industry for governments to accede to the Conventions and join the 1992 Fund?
- Why join if tanker owners already have at least US$ 1 billion in oil pollution insurance?

Action plans to address local government and industry concerns

- Educate Company affiliates in country first
- Work with 1992 Fund Secretariat to estimate 1992 Fund contributions, if any, for oil receiving companies, based on ‘contributing oil’ volumes
- Utilise insurance experts to explain business logic for governments joining 1992 Fund
- Avoid confusing CLC and Fund discussions with other insurance policies carried by tankers
- Coordinate efforts with other oil companies in country
- Encourage governments to contact 1992 Fund directly
- Provide local governments and industry with ITOPF / IPIECA Guide