



THE EAST ASIAN SEAS CONGRESS



## Charting a New Decade of Healthy Oceans, People and Economies

1-2 DECEMBER 2021 • Hosted by the Royal Government of Cambodia

### Virtual Training Workshop on Claims and Compensation for Oil Pollution from Ships

20-22 April 2021, 2:00 - 5:20 PM (GMT+7)  
Online via Zoom

#### ORGANIZERS:



Partnerships in Environmental  
Management for the Seas of  
East Asia (PEMSEA)



The International Tanker Owners  
Pollution Federation (ITOPF)



The International Oil Pollution  
Compensation Funds  
(IOPC Funds)



The International Group of  
Protection and Indemnity  
Clubs (IGP&I Clubs)

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**PROCEEDINGS**

**1. INTRODUCTION**

Recognizing the importance of strengthening national and sub-regional systems for oil spill preparedness and response in the Gulf of Thailand, the Partnerships in Environmental Management for the Seas of East Asia (PEMSEA) in collaboration with the IOPC Funds, ITOPF and International Group of P & I Clubs organized a 3 day virtual training workshop on Claims and Compensation for Oil Pollution from Ships on April 20-22 via Zoom.

The workshop aimed to capacitate relevant personnel on the technical aspects of claims and compensation for oil pollution from ships specifically in the preparation and submission of claims. At the end of the 3 day workshop, participants were expected to come up with measures on how claims and compensation for oil pollution in respective countries be made more efficient.

Claims and compensation from oil spills has been a challenging task both for governments and claimants where the oil spill incident occurs and to the insurers and organizations, which provide compensation for oil pollution damage resulting from spills. Hence, this training workshop is one of the priority activities in the Gulf of Thailand Strategic Action Plan 2017-2021. However, recognizing the importance of this subject to other countries, invitation to the workshop was extended to the PEMSEA Network of Learning Centers and PEMSEA Network of Local Governments, who are directly involved in oil spill related programs.

**2. WORKSHOP PROGRAMME**

This 3-day workshop (half days) was conducted from 2:00pm to 5:30 pm (Bangkok time). The workshop consists of presentations, case studies, discussions and practical exercises. The specific topics discussed are as follows:

Day 1: Role of ITOPF in Oil Pollution Incidents, Introduction to the International Oil Pollution Compensation Regime- the key features of the 1992 CLC and Fund Conventions, the Supplementary Fund Protocol and Bunkers Convention, the Role of P & I Clubs and the BUNKER Convention and Practical exercises on the International Oil Pollution Compensation Regime.

Day 2: National Legal Framework and Recent Experiences of Oil Spills of Cambodia, Thailand and Vietnam, Oil Spill Case Study, the technical aspects of Claims for Clean-up and Preventive Measures and Practical Exercises on Claims for Clean Up and Preventive Measures.

Day 3: A Case Study on the Application of CLC and Fund Convention, Claims for Property Damage and Economic Loss, Claims for Environmental Damage and Post-incident studies and practical exercises on Property Damage, Economic Loss and Environmental Damage.

Please refer to **Annex A** for the workshop programme.

### **3. PARTICIPANTS**

The workshop was attended by about sixty three (63) participants from 6 countries (Cambodia, China, Indonesia, Philippines, Thailand, Vietnam) representing the national contact points of the Gulf of Thailand Cooperation, PEMSEA Network of Learning Centers, PEMSEA Network of Local Governments, strategic partners of the GOT Cooperation such as IPECA GI-SEA and OSRL and the resource speakers from IOPC Funds, ITOPF, and IG P&I Club.

Please refer to **Annex B** for the list of participants.

### **4. RESOURCE SPEAKERS AND MODERATOR**

The resource speakers of the training workshop consisted of 9 international speakers from ITOPF, IOPC Funds and IG P&I Clubs and 3 speakers from the GOT national contact points. The list of speakers is attached as **Annex C**.

The moderator for the entire workshop is Ms. Diana Factuar of PEMSEA.

### **5. HIGHLIGHTS OF THE WORKSHOP**

#### **5.1 Opening Message**

Ms. Aimee Gonzales, Executive Director of the Partnerships in Environmental Management for the Seas of East Asia (PEMSEA) stressed the importance of the workshop in view of the increasing trend in oil transportation thereby increasing the risk of an oil spill disaster. She emphasized that an oil spill can cause great financial losses for various sectors particularly affecting local fishing or tourism industries.

She stressed that the workshop is part of PEMSEA's commitment to support the implementation of the Framework Programme for Joint Oil Spill Preparedness and Response in the Gulf of Thailand (GOT) which was signed and adopted by the 3 countries, i.e., Vietnam, Thailand and Cambodia on January 12, 2006 and the GOT Strategic Action Plan 2017-2021.

Ms. Gonzales indicated that the Gulf of Thailand program is one of PEMSEA's activities under priority programs of combating marine pollution and tackling disaster risk reduction under the shared regional strategy, the SDS-SEA. As outlined in the SDS-SEA (2015 version) the **PROTECT** Strategy, promotes the Recovery of Clean Up Costs and Compensation for Damages and offers

action programmes that countries need to undertake to achieve this objective such as: 1) to expedite the recovery of oil spill clean up costs and compensation for economic damage, 2) to ratify and implement the Civil Liability Convention and FUND conventions, and 3) to ensure that national laws, administrative and eligibility procedures, and damage assessment processes are consistent with existing international oil pollution compensation regime and 4) to set up contingency plans in and among countries. This was reiterated in the SDS SEA 2018-2022 under the Marine Pollution Reduction Program which emphasizes countries compliance to international environmental pollution prevention and agreements.

She concluded her message with the hope that the workshop will provide better understanding on technical aspects of claims and compensation and facilitate preparation and submission of claims for compensation from oil spills and encourage GOT participants to work on the GOT Strategic Action Plan for the next five years as an immediate next step.

## **5.2 Workshop Proper**

### **Day 1, April 20**

Mr. Duarte Soares, ITOPF introduced the role of ITOPF, the technical services it provides- not just oil spills but also covers chemical and other cargoes. He also presented oil tanker spill statistics and oil spill incidents which ITOPF was actively involved. Dr. Soares emphasized that ITOPF is primarily funded by the shipping industry (via P&I Clubs) and its main role is to provide objective advice on effective response to marine spills of oil & others. Although it is based in London, but it provides a global service with a technical team of 15 responders with scientific background & spill experience. The services provided by ITOPF include spill response, damage assessment and claims analysis, contingency planning, training and education and information services. Dr. Soares indicated that ITOPF has responded to 29 incidents in 3 years and presented some examples of these spills. Specifically, ITOPF provide technical advice to government, responders & victims, promote effective response, joint assessments & cooperation, monitor spill response & investigate damage to sensitive resources and arrange for additional expertise & equipment to be brought on site. Dr. Soares informed participants on the availability of technical documents that can be used as reference from the ITOPF website.

Chiara Della Mea, IOPC Funds discussed the International Oil Pollution Compensation Regime. She explained the international liability and compensation regime- legal framework, basic principles, scope of application, how the regime works under the 1992 CLC and FUND Convention and the Supplementary FUND Protocol and compensation limits under the Conventions, Member states as of April 2021 and the status of ratification/accession of participants' countries to 1992 CLC and FUND Convention, Supplementary FUND Protocol and 1969 CLC Convention. All 6 countries (Cambodia, China, Indonesia, Philippines, Thailand and Vietnam) have ratified the 1992 CLC Convention while Indonesia and Vietnam have not ratified 1992 FUND Convention. Ms. Della Mea also explained the types of claims that are covered and the time bar for claims.

Chrystelle Collier, IOPC Funds discussed the structure and functions of the IOPC Funds, the Oil Reporting System, Contributions and Outreach Activities. She explained that the IOPC Funds Administer the 1992 Fund Convention and Supplementary Fund Protocol. It establishes criteria for admissibility of claims, assess claims and pay compensation to victims when applicable and receive oil reports and contributions. Ms. Collier discussed how the IOPC Funds work and who contributes to the fund and the process of submitting oil reports. She indicated that there is an Online Reporting System (ORS) which enables Member States to request oil reports from oil receivers, submit tonnages and view historic oil data for their State. She also explained how contributions are computed and where it is utilized. The IOPC FUND Secretariat also provides outreach activities such as training and workshops. Various technical publications can be accessed through the IOPC Funds website.

David Baker, IG P&I Club provided an introduction on the role and function of the International Group of P&I Clubs which is composed of 13 mutual marine insurance associations (“P&I Clubs”) which provide P&I cover to over 90% of world ocean-going tonnage. It insures and share third party liabilities relating to the use and operation of ships, including for oil pollution damage. Mr. Baker emphasized that P&I Clubs cover shipowners legal liabilities to third parties including: Loss of life/personal injury to passengers and crew up to US\$ 3bn, oil pollution\* damage up to US\$1 billion per ship per incident, damage to fixed/floating objects, wreck removal, cargo loss/damage and collisions. P&I do not cover Hull and Maintenance and War Risks.

Mr. Baker emphasized that IG Clubs provide the insurance cover required by the 2001 Bunkers Convention since they insure third party liabilities relating to the use and operation of ships including for oil pollution damage. So most oil spills from ocean going ships’ bunkers involve ships with P&I cover with an IG Club. He stressed that the Bunker Convention governs liability and compensation for pollution damage from ship’s bunker oil through the following measures : strict liability of the owner – similar to 1992 CLC, compulsory insurance requirement on the owner of a ship >1000gt, right of direct action against the insurer, blue cards – financial guarantee certificates issued by the Clubs, state issued Convention certificates and owner’s right to limit their liability to pay compensation, where applicable.

IOPC Funds speakers provided practical exercises on the application of the Conventions to check the understanding of participants on the International Oil Pollution Compensation Regime.

## **Day 2, April 21**

The GOT national contact points of Cambodia, Thailand and Vietnam presented an overview of the national legal frameworks of their country which stressed the importance of having a legislation to establish and support a national system for oil spill preparedness and response consisting of an effective national response structure, a national oil spill contingency plan, guidelines for dispersant use and procedures for claims and compensation. Thailand and Vietnam presented their experience on recent oil spill incidents in respective countries and actions taken.

Alex Hunt, ITOPF presented a case study of a major oil spill incident in the Philippines-the SOLAR 1 oil spill which happened in 2006. The case study indicated that almost the entire cargo of oil was lost affecting 125 km of coastline including sensitive mangroves and a national marine reserve-Taklong Island. It also posed risk to aquaculture and fisheries. The shoreline of the affected area has mangroves, sandy beaches and rocky shores and sensitive sites – national marine reserve, coral reefs and seagrass beds, aquaculture and fishing villages. The response operation involved at sea response, shoreline protection booms and shoreline clean up. Mr. Hunt described the actions taken by authorities- the role of experts, response strategies that were taken, clean up issues, environmental and socio-economic impact, claims and compensation covered under CLC and FUND Convention. It was indicated that the incident prompted a major review of the National Oil Spill Contingency Plan of the Philippines.

Chiara Della Mea, IOPC Funds highlighted on the criteria for admissibility of claims for Clean Up and Preventive Measures, common issues with major incidents and presentation and assessment of claims. She indicated that there is an existing publication of IOPC Funds on the 1992 Fund Claims Manual and Clean-up claims Guidelines. She also explained the process of how to document a claim-what are considered as response cost, fixed costs, how to compute equipment rates and charges, the assessment process and the role of experts. It was emphasized that the key to a successful recovery is good record keeping.

Pauline Marchand of ITOPF facilitated an exercise on Clean up and Preventive Measures where she emphasized the importance of supporting documentation and the reasonableness of actions taken during response.

### **Day 3, April 22**

Gho Sze Kee and Serene Ong, IG P&I Club presented a case study on the Application of CLC and Fund Convention. A hypothetical scenario was used where 50MT of oil was spilled into the sea as the cargo pump was running and 3.5 km of the jetty was oiled and 35 nearby vessels owned by large liner operations had their hulls stained with oil. The jetty was shut for 2 weeks for cleaning to take place, resulting in loss of business. The case study emphasized on procedures taken in claims handling, observations on ineffective techniques in response, reasonableness of response measures adopted for wharf cleaning, reasonableness of response measures adopted for hull cleaning and admissibility of claims for pollution damage.

Chrystelle Collier, IOPC Funds discussed the technical aspects of Claims for Property Damage and Economic Loss and emphasized admissible costs for property damage specifically compensation payable for reasonable costs. Ms. Collier also discussed compensation for economic losses in the fishery and tourism sectors categorized as consequential loss and pure economic loss. She emphasized that consequential loss is loss of earnings by owners of fishery-related property contaminated by oil while pure economic loss is loss of earnings by businesses who have suffered a loss as a consequence of a spill, without direct contamination. Admissibility criteria for Fishery and Tourism Claims and the process for submitting and presenting these claims were discussed. Examples of the different types of claims were also presented.

David Campion, ITOPF dealt with Claims for Environmental Damage and Post-incident studies and practical exercises on Property Damage, Economic Loss and Environmental Damage by ITOPF. Mr. Campion explained the concept of environmental damage, measures to be taken to reduce environmental damage in a spill, compensation available and appropriate post-spill studies and the requirements for submitting a claim for submission. Examples of actions to reduce environmental damage include recovery of bulk oil, careful cleanup of sensitive areas, minimal use of aggressive techniques and avoidance of heavy machinery / trampling of wetlands. He further explained on available compensation which includes 1) clean-up measures to reduce contamination & speed natural recovery, 2) economic loss as a consequence of the impairment of the environment, 3) appropriate post-spill studies and 4) reinstatement measures. Reasonableness of post spill studies was thoroughly discussed in terms of scoping and design and emphasized availability of international guidelines. It was stressed that post-spill studies should be used to scientifically demonstrate the link between claimed environmental damage and the spill. Reinstatement measures may be considered if natural recovery will not occur. Mr. Campion advised that early contact with P&I Club and IOPC Funds is advisable for better cost recovery.

Practical exercises on Property Damage, Economic Loss and Environmental Damage was facilitated by Mr. David Campion. The practical exercise was in the form of a quiz conducted online via Polleverywhere app.

A copy of the presentations and photos from the 3-day event is attached as **ANNEX D**.

### **5.3 Closing Message**

Ms. Nancy Bermas, Senior Programme Manager of PEMSEA delivered the Closing Message expressing her appreciation to the collaborating partners particularly to the resource speakers. She emphasized that the Gulf of Thailand Cooperation is one of the long running network initiated by PEMSEA which is grounded on inter -governmental cooperation and industry partnership. Ms. Bermas stressed that the workshop was the first virtual training for the GOT and made it more inclusive and reached a wider community other than the GOT countries. She concluded by expressing PEMSEA's commitment for continued support to the GOT cooperation.

## ANNEX A: WORKSHOP PROGRAMME

Day 1, April 20		
Time (GMT+7)	Session	Speaker/s
14:00	Opening Ceremony	
	- Opening Remarks	<b>Ms. Aimee Gonzales</b> , Executive Director, PEMSEA
	- Introduction to the Workshop	<b>Ms. Diana Factuar</b> , PEMSEA
14:20	Introduction to ITOPF and Oil Pollution Incidents	<b>Dr. Duarte Soares</b> , ITOPF
14:50	Introduction to the International Oil Pollution Compensation Regime (CLC/FUND/s, FUND)	<b>Ms. Chiara Della Mea</b> , IOPC Funds <b>Ms. Chrystelle Collier</b> , IOPC Funds
15:35	Coffee Break	
15:55	Introduction to the Role of P&I Clubs and the BUNKER Convention	<b>Mr. David Baker</b> , IG P&I
16:40	The International Oil Pollution Compensation Regime: Practical Exercise	<b>Ms. Chiara Della Mea</b> , IOPC Funds <b>Ms. Chrystelle Collier</b> , IOPC Funds
17:00	Discussion and wrap-up of day	<b>ALL</b>
17:20	End of Day 1	
Day 2, April 21		
Time (GMT+7)	Session	Speaker/s
14:00	National Legal Framework and Recent Experiences of Oil Spills	<b>NCP Cambodia, Thailand, Vietnam</b>
15:00	Oil Spill Case Study	<b>Mr. Alex Hunt</b> , ITOPF
15:30	Coffee Break	
15:50	Claims for Clean-up and Preventive Measures	<b>Ms. Chiara Della Mea</b> , IOPC Funds
16:30	Clean-up and Preventive Measures: Practical Exercise	<b>Ms. Pauline Marchand</b> , ITOPF
17:00	Discussion and wrap-up of day	<b>ALL</b>
17:20	End of Day 2	
Day 3, April 22		
Time (GMT+7)	Session	Speaker/s
14:00	Oil Spill Case Study	<b>Ms. Gho Sze Kee</b> , IG P&I <b>Ms. Serene Ong</b> , IG P&I



<b>14:45</b>	Claims for Property Damage and Economic Loss	<b>Ms. Chrystelle Collier, IOPC Funds</b>
<b>15:30</b>	Coffee Break	
<b>15:50</b>	Claims for Environmental Damage and Post-incident Studies	<b>Mr. David Campion, ITOFF</b>
<b>16:30</b>	Property Damage, Economic Loss and Environmental Damage: Practical Exercise	<b>Mr. David Campion, ITOFF</b>
<b>16:50</b>	Discussion and wrap-up of workshop	<b>ALL</b>
<b>17:15</b>	Closing Ceremony	<b>Ms. Nancy Bermas, PEMSEA</b>

## ANNEX B: PARTICIPANTS LIST

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## ANNEX D: SUPPORTING FILES

Presentation Materials:

<https://www.dropbox.com/sh/wjpayzqu1x4f5pg/AABiYiKcSTbycusAZUsNW2T-a?dl=0>

Photo documentation of the event:



