

Interspill 2022 - Call for Papers

Outreach and Engagement: the International Group of P&I Clubs

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Introduction

The International Group of P&I Clubs (the "Group") comprises 13 mutual insurance associations which individually insure third party liabilities relating to the use and operation of ships, including for pollution damage. This cover not only facilitates world seaborne trade but also contributes towards protecting the marine environment and public and private interests affected by maritime incidents.

Given their role, the Group recognises that collaboration and establishing relationships with industry partners, government agencies and industry in advance of incidents is imperative to ensure that incident response and claims assessment and handling runs as smoothly as possible. Without such prior engagement, any response may be more complicated, protracted and at times adversarial. Communities might suffer to a greater extent than would otherwise be the case and it is therefore to the benefit of all stakeholders - shipowner, Club, oil spill responders, community and state - that spill response as well as liability and compensation arrangements can be discussed and, where appropriate, agreed in advance.

Formal agreements have therefore been established by the Group through Memorandum of Understandings, with the 1992 International Oil Pollution Compensation Funds and that applies to incidents where the IOPC Fund Convention is engaged in the 120 States Parties worldwide, the Chinese Oil Pollution Compensation Fund, the US Department of the Interior (DOI) and the US National Oceanic and Atmospheric Administration (NOAA). Each of these MoUs have different functions given the roles, responsibilities and scope of each of the signatory parties. However, the essence of each is the same, namely to ensure that spill response can be handled in a manner where claims and claims assessment are not an obstacle to the response itself, and to ensure that the paying parties are working in a co-operative manner that will facilitate a smooth and efficient payment of claims under the relevant regulatory system.

The Group also engages in regular, and extensive, outreach to governments through the IMO's Technical co-operation programme, with the IOPC Funds and ITOPF, and also on its own initiative to promote the IMO Conventions and to generate a better shared understanding around responding to oil spills. This typically involves the Group working in conjunction with our partners to deliver training on the ground in the country concerned (delivered remotely during the pandemic), to help explain the role the Group Clubs take in assisting their Members in response to a spill.

The Group also regularly engages in discussions with spill responders across the world to ensure that spill response terms are agreed in advance so that disputes during an incident are kept to a minimum. The Group has now reached agreement on contractual terms with approximately fifty spill response organisations, spill managers and Qualified Individuals worldwide, including in each of the countries where it is a statutory requirement for owners to engage pre-arrival with a spill response organisation as a condition of entry into port. The majority of these parties are in the US and represent the system that was established under the US Oil Pollution Act 1990 (OPA '90), but also extends to China, Canada, Panama, Uruguay, Honduras and Argentina.

Another example of the Group's outreach work in this area was the development of BIMCO's standard oil spill response contract RESPONSECON and its counterpart for use in the United States, US RESPONSECON. The Group had identified a need for standard terms on which

shipowners could contract where required to engage response resources, which coincided with the International Spill Control Organization (ISCO) also engaging with BIMCO about the need for such a contract. As a result the Group became part of a Working Group alongside ISCO, BIMCO and the ISU to produce these contracts and which have now become the standard for the oil spill response industry.

Such terms do not extend to just commercial responders, however. RESPONSECON has also provided the basis for the Group's agreement with the European Maritime Safety Agency (EMSA) and their Vessel Incident Response Contract that sits alongside their Response Equipment Incident Response Contract. These agreements allow access to the significant amounts of response equipment and specially equipped vessels which the European Union maintain at various strategic locations around Europe for response to a major spill.

The Group has also been working in conjunction with other industry partners and the Governments of the United States and Canada to address the liability and compensation issues which might arise from a transboundary oil spill affecting both U.S and Canadian waters. Both countries have detailed response plans agreed with their respective Coast Guards on how to physically respond to and clean up such a spill. Those plans do not encompass liability and compensation issues however and the Group, together with the IOPC Funds and ITOPF, were asked to assist in the creation of policies and procedures to address the practical issues of claims handling in a transboundary event, bearing in mind the differing regimes in effect on either side of the border. Although the work is ongoing, substantial progress has already been made understanding the issues and agreeing how all the parties can cooperate to ensure that compensation can be channelled to the victims of a spill as swiftly as possible.

It is also important for those impacted by pollution to have information on how to seek compensation and the Group was pleased to jointly publish, along with ITOPF and the IOPC Funds, the booklet "Liability and compensation for ship-source oil pollution in the marine environment. An overview". Also, noting that whilst there is guidance for claimants from spills of persistent oil from tankers published by the IOPC Funds, there is no corresponding guidance for those impacted by spills of bunkers which engage the Bunkers Convention 200, the Group has engaged with partners at the IMO Legal Committee to collaborate in drafting a similar guide for claimants impacted by bunker spills.

Through its Pollution Committee and Vessel Response Plan Working Group, the Group is an active focal point on all pollution matters for industry, governments and international bodies.