International Maritime Organization

The IOPCFunds: Meeting of the Governing Bodies. (November 2023.)

Patrick Griggs[1]

The meeting of the Governing Bodies of the 1992 Fund and of the Supplementary Fund took place at IMO Headquarters between 7th and 10th November 2023. The 1992 Fund Assembly Chair was Ambassador Antonio Bandini (Italy) and the Chair of the 1992 Fund Executive Committee was Mr. Samuel Soo (Singapore). The Chair of the Supplemantary Fund Assembly was Mr. Francois Marier (Canada). The meeting was attended by a quorum of signatory states to the 1992 Fund and to the Supplementary Fund and by numerous Observer Delegations.

This was a "live" meeting but was also being live streamed. Those attending remotely were unable to participate or vote. It was agreed that a decision about the format for future meetings should be postponed until the IMO had completed its wider review. The IMO Council is scheduled to reach a decision on this subject at its 132nd session in mid-2024.

Membership of the 1992 Fund and Supplementary Fund.

Current membership of the 1992 Fund stands at 121 States and of the Supplementary Fund at 32 States. Membership of the Supplementary Fund has remained unchanged since 2018.

Oil Reports and Contributions.

As at September 25th 2023 88 States had submitted their oil reports but 38 States had failed to do so. However, the reports received accounted for 95% of the expected total contributing oil. All members of the Supplementary Fund have submitted reports for 2022 and all previous years.

The issue of outstanding oil reports remains a matter of serious concern and the Director advised that he would be proposing Resolutions for approval which would enable him to invoice States for their contributions based on estimates if actual reports have not been submitted. These Resolutions, which included proposed consequential amendments to the Internal Regulations, were subsequently introduced and approved.

As to contributions the position as at September 2023 was that a mere 0.25% of total contributions levied since the creation of the Fund was outstanding. The Director will continue to chase up outstanding payments. As far as the Supplementary Fund is concerned a contribution from the Republic of the Congo is outstanding representing 0.05% of contributions levied.

The governing bodies of both Funds passed Resolutions back in 2016 which would restricted the rights to claim compensation and vote in elections whilst oil reports and contributions are outstanding.

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Budgets for 1992 Fund and Supplementary Fund – 2024.

The 2024 Budget was agreed at £5,382,018 (a 5.7% increase on 2023) with retained working capital of £15 million. The Budget for the Supplementary Fund was agreed at £58,100 with a working capital of £1 million being retained.

The 1992 Fund levy to the General Fund will be £10 million with a zero levy for the Supplementary Fund. The Director advised that he would not be seeking to make a levy for the Major Incidents Fund covering the *Prestige, Alfa 1, Agia Zoni II* and *Nesa 3* claims. However, he proposed a levy of £20 million for the *Bow Jubail* claims and £10 million for the *Princess Empress* case.

The 2010 HNS Convention.

With the recent deposit of an instrument of accession by Slovakia the number of Accessions has risen to 8 States and there was much confidence expressed by delegates at the meeting that we are within sight of the entry into force of this important convention. The Funds' Secretariat continues with its preparations for its role in the management of the HNS Fund.

Impact of sanctions on the international liability and compensation regime.

(IOPC/Nov23/4/3).

Following the March meeting of the governing bodies a draft circular was issued containing guidance on the implications for insurance or other financial security documents of the situation in the Sea of Azov and the Black Sea. In December2022 further restrictions on the handling of Russian sourced crude oil were imposed by the European Union. As a result many providers of liability cover were unable to continue providing cover.

Subsequently, the EU imposed a price cap on Russian crude which was designed to enable European operators to continue insuring and transporting Russian crude to third countries provided that its price was below the cap. This Price Cap Scheme has since been modified to permit the International Group to provide cover for shipments of Russian petroleum products in certain specific (and very limited) circumstances. It should also be noted that in late 2022 the Government of the United Kingdom issued an advisory document regarding the Oil Price Cap Scheme which outlines "best practice" in implementation of the Scheme.

A more worrying development has been the emergence of a "ghost" or "dark fleet"[2] consisting of aged tankers flying flags of convenience with (by implication) less good safety records. There is evidence that more than 600 tankers may be involved in this fleet which turn off their transponders so as to disappear from tracking.

Neither the Fund Convention nor the Supplementary Fund Convention contain exemptions from liability for the consequences of sanctioned events. So, it remains possible that if, following an incident involving Russian crude, the shipowner/insurer fails to establish a limitation fund the Fund might find itself involved.

[2]The International Group drew attention to what it called a "parallel fleet" which is legitimately transporting Russian oil where neither the vessel owners or service providers are connected with G7 or coalition countries.

Another worrying development has been an increase in the number of ship-to-ship transfers of sanction crude oil – many such operations have been reported in the Straits of Gibraltar off Ceuta.

The E.U. has issued its 11th package of economic sanctions whereby EU ports are no longer open to any vessel suspected of having illegally disabled its AIS or having been involved with ship-to-ship transfers (STS).

Finally, member states have been reminded that they have an obligation to verify the financial standing of any company outside the International Group of P. & I. Clubs.

The delegate from the Russian Federation, in a brief intervention, suggested that the states imposing the sanctions could hardly complain about risks of oil pollution when those risks were an indirect result of the imposition of those same sanctions.

New IMO Secretary General.

Mr Kitack Lim (Republic of Korea will step down as Secretary General at the end of 2023 to be replaced by Mr. Arsenio Dominguez (Panama).

Incidents involving the IOPC Funds.

Prestige. (IOPCNOV23/3/2).

This 2002 case, which involved the break-up and sinking of the *Prestige* off the coast of Spain with the loss of 63,000 tonnes of heavy fuel oil, needs no introduction.

In January 2016 the Spanish Supreme Court found that the Master of the *Prestige* had criminal and civil liability for damage to the environment. It also found that the shipowner had a civil liability and could not limit liability and that the London P.& I. Club had civil liability up to the policy limit of USD1,000 million. The 1992 Fund was found liable within the limit prescribed by the 1992 Fund Convention.

In December 2018 the Spanish Supreme Court awarded damages in the amount of EUR 1,439.08 million (to include pollution and environmental damage) but concluded that moral and pure environmental damages were not recoverable from the 1992 Fund.

Following the Supreme Court judgment the 1992 Fund paid EUR 27.2 million into the Court in La Coruna being the amount available from the 1992 Fund less the amounts already paid by the Fund and EUR 804,800 which had been set aside to cover potential liabilities in France and Portugal. The 1992 Fund also provided the Court with a list of amounts due to Spanish claimants pro-rated at 15.22% by reason of the claims exceeding the funds available.

The Court in La Coruna has distributed the funds deposited and has made payments totalling EUR 51.7 million to claimants in the Spanish proceedings which includes the claims form the French and Spanish States.

In the action by the French Government against the Classification Society, ABS, it has been held by the Court of Cassation that ABS cannot rely on the defence of “sovereign immunity”

and the action before the Court of First Instance in Bordeaux has been reinstated. The Court has recently suggested that a court expert be appointed to prepare a new report on the facts to help in determination of causes of the accident and the potential liabilities.

In the recourse action taken against ABS in France by the 1992 Fund a similar defence of sovereign immunity has been pleaded and ABS have indicated that they will pursue this defence up to the Court of Cassation in the hope that it might be persuaded to reverse its decision in the action by the French State. ABS have pleaded that the Fund's action is time barred under Art. VIII of 1992 CLC and that the issue is *res judicata* by reason of the decision of the United States Courts discharging them from liability. An application to stay this action has been submitted by the 1992 Fund pending filing of the report of the expert appointed by the court.

Solar I. (IOPC/NOV/23/3/3).

This small (998 GRT) tanker sank in the Guimares Strait, Philippines on August 11th 2006 spilling 2,000 tonnes of fuel oil.

As at August 2023, 32,466 claims had been received and payments totalling PHP 1,091,000(£12.3 million) have been made covering 26,872 claims. These claims mostly came from the fisheries sector though they included claims for clean-up from the Philippines Coast Guard. The claims of 967 fisherfolk and of a group of municipal workers remain unresolved. The local office set up to deal with claims has now closed. As far as the fisherfolk's claims are concerned there have been numerous hearings but no evidence has yet been produced substantiating these claims. Efforts by the 1992 Fund's lawyers to have these claims dismissed have so far failed. As far as the municipal workers' claims are concerned the 1992 Fund's lawyers asserted that the majority of the claimants were not involved in "activities admissible in principle" and that a number of the claimants were covered by the claim submitted by the Municipal of Guimaras.

The owner of *Solar I* is party to STOPIA 2006 which means that the limitation amount is increased to SDR 20 million. It seems unlikely that claims will exceed this amount and it follows that the 1992 Fund is unlikely to be called upon to pay compensation.

Agia Zoni II. (IOPC/NOV23/3/9).

Regular readers of these reports will recall that this small and very old tanker sank in mysterious circumstances in the northern part of Piraeus anchorage area. Serious pollution was caused by the 500 tonnes of oil which escaped from the wreck. Since then the wreck has been raised and placed in drydock. Two local investigations have reached different conclusions as to the cause of the sinking. One concluded that there had been an explosion on board but the other found that water had been deliberately introduced by opening ballast tank valves. This "scuttling" was planned, it is suggested, by the shipowner working in conjunction with the salvors and/or one of the clean-up contracting companies.

The ASNA report concluded that the accident should be attributed to the deliberate and negligent actions of the shipowner, two crew members who were on board at the crucial

time, the shipowner's General Manager and representatives of the Salvage/clean-up companies.

An investigation was undertaken by the Piraeus Public Prosecutor into the causes of the sinking and in June 2021 the Fund's lawyer and a number of other parties were called and questioned by the Prosecutor. The Fund's lawyer was questioned about the procedure which had been adopted for the payment of claims including those of the clean-up contractors. As of February 2023 the investigation was still ongoing and until the Prosecutors report is published no further steps can be taken. It is understood that, depending on the outcome of this investigation, the District Attorney may seek to prosecute the owner and the implicated clean-up contactor.

Against this background the IOPC Funds had to decide whether it was obliged to pay for the clean-up operations. The advice from the Funds' Greek lawyers was that Article 4(3) of the 1992 CLC appeared to require that compensation be paid to innocent victims regardless of the cause of the spill. The lawyers further advised that the burden of proving that one of the clean-up contactors was complicit and therefore not entitled to be paid was a heavy one and that there was not enough evidence available at this stage to deny payment. Should there eventually be a finding of criminal activity by the shipowner or contractors recourse actions could be taken against them. Proceedings commenced by two of the clean-up contractors in July 2019 for Eur. 30.26 million and Eur. 24.74 respectively continue.

Proceedings have also been commenced on behalf of fisherfolk and fish traders. There are also claims outstanding from the tourism sector and from the Greek State. Of the 423 claims filed against the Fund, 415 have been approved and 189 settled totalling EUR 14.96 million.

A number of issues (including one relating to the time bar for submission of claims) have arisen in connection with the assessment of the limitation fund and of the claims lodged against it. An appeal by the Fund is due to be heard in February 2024.

The *Agia Zoni II* was insured for oil pollution risks by Lodestar Marine Ltd. which is not a member of the International Group of P.& I. Clubs and the policy has a limit of EUR 5 million. However, the insurers have said that they will honour the Blue Card which they issued with its limit of SDR 4.51 million. Limitation proceedings were commenced by the insurers and a guarantee in the amount of EUR 5.59 has been lodged with the court. Claims against the limitation fund, including a subrogation claim from the Fund, were filed and assessed by the Administrator. His assessments were the subject of review by the Court of First Instance in Piraeus in June 2022 and the decision of the Court is subject to further appeals with the Fund challenging the ruling that because of late submission of some of the subrogated claims they had no right to appeal against the Administrator's assessment. Proceedings continue.

In view of the circumstances of the sinking and the on-going investigations the Funds' Director has advised that it would not be appropriate to make any further payments to the Salvors or to the clean-up contractors who are thought to have been complicit.

Bow Jubail. (IOPC/NOV23/3/10)

This remains one of the most significant cases involving the 1992 Fund. On June 23rd 2018 the tanker *Bow Jubail* collided with a jetty at the LBC Terminal in Rotterdam resulting in a spill of bunker oil which caused pollution to property and to wildlife. At the time of the incident the tanker was unladen and the shipowner applied to the Rotterdam District Court for leave to limit liability under the provisions of LLMC 76/96 on the basis that the incident was covered by the Bunkers Convention 2001. The Court concluded that the shipowner had failed to prove the absence of oil cargo residues in the cargo tanks and that, for this reason, the tanker qualified as a "ship" under 1992 CLC. This decision was appealed to the Court of Appeal in the Hague where the judgment of the lower court was upheld on the ground that the shipowner had failed to established that the tanker did not contain any oil cargo residues – the onus in this respect being upon the shipowner.

The case was appealed to the Supreme Court and discussions took place at the Fund's meeting in 2020 as to whether the 1992 Fund should seek to intervene in the Supreme Court appeal. All delegations recognised that it is very important that there should be a determination by a senior court of the definition of "residues" under the Convention and that there should be a consideration of what constitutes adequate cleaning of tanks to eliminate such residues. The Director recommended that the 1992 Fund should apply to join the appeal to ensure that the Court had all the assistance possible in reaching its decision. The Supreme Court granted permission for the Fund to be admitted to the proceedings as "an interested party".

In a judgment dated March 31st 2023 the Supreme Court upheld the earlier decisions of the Rotterdam District Court and the Court of Appeal in the Hague finding that the shipowner had failed to prove the absence of cargo residues, that the tanker was therefore deemed to be a "ship" under the 1992 CLC and that the incident was not, therefore, covered by the Bunkers Convention.

At the meeting in November 2021 the International Group of P. and I Clubs had confirmed that the Group would continue to support owners in their efforts to prove that there was an absence of residues with the result that the Bunkers Convention 2001 would apply in this case rather than the CLC. It further suggested, at that meeting, that consideration should be given to developing a standard procedure or guidelines for determining when a ship, which can serve both as an oil tanker under the 1992 CLC and as a chemical tanker under the Bunkers Convention 2001, ceases to be a "ship" under the 1992 CLC. At its meeting in May 2023 the Fund Executive Committee asked the Director to explore the possibility of developing such guidelines. (See IOPC/NOV23/4/4).

Legal proceedings have been commenced by 25 claimants before the District Court in Rotterdam against the shipowners, insurers and the Fund (in some only of the actions). These claims are being monitored by the Fund's lawyers.

Incident in Israel (IOPC/NOV23/3/12).

In February 2021 the Israeli Government reported to the 1992 Fund that tar balls had been found washed up on the coast. The source of the oil was not established but it was thought likely that the oil had been discharged illegally from a passing tanker. This conclusion has since been endorsed by experts in the "fingerprinting" of petroleum products. Further investigations suggest that the likely source of the pollution was the *MT Emerald,* a tanker of 62,247 GRT, flying the Panamanian flag and registered in the Marshall Islands. However, it has been decided that the evidence is not conclusive and that the oil could have emanated from an earlier tank washing and discharge.

As at August2023 a total of 46 claims had been submitted for clean-up expenses, property damage and economic losses totalling ILS 26.5 million (£5.6 million). Ten claims have been assessed and six have been paid out. Twenty three claims have been rejected for lack of proof or because no causal connection has been established.

At its meeting in July 2021 the 1992 Executive had decided that a "mystery spill" of this sort was covered by the CLC and Fund Conventions and that compensation would be payable. The Director was instructed to settle claims arising.

Redffern (IOPC/NOV23 /3/4).

This claim arises from the loss of an inland-certified barge which sank in March 2009 at Tin Can Island, Lagos, Nigeria during a transhipment operation from the *MT Concep*. Approximately 100 tonnes of low pour fuel oil escaped. Claims totalling USD 26.25 million (since increased to USD 92.26 million) have been submitted by, amongst others, 102 local communities for clean-up, pollution prevention, property damage, economic losses in the fisheries and tourism businesses and environmental damage.

The Fund rejected the resulting pollution claims on the grounds that the *Redffern* was not a ship within Art. 1 of the 1992 CLC, that the claims submitted were full of discrepancies and that there was a lack of information about the identities of the claimants. An application by the Fund to the local court in 2013 to be removed from the proceedings was rejected. A series of appeals and preliminary hearings followed. In February 2022 the First Instance judge delivered a summary judgment awarding the claimants their full claims amounting to USD 92.26 million plus USD 5 million general damages against the owners/charterers of the *Redffern* and the owners/charterers of the *Concep.*

This decision has been appealed on various grounds but in the meantime the claimants' lawyer filed garnishee proceedings against the defendants and also against the Fund. The Fund's lawyers successfully applied to remove the Fund from the garnishee proceedings.

Looking ahead there remain many uncertainties. The Fund could at any stage apply to be struck out of the proceedings on the grounds that the *Redffern* was not a ship. On the other hand this would mean that the Fund's lawyers would not be able to challenge the claims submitted. Alternatively the non-applicability of the CLC could be deployed later should attempts be made to recover claims from the Fund.

The Director continues to monitor developments in Nigeria but concludes that this case will remain active for some considerable time.

NESA R3 (IOPC/NOV23/3/7).

The 856 GT tanker *Nesa R3* carrying a cargo of bitumen sank in 65 metres of water on June 19th 2013 off Port Sultan Qaboos, Muscat. Some 250 tonnes of bitumen escaped and 40 kms of shoreline were reported to have been contaminated. The vessel carried less than 2,000 tons of persistent oil and was, therefore, not required to carry compulsory insurance against liabilities. Nonetheless she was insured against such liabilities by Indian Ocean Shipowners Mutual P.& I. Club, Sri Lanka. The CLC limit would be SDR 4.51 million (£4.7 million) however the shipowner has never set up a limitation fund.

A total of 33 claims for clean-up, surveys and economic loss amounting to OMR 5,915,218 (£12.1 million) were submitted to the 1992 Fund. Of these claims 28 were settled by the fund for OMR 3,521,364.39 (£6.7 million) plus BHD 8,419.35 (£16,000). The remaining claims were rejected.

In October 2013 the Omani Government commenced proceedings against the owners/insurers who were refusing to meet their obligations under the 1992 CLC. The Fund joined in these proceedings

In December 2017 the Court determined that the owners and insurers of *Nesa R3* should pay OMR 4,154,842.80 (£8.5 million) to the Omani Government and BHD 8,419.35 (£16,000) to the 1992 Fund. These figures correspond with the amounts paid out by the 1992 Fund at that time and, to the Omani Government, the difference between the amount claimed in court and i.e. OMR 5,932,703 (£12.1 million) and the amount received from the 1992 Fund, namely, OMR 4,154,842.80 (£8.5 million). Both the Government and the Fund appealed against these awards. Despite a settlement having been signed with the Omani government it did not withdraw its proceedings and as at August 2023 the claims had still not been withdrawn.

In January 2023 the Court of Appeal in Muscat ordered that the Ocean P. & I. Club should pay the 1992 Fund an amount of OMR 3,521,364.39 and BHD 8,419.350.

It is the Fund's intention to seek to recover the amounts which it has paid out from the shipowner and its insurers by action in Sri Lanka and the UAE. Investigations into the financial situation of the owners and their insurers have not encouraging. However, it seems that the insurers may still be in business – further inquiries are being made.

MT Harcourt (IOPC/NOV23/3 /11)

The oil storage tanker *MT Harcourt* (26,218 GRT) which was moored alongside the Elcrest Terminal in the Gbetiokun oil field in Nigeria suffered an explosion in a ballast tank on November 2nd 2020 and approximately 4.2 tonnes of crude oil escaped. The cargo on board was discharged to other vessels. Testing of the water in the Benin River revealed no traces of oil from the vessel.

The owner of *MT Harcourt* (entered with the West of England P. & I. Club) is a party to STOPIA and it follows that the limitation amount for the vessel is increased on a voluntary basis to SDR 20 million. It seems unlikely that the amount of compensation will reach the STOPIA limit and the 1992 Fund is unlikely to be called upon to pay compensation.

Claims submitted by 12 local communities have been struck out the judge finding that the claims were without merit.

The Secretariat will continue to monitor developments.

Nathan E. Stewart (IOPC/NOV23/3/8**)**

On 13 October 2016 the articulated tug-barge consisting of the tug *Nathan E. Stewart* and barge *DBL 55* grounded near Bella Bella in British Columbia. Approximately 110,000 litres of oil escaped. An action was commenced before the Federal Court of Canada on behalf of a First Nation community against the owners of the tug and barge and the Ship-source Oil Pollution Fund in Canada (SOPF), the 1992 Fund and the Supplementary Fund were added as third parties. Once discovery of documents has been completed the Fund will consider whether it could apply to be dismissed from the proceedings.

The limitation proceedings give rise to a number of interesting legal issues. The shipowners argue that the despite the tug/barge coupling system they are to be treated as two separate ships. They further argue that the barge has always carried refined products and never persistent oil and neither tug nor barge were a "ship" within the CLC definition. The diesel fuel and lubricants released by the tug were bunkers – not cargo.

The claimants assert that tug and barge should be treated as one unit for limitation purposes.

In July 2019 the Federal Court decided that a limitation fund should be set up based on the Bunkers Convention 2001 (and therefore the LLMC76/96) on the basis of the combined tonnage of tug and barge. The Court concluded that there was no basis upon which it could order a limitation fund to be set up under the 1992 CLC. A limitation fund in the amount of CAD 5,568,00 (£3.3 million) has now been constituted. It still remains for the Court to determine whether for purposes of limitation the tug and barge formed a single unit.

In the meantime there is to be a mediation session involving the shipowners, the Canadian Government and SOPF. The Funds lawyers in Canada will be following the progress of the mediation.

Alpha 1 (IOPC/NOV23/3/6)

On March 5th 2012 the Greek registered tanker, *Alpha 1,* carrying 1,800 metric tonnes of oil struck the wreck of the *City of Mykonos* in Elefsis Bay near Piraeus and sank. Escaping oil polluted 13 Kms of the shoreline. Clean-up operations were undertaken.

The limitation amount under the 1992 CLC is SDR 4.51 million (EUR 5.52 million). The liability insurance on the vessel was limited to EUR 2 million but only attached if non-

persistent mineral oil was being carried. Claims for clean-up costs were received from two contactors (EUR 16.15) and the Greek State (EUR 222,000.)

The Piraeus Court of First instance awarded the main clean-up contactor EUR 14.4 million but the Fund was able to settle this claim for EUR12 million and is seeking to recover the CLC limit (see above) from the insurers. However, in February 2018 the Bank of Greece revoked the insurer's licence and placed the company in liquidation.

A claim by a second clean-up contractor was dismissed by reason of the operation of the 6 year time bar.

In March 2018 the Court directed that the insurer should pay the full amount of the main clean-up contractor's claim amounting to EUR 15.8 million. An appeal by the insurers to the Supreme Court was unsuccessful – the Court finding that the issue of a certificate of insurance based on the Blue Card issued by the insurer demonstrated the existence of an insurance cover complying with the compulsory insurance provisions of CLC 1992. The Court also found that the words "carrying more than 2,000 tons of oil in bulk" in Art. VII (1) of the 1992 CLC meant "capable" of carrying more than 2,000 tons and did not refer to the amount actually carried.

As previously reported the 1992 Fund managed to obtain "prenoted mortgages" against buildings owned by the insurers. These claims were registered with the Liquidator but dismissed by him for reasons which have not been provided. An appeal by the Fund resulted in an order that the Fund's claims should be recognised by the Liquidator. The Liquidator appealed this decision and a hearing was fixed for October 2022 but has been postponed. In order to protect its interests the Fund has served on the Liquidator an "extrajudicial declaration" putting him on notice not to distribute any of the assets of the insurer until the appeal has been heard.

Princess Empress (IOPC/NOV23/3/13)

The Philippine flagged *Princess Empress* (508 GT) sank off the coast of Naujan, Oriental Mindoro in the Philippines on February 28th 2023. She was carrying 800,000 litres of fuel oil as cargo. An oil spill occurred causing widespread pollution damage. As at October 6th 2023 35,576 claims had been received and PHP 42.5 million, USD 24.8 million and EUR2.6 million have been paid out. As oil continued to leak from the wreck it was decided to remove the remaining oil. This operation was completed in June 2023. Clean-up operations have now also been concluded and

The Philippines is a party to the 1992 CLC and the 1992 Fund Convention. The Fund is therefore working closely with the Club and with the Philippine authorities. It is anticipated that the claims may well exceed the CLC limit which will mean that the Fund will be involved. The CLC limit is calculated at SDR 4.51 million but the shipowner is a party to the STOPIA Agreement with the result that the limit is increased to SDR 20 million. Under the STOPIA Agreement the fund can recover from the shipowner the difference between the CLC limit and the total admissible claims.

A central claims office has been set up in Calapan, Oriental Mindoro and smaller claims submission offices have also been set up. The Director and the Claims Manager visited the Philippines in April 2023and an illustrated report was given showing the claims handling arrangements which have included the setting up of local Claims Submission Offices.

The causes of the incident are still being investigated in order to determine whether there is any criminal responsibility.

Patrick Griggs.