



Admissibility of claims for compensation

Presentation and assessment of claims for
economic losses

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Who?

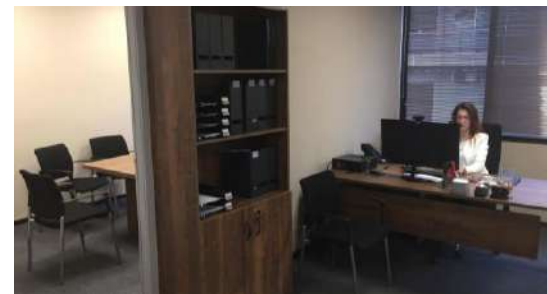
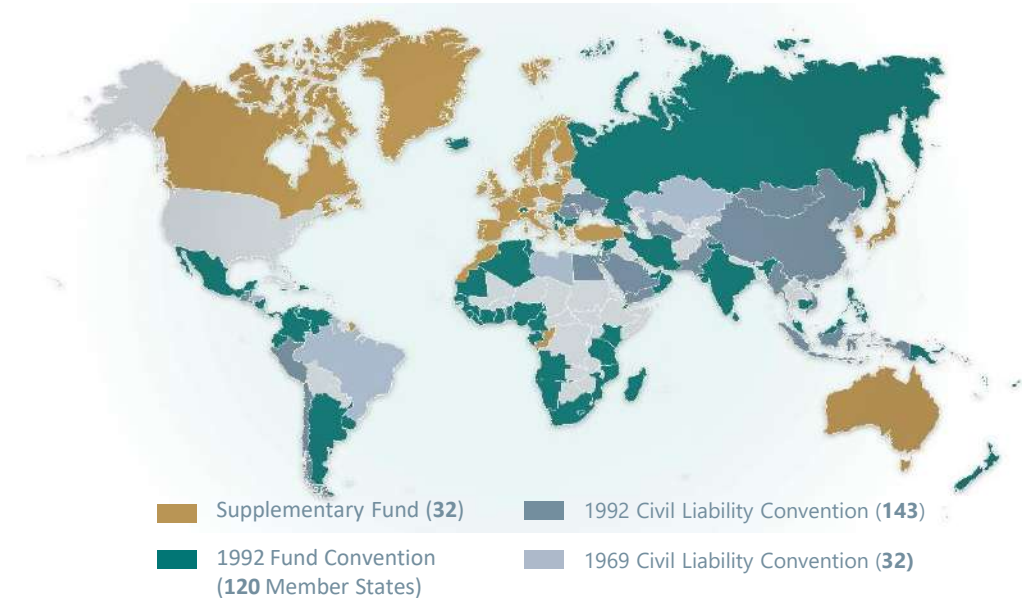
- Anyone who has suffered damage in a Member State as a result of a spill

To whom?

- Insurer (directly/through correspondent)
- IOPC Funds
- Claims Handling Office

When?

- As soon as possible
- Time bar
- Out of court settlement





Admissible claims

Claim submission: What is covered

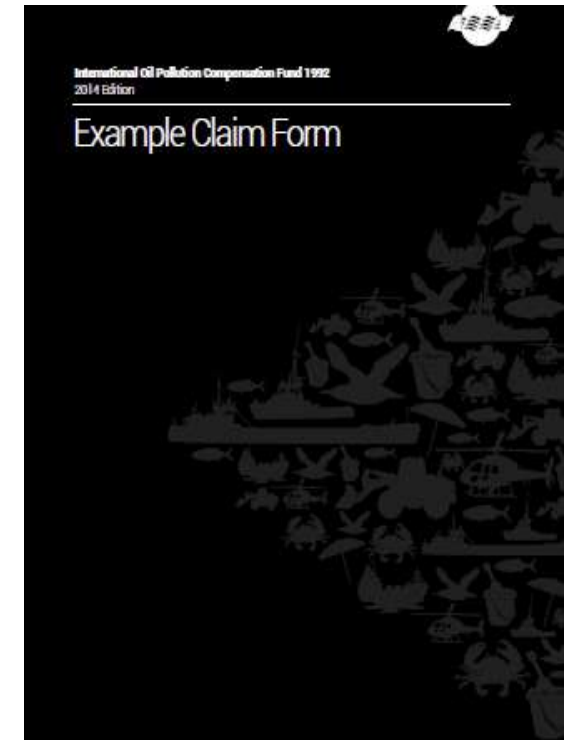


Presenting a claim

Claim submission – how?

- In writing
- Contact information:
 - ✓ Name
 - ✓ Address/ email/ phone number
 - ✓ Identification document
- Claim information
 - ✓ Type of damage
 - ✓ Date of damage
 - ✓ Description of the claim and loss suffered
 - ✓ Invoices, photos, maps and other evidence
 - ✓ Amount of claim

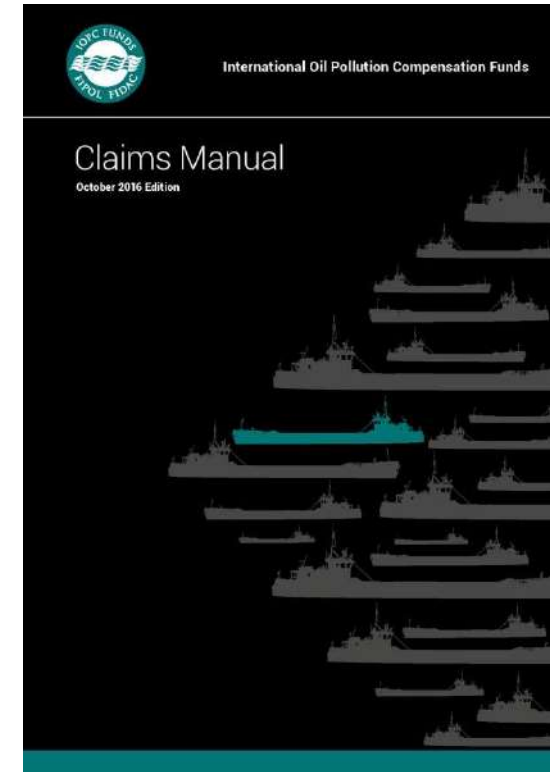
✓ Claims can be submitted in any language



Existing guidance: **Claims Manual**
Fisheries sector guidelines
Tourism sector guidelines

Key principles

- Occurrence of an incident is **not enough** to receive compensation
- The loss must have occurred
- There must be a **sufficient link** of causation between the loss or the damage and the contamination
- A claimant has to **prove** his/her loss



Admissibility of claims

Property damage claims

- Cleaning and repairs costs (personnel and materials)
- Replacement of property contaminated by oil (less wear and tear)



- ✓ Damage must have been caused by contamination
- ✓ Claim = measures taken and costs
- ✓ Reasonable costs based on invoices
- ✓ Estimates normally are not admissible
- ✓ Wear and tear taken into consideration
- ✓ No compensation for betterment

Consequential loss

Loss of earnings by owners of property contaminated by oil

Pure economic loss

Loss of earnings by businesses who have suffered a loss as a consequence of a spill, without direct contamination



- ✓ Geographic proximity between the claimant's activity and the contamination
- ✓ Claimant's economic dependence on the affected resource
- ✓ Alternative sources of supply or business opportunities
- ✓ Extent to which the business forms an integral part of the economic activity within the area affected

Claims may be accepted for the costs of **measures to prevent or minimise** pure economic loss (mitigation)

- The cost of the measures should be reasonable
- The cost of the measures should not be disproportionate to the loss they intend to mitigate
- The measures should be appropriate and offer a reasonable prospect of being successful
- In the case of marketing campaigns, the measures should relate to actual targeted markets





Admissibility of claims

Role of experts

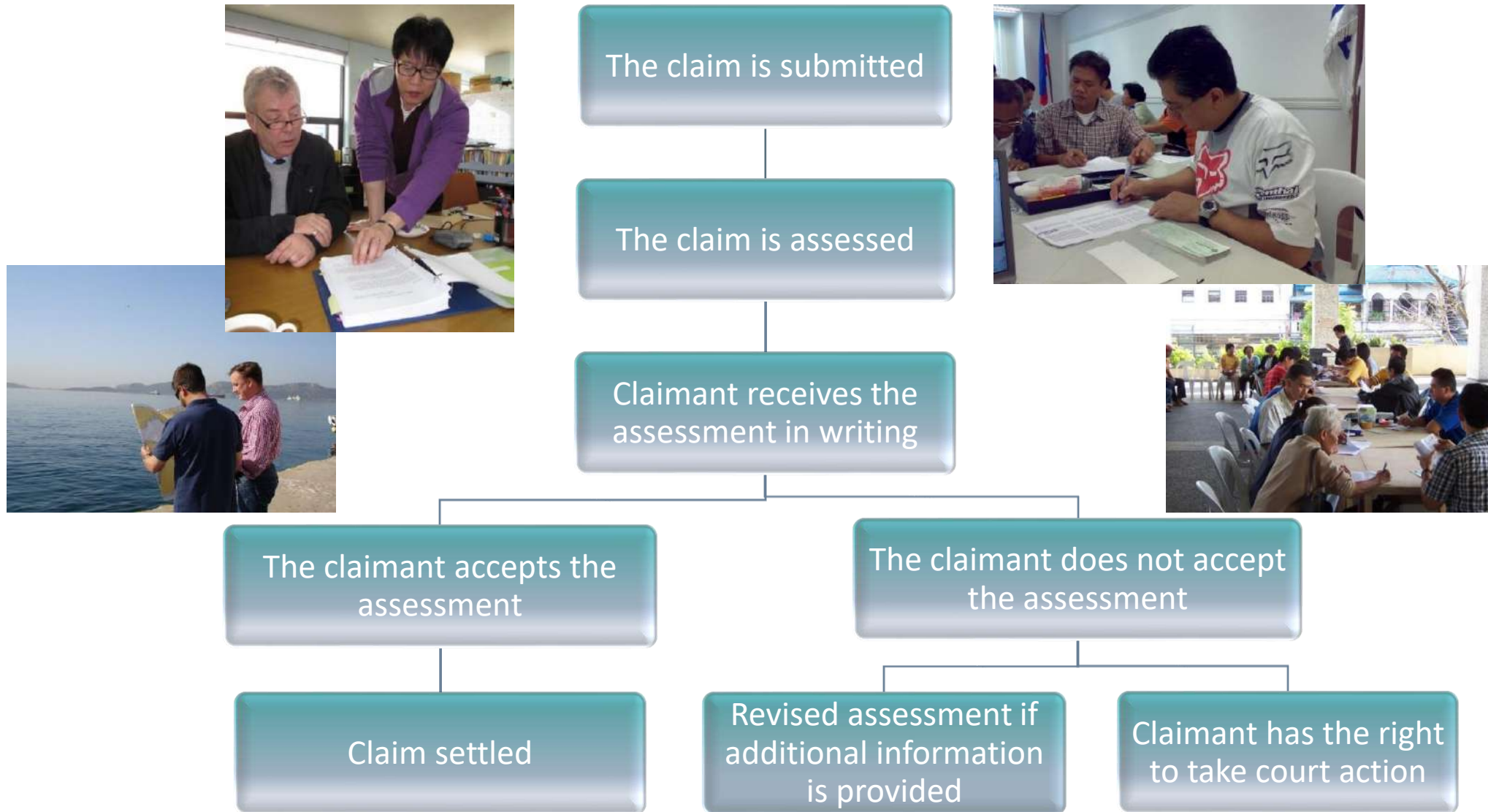
- ✓ **Jointly** appointed by the IOPC Funds and P&I Club
- ✓ **Local** surveyors and **international** experts
- ✓ Role is **advisory only**, focused on:
 - Visit and advise all parties on most effective measures to minimise resource damage
 - Offer guidance on admissibility of claims
 - Provide advice to the Fund & Club on likely level of damages arising out of the incident
 - Submit recommendations on claim assessment to the Fund & Club

Only the Fund & P&I Club approve claims



Claim process

From incident to claim settlement





- Fund can carry out interim assessments in order to make rapid payments
- Assessments are based on the information provided by the claimants
- Delays are commonly due to waiting for claimant to submit sufficient information
- Assessments can be revised if new information provided



References

Publications

Claims Manual

https://iopcfunds.org/wp-content/uploads/2018/12/2019-Claims-Manual_e.pdf

Fisheries and aquaculture claims guidelines

https://iopcfunds.org/wp-content/uploads/2017/04/2019-Fisheries_e.pdf

Tourism and economic losses guidelines

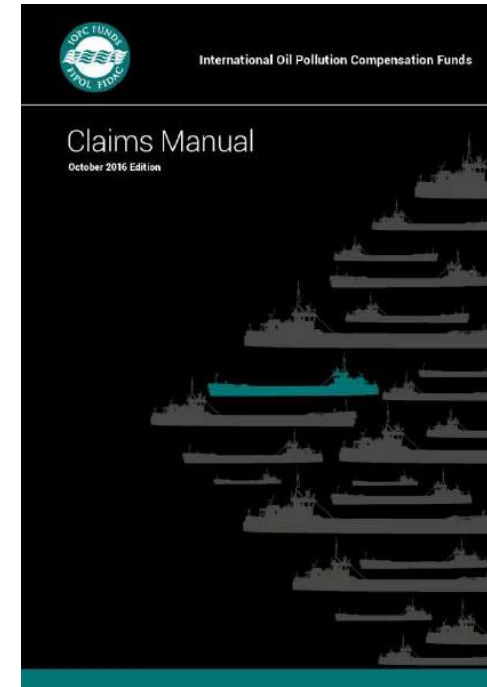
https://iopcfunds.org/wp-content/uploads/2018/08/2019-Tourism_e.pdf

Clean up claims guidelines

https://iopcfunds.org/wp-content/uploads/2015/08/Clean-up-Guidelines_e.pdf

Environmental damage claims guidelines

https://iopcfunds.org/wp-content/uploads/2018/12/IOPC_Environmental_Guidelines_ENGLISH_2018_WEB_01.pdf





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A mountain resort restaurant, located some 50km inland of the location of the spill, claimed for loss of revenue due to cancellations of table reservations during the tourism season following the spill.

Is the claim admissible?



- A. No. - The location of the restaurant is too remote for the loss to be linked to the contamination
- B. Yes – if they can prove that their revenues were dependent on the tourism in the affected area

Admissibility of claims

Question 2

A fisherman can't go fishing because clean up activities are ongoing in his normal area of operation. He submits a claim for loss of revenue for the period until the end of the clean up operations.

Is the claim admissible?



- A. No, he could go fishing somewhere else
- B. Yes, but ONLY IF his gear has been damaged by the oil
- C. Yes, for as long as that he can prove that he suffered an economic loss