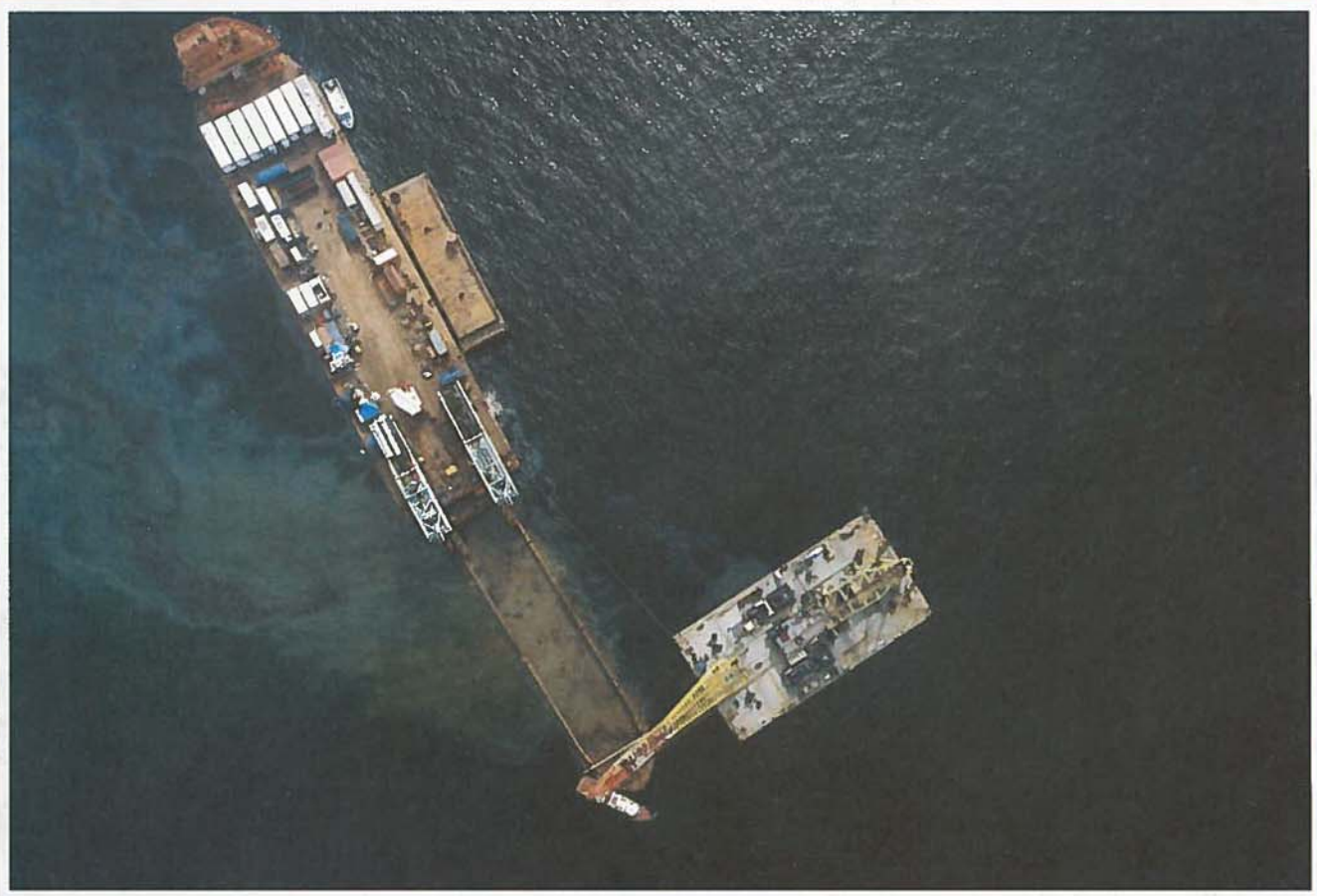


***Ship-source  
Oil Pollution Fund  
Annual Report  
1996-1997***



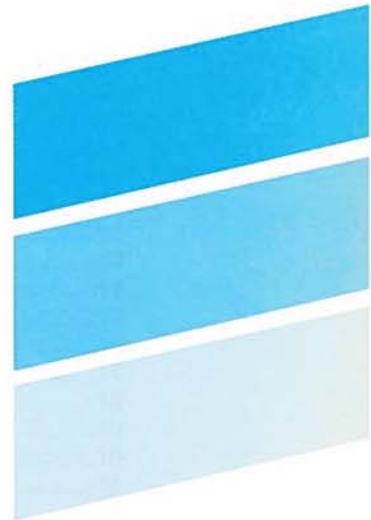
Canada

Cover: IRVING WHALE breaking surface on July 30, 1996, after nearly 26 years  
on the bottom of the Gulf of St. Lawrence.

Photograph courtesy: Environment Canada

Published by the Administrator  
Ship-source Oil Pollution Fund  
90 Elgin Street, 8th Floor  
Ottawa, Canada K1A 0N5

***Ship-source  
Oil Pollution Fund  
Annual Report  
1996-1997***





## Table of Contents

1.	Introduction.....	1
2.	The Canadian Compensation Regime.....	1
3.	Current Status of the Ship-source Oil Pollution Fund.....	1
4.	Entry into Force of the 1992 Protocols to the 1969 Civil Liability Convention and the 1971 Fund Convention.....	3
5.	Bill C-58 to Amend the Canada Shipping Act.....	4
6.	The 1992 Protocols.....	4
7.	1971 Fund - The Assembly and the Executive Committee.....	4
	1992 Fund - The Assembly.....	4
8.	Oil Spill Incidents	
8.1	IRVING WHALE.....	9
8.2	LIBERTY BELL VENTURE.....	10
8.3	SOUTH ANGELA.....	10
8.4	NEW ZEALAND CARIBBEAN.....	11
8.5	LUCETTE C.....	11
8.6	CAMARGUE.....	12
8.7	EASTERN SHELL.....	12
8.8	OGDENSBURG.....	13
8.9	IRENES SAPPHIRE.....	13
8.10	VALERY IV.....	14
8.11	Mystery Oil Spill, Sorel Harbour, Qc.....	14
8.12	GENERAL TIRONA.....	15
8.13	POLYDEFKIS.....	15
8.14	CALYPSO IV.....	15
8.15	PRINCESS No. 1.....	16
8.16	LEADER.....	17
8.17	SKY PRINCESS.....	17
8.18	ZIM SAVANNAH.....	17
8.19	PIERRE CHAUVIN.....	18
8.20	MISS STEPHANIE.....	18
8.21	MARWOOD.....	18
8.22	STEVE C.....	19
8.23	POINTE SEPT-ILES.....	19
8.24	WORKBOAT No. 5.....	19
8.25	NAHMINT.....	19
8.26	Mystery Oil Spill - New Haven, N.S.....	20
8.27	Mystery Oil Spill - Montreal Harbour, Qc.....	20
8.28	Mystery Oil Spill - Ste. Félicité, Qc.....	20
8.29	CHANTY.....	20
8.30	GRETE STAR.....	21
8.31	SIMCOE ISLANDER.....	21
8.32	BOREE.....	21
8.33	BERGE LORD.....	21
8.34	PRINCE GEORGE.....	21
8.35	HALTREN No. 1.....	22
8.36	JAMES NORRIS.....	23
8.37	APJ SHALIN.....	23
8.38	ACADIAN PAL.....	23
8.39	LE SAULE No. 1.....	24
8.40	KOLOMNA.....	24
8.41	KATHY K.....	24
8.42	Mystery Oil Spill - Come By Chance, Nfld.....	24
8.43	Mystery Oil Spill - Cherry Hill, N.S.....	25
8.44	Mystery Oil Spill - Imperial Oil, Dartmouth, N.S.....	25
8.45	R.D.R. ENTREPRISE.....	25
8.46	NORTHWIND.....	26
8.47	Motor Yacht 42E 6903.....	26
8.48	Mystery Oil Spill - Goderich, Ont.....	26
8.49	HARLAMBOS.....	26
8.50	JADE STAR.....	27
8.51	Mystery Oil Spill - Placentia Bay, Nfld.....	27
9.	Financial Summary.....	28





The Honourable David Collenette, P.C., M.P.  
Minister of Transport  
Ottawa, Ontario  
K1A 0N5

Dear Mr. Collenette,

## 1. Introduction

Pursuant to Section 722 of the Canada Shipping Act (CSA) I have the honour to submit to you my Annual Report on my operations as Administrator of the Ship-source Oil Pollution Fund (SOPF) commencing on April 1, 1996 and ending on March 31, 1997.

By Order in Council P.C. 1993-2003 dated December 6, 1993, the undersigned was reappointed Administrator of the SOPF for a term of 5 years with effect from November 18, 1993 having previously held the appointment as Administrator since 1988.

## 2. The Canadian Compensation Regime

The three components providing compensation to claimants for oil pollution damage caused by ships in Canadian waters are:

1. The Ship-source Oil Pollution Fund
2. The International Convention on Civil Liability for Oil Pollution Damage 1969 (1969 CLC)<sup>1</sup>; and
3. The International Oil Pollution Compensation Fund (1971 Fund) established by the 1971 International Convention on the Establishment of an International Fund for Oil Pollution Damage (1971 Fund Convention).

Figure 1 shows the amounts of compensation as at April 1, 1997 that can be made available under the three components of this regime.

With one exception<sup>2</sup>, the SOPF is a Fund of first resort for all claimants, including the Canadian Coast Guard, for oil pollution damage, for costs and expenses resulting from a discharge of oil from a ship and also for the costs of preventive measures taken in anticipation of an oil spill.

The CSA imposes on the Administrator the obligation to take all reasonable measures to recover the compensation paid to the claimant from the SOPF, from the owner of the ship, the IOPC Fund or any other person liable, including the right to prove a claim against the shipowner's limitation fund. In the event that no other security is provided, the Administrator is empowered to commence an action *in rem* against the ship (or against the proceeds of sale, if the ship has been sold), to obtain security to protect the SOPF. In such circumstances, the Administrator is entitled to obtain security prior to the filing of any claims against the SOPF, but that action can only be continued after the Administrator has paid claims under section 711(3).

Since December 30, 1993, the SOPF also applies to oil spills from any ship in Arctic Waters.

It should be noted that while no changes were made to the regime during the fiscal year, legislation to implement the 1992 Protocols to the CLC and the 1971 Fund Convention was drafted and introduced in the House of Commons on September 19, 1996. These developments are dealt with in section 5 of this report.

---

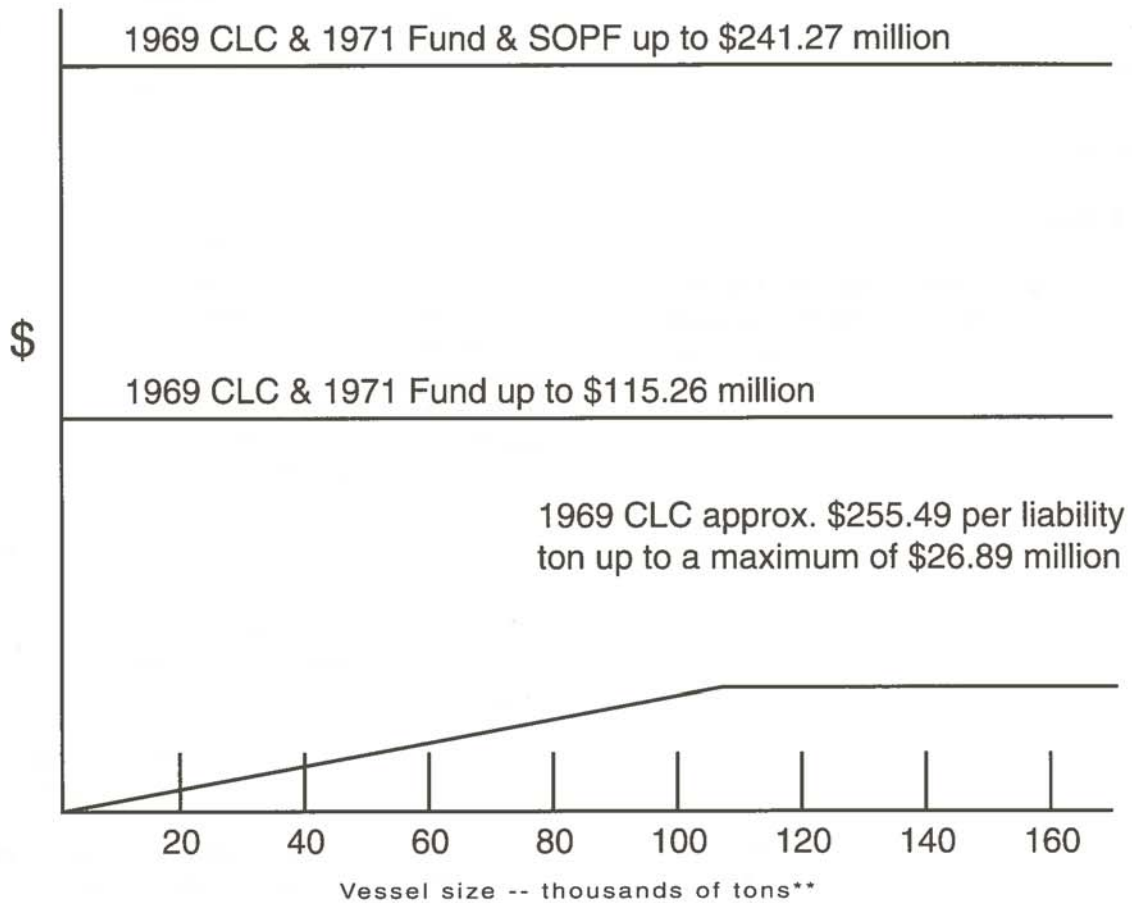
<sup>1</sup> The 1969 CLC and 1971 Fund Convention apply only to oil pollution damage caused by laden oil tankers in Canada and its territorial sea including Arctic Waters but not in the exclusive economic zone of Canada.

<sup>2</sup> The exception is that a Response Organization established under the CSA has no direct claim against the SOPF, but may have a claim for unsatisfied costs and expenses after exhausting the right of recovery against the shipowner, the insurer or the 1971 Fund as the case may be.



Figure 1

**Canada Shipping Act Part XVI - Compensation for Oil Pollution  
Damage in respect of any one incident involving a laden tanker  
(Based on the value of the SDR\* at April 1, 1997)**



\* Special Drawing Rights of the International Monetary Fund  
\*\* As defined in Article V of the 1969 Civil Liability Convention

1. The SOPF, 1969 CLC and 1971 Fund provide a combined aggregate amount of up to \$241.27 million in the case of any one oil pollution incident involving a laden oil tanker.
2. The 1969 CLC provides compensation of up to approximately \$26.89 million and represents the shipowner's share of compensation payable.
3. The International Oil Pollution Compensation Fund (1971 Fund) and the 1969 CLC provide aggregate compensation of up to \$115.26 million. Funds paid by the 1971 Fund represent the cargo interests share of compensation payable.
4. The SOPF is also available for compensation for oil spills from ships other than laden tankers.
5. The SOPF applies in all Canadian Waters, in the exclusive economic zone of Canada and also in Arctic Waters. The maximum amount of compensation available is adjusted annually for inflation (see section 3).
6. Additionally, the SOPF is available to pay compensation for oil pollution damage where the identity of the ship is unknown i.e. mystery spills. In such cases, claimants are entitled to the benefit of the reverse onus provided in the CSA and need not prove that the oil came from a ship. The Administrator must however dismiss a claim if he is satisfied on the evidence the oil spill was not caused by a ship.
7. The SOPF is also available to a widely defined class of persons involved in the Canadian fishing industry to pay claims for loss of income and future income caused by an oil spill from a ship. Claimants must be Canadian citizens or residents and have the appropriate licences to fish or be persons who fish or hunt for food or skins for their own consumption or use.

### 3. Current Status of the Ship-source Oil Pollution Fund

#### Balance:

At March 31, 1997 the balance in the SOPF was \$260,637,762.68<sup>3</sup>.

#### Interest:

During the fiscal year the SOPF was credited with a total of \$15,484,806.07, as interest by the Minister of Finance, calculated on a monthly basis, giving an average rate of about 6.1% during 1996-1997.

#### Limit of Liability:

During the fiscal year commencing April 1, 1997 the maximum liability of the SOPF is \$126,008,626.60 for all claims in respect of any one oil spill. This amount is indexed annually to the consumer price index.

#### Levy:

The Minister of Transport has statutory authority to impose a levy for the SOPF on oil imported into or shipped from a place in Canada in bulk as cargo on a ship. No levy has been imposed or collected since 1976. If imposed during the fiscal year commencing April 1, 1997 the levy would be 37.80 cents per tonne. It is also indexed annually to the consumer price index.<sup>4</sup>

### 4. Entry into Force of the 1992 Protocols to the 1969 Civil Liability Convention and the 1971 Fund Convention

My report for last year showed that the Protocols had entered into force for the following states on May 30, 1996:

Denmark	Oman
France	Sweden
Germany	United Kingdom
Japan	
Egypt (1992 CLC only)	
Mexico	
Norway	

Since then, the Protocols have already entered into force or will enter into force for a number of other states. Consequently, on May 15,

1998, the date on which the compulsory denunciation of the 1969 CLC and the 1971 Fund Convention takes effect, the following countries will be parties to the 1992 Protocols only.

Australia	Marshall Islands
Bahamas	Mexico
Bahrain	Monaco
Cyprus	Netherlands
Denmark	Norway
Finland	Oman
France	Republic of Korea
Germany	Spain
Greece	Sweden
Ireland	Switzerland
Japan	Tunisia
Liberia	United Kingdom

Presently, the above states account for approximately 73.92% of the total amount of contributing oil received by all 1971 Fund contracting states.

When these states of the 1992 Fund leave the 1969 CLC and the 1971 Fund, contributors in states remaining in the 1971 Fund could be faced with considerable increased costs since the financial burden would be spread among fewer contributors.

Canada will not be in a position to accede to the 1992 Protocols and denounce the 1969/1971 Conventions by May 15, 1998<sup>5</sup> as the enabling legislation was not passed prior to the dissolution of Parliament on 27 April 1997, (see section 5 below). Consequently, Canadian contributions to the 1971 Fund, payable from the SOPF in accor-

<sup>3</sup> The SOPF is a special purpose account in the accounts of Canada established for the purposes set out in Part XVI of the CSA. As the Government of Canada has borrowed the entire capital of the SOPF, it is required to provide the necessary funds to meet the liabilities of the Fund as they arise.

<sup>4</sup> On April 24, 1989 the Maritime Pollution Claims Fund (MPCF) was replaced by the SOPF. All monies in the MPCF (\$149,618,850.24) were transferred to the account of the SOPF on that date. Between February 15, 1972 and September 1, 1976 a levy of 15 cents per ton was paid and collected on oil imported into Canada by ship in bulk and shipped in bulk from any place in Canada. Total levy receipts of \$34,866,459.88 were credited to the MPCF.

<sup>5</sup> It should be noted, however, that all contracting states will remain liable to contribute to all outstanding incidents that happened on or before May 15, 1998.



dance with the CSA, will increase from about 3.21% to 12.30% of the total payable by the remaining 23 contributing states.

## 5. Bill C-58 to Amend the Canada Shipping Act

The Bill received first reading in the House of Commons on September 19th, 1996. It was amended by the Standing Committee on Transport and reported to the House on December 11, 1996. Due to other priorities in the Parliamentary schedule, no further action was taken on the Bill before the dissolution of the thirty-fifth Parliament on April 27, 1997<sup>6</sup>.

As in the case of the former Bill C-58, the legislation proposed in Bill S-4 will amend Part IX of the CSA to enable implementation of the Convention on Limitation of Liability for Maritime Claims (1976 LLMC Convention) and its Protocol of 1996. The proposed legislation will also provide that liability for oil spills from ships other than oil tankers will be calculated in accordance with the 1976 LLMC Convention and its 1996 Protocol. Most importantly, the Bill will also amend Part XVI of the CSA to enable adoption and implementation of the 1992 CLC and the 1992 Fund Convention so that claimants in Canada can receive the benefits of the improved compensation provided by the 1992 Protocols as described in Section 6 below.

## 6. 1992 Protocols

My 1995-96 Annual Report contained a summary of the Protocols which, for the sake of completeness and ease of reference, is reproduced below.

- The underlying principles of the 1969 Civil Liability Convention and the 1971 Fund Convention remain. The main differences introduced by the 1992 Protocols are:
- Special liability limit for owners of small vessels and a substantial increase of the limitation amounts. The limit is \$5.76 million for a ship not exceeding 5,000 units of gross tonnage, increasing on a linear scale to \$114.68 million for ships of 140,000 units of tonnage or over.

- Increase in the limit of compensation payable by the IOPC Fund to \$259.33 million, including the compensation payable by the shipowner under the 1992 Protocol to the Civil Liability Convention.
- A simplified procedure for increasing the limitation amounts in the two Conventions by majority decision taken by the states parties to the Conventions.
- Extended geographical scope of application of the Conventions to include the exclusive economic zone established under the United Nations Convention on the Law of the Sea.
- Pollution damage caused by spills of bunker oil and by cargo residues from unladen tankers on the voyage after carrying a cargo are covered.
- Expenses incurred for preventive measures are recoverable even when no spill or oil occurs, provided that there was a grave and imminent danger of pollution damage.
- A new definition of pollution damage retaining the basic wording of the present definition with the addition of a phrase to clarify that, for environmental damage, only costs incurred for reasonable measures to restore the contaminated environment are included in the concept of pollution damage.

Figure 2 - shows a comparison of Current (1969/1971 Regime) and Revised Limits of Liability and Compensation (1992 Protocols).

## 7. 1971 Fund - The Assembly and the Executive Committee 1992 Fund - The Assembly

The 2nd extraordinary session and the 19th session of the 1971 Assembly and 48th, 49th, 50th and 51st sessions of the Executive Committee and the 1st session and 1st extraordinary session of the 1992 Assembly took place during the year. The Canadian Delegation to these meetings, held at London, was headed by the Administrator.

<sup>6</sup> The Bill was reintroduced in the thirty-sixth Parliament in the Senate where it received first reading as Bill S-4 on October 8, 1997.



**The Assemblies**

The 2nd Extraordinary session of the 1971 Assembly and the 1st session of the 1992 Assembly were held concurrently from June 24 - 28, 1996.

The 1971 Assembly was attended by 34 contracting states, observers from 7 non-contracting states and observers from 7 inter-governmental and non-governmental organizations.

The 1992 Assembly was attended by 8 contracting states, observers from 15 non-contracting

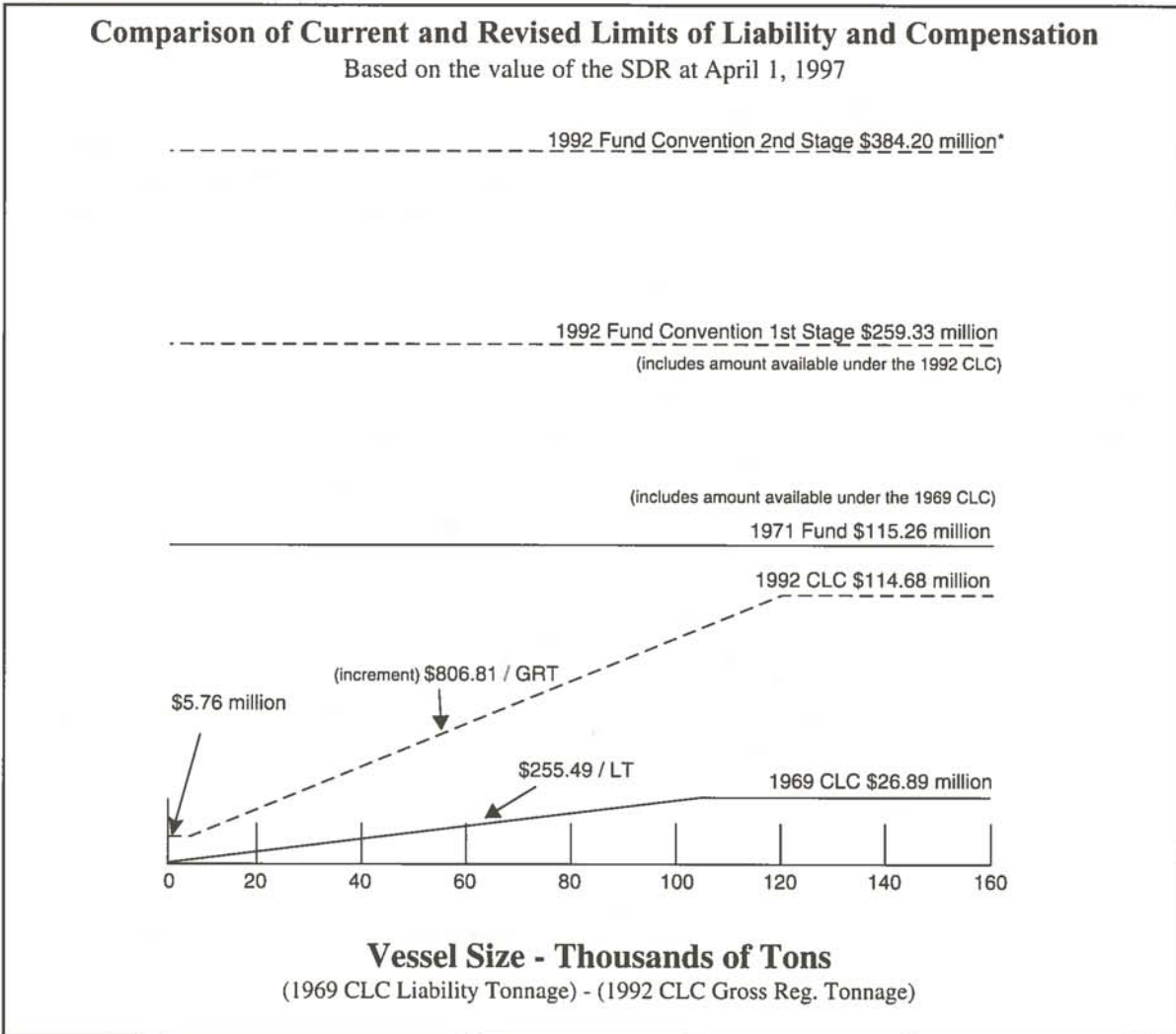
states and observers from 6 inter-governmental and non-governmental organizations.

Mr. Charles Coppolani of France was elected as chairman of both Funds. Nevertheless, in order to deal with any possible conflict of interest, a separate Vice Chairman of the 1971 Fund would act to replace the Chairman if such a situation were to arise.

The thrust of these meetings was chiefly organizational and produced a number of decisions to ensure a smooth transition from the 1971 Fund to the 1992 Fund. It was agreed that the headquar-



**Figure 2**



\* It is unlikely that the 2nd stage will come into effect without the participation of the United States of America which has its own regime of liability and compensation since 1990.

ters of the 1992 Fund would be located at London and both Funds would share, on an interim basis, common office space currently under lease to the 1971 Fund from IMO. Also, the Secretariat of the 1971 Fund would also administer the 1992 Fund during the transitional period and both Funds are to share joint administrative costs during 1996, three quarters of which would be paid by the 1971 Fund and one quarter by the 1992 Fund.

Decisions by both Assemblies introduced a deferred invoicing system for contributions to achieve greater flexibility and to avoid a build up of unnecessary money in General Funds and Major Claims Funds. Authority was given to the Director to decide to issue invoices for all or any part of the additional amount authorized by the Assemblies of the Funds.

The 1992 Assembly also agreed that the Director should have the same authority to settle claims as he has under the 1971 Fund and that there should be a Claims Subsidiary Body having similar powers and authority as the existing Executive Committee under the 1971 Fund. The 1992 Assembly also decided by a resolution, so as to ensure consistency between decisions of the two Funds and given that some incidents would involve both Funds, that, as far as possible, it would adopt the same criteria for the admissibility of claims as under the 1971 Fund. Also, the two Assemblies agreed that both Funds would publish a joint Claims Manual which would apply to claims under both Funds, and for the time being, both Funds would issue joint Annual Reports.

On financial matters the 1992 Fund adopted a budget of £338,507 for the period May 30, 1996 (when the 1992 Fund became operational) until the end of 1996. The budget for 1997 would then be submitted to the 1992 Assembly in October 1996. Also, the first levy of contributions to the 1992 Fund would be postponed until October 1996 with the 1971 Fund providing interim financing (to be refunded) during the first eight month's of the 1992 Fund's operation.

In order that both the 1971 Fund and the 1992 Fund should have the same External Auditor, the Comptroller and Auditor General of the United Kingdom was appointed External Auditor for both Funds.

The 19th session of the 1971 Assembly and the 1st Extraordinary session of the 1992 Assembly were held consecutively from October 22-25, 1996.

The 1971 Assembly was attended by 40 contracting states, observers from 11 non contracting states and observers from 5 inter-governmental and non-governmental organizations.

The 1992 Assembly was attended by 10 contracting states, observers from 33 non contracting states and observers from 5 intergovernmental and non-governmental organizations.

A number of important decisions impacting the 1971 and 1992 Funds were taken by the Assemblies. It was decided that from May 15, 1998 the 1992 Fund Secretariat will administer both the 1992 and 1971 Funds. By that date, most of the major contributors will no longer be members of the 1971 Fund. It was also agreed to increase the size of the Secretariat if need be, by three additional positions. A decision was taken that the 1997 costs of the joint Secretariat (£1,821,720) would be allocated 70% to the 1971 Fund and 30% to the 1992 Fund which would be reviewed from time to time as claims work shifts from the 1971 Fund to the 1992 Fund.

The 1971 Assembly approved the operating budget for 1997 and decided that the Working Capital would be reduced to £10,000,000, a reduction of £5,000,000 to be reimbursed to 1971 Fund contributors. Consequently, it was decided that contributions in the amount of £23,000,000 were necessary and payable not later than 1 February 1997 with respect to:

a) SEA PRINCE/YEO MYUNG/YUIL No. 1 Major Claims Funds:	£13,000,000
b) SEA EMPRESS Major Claims Fund	£10,000,000
c) less reimbursement of Working Capital	- £5,000,000
<b>TOTAL</b>	<b>£18,000,000</b>

Canada's share of the total amount levied in 1996 was £512,198.00 (\$1,111,828.20) and



paid in full by the Administrator out of the SOPF on 31st January 1997.

The Assembly also authorized a deferred levy of up to £53,800,000<sup>7</sup> if, and only if, further funds were required.

In October 1996 Canada was elected for a second one year term to the Executive Committee of the 1971 Fund.

### **The Executive Committee**

#### **48th Session of the Committee 16th April 1996**

The chief purpose of the Session was to deal with two conflicting difficulties in connection with the SEA EMPRESS incident.

The first related to mitigation of financial hardship to claimants, in this respect in cases of genuine financial hardship, the Government of the United Kingdom pledged its claim for clean up and preventive measures as security if the pollution insurers were prepared to pay claims at a faster rate.

The second issue was in respect of the level that claims should be paid, so as to protect the 1971 Fund from an overpayment problem as the total claims arising from this incident might well exceed the maximum amount of compensation available. The Committee authorized the Director to settle claims up to seventy-five per cent of the actual damage.

With respect to the HAVEN incident, the Director advised the Committee that on 30th March 1996 the Genoa Court of Appeal upheld the lower court's ruling that the maximum amount payable by the 1971 Fund should be measured by the free market price of gold resulting in an amount of £313 million, as compared to an increased amount of about £55 million based on the value of Special Drawing Rights. The Committee requested the Director to appeal to the Italian Supreme Court of Cassation. A judgment could be expected in about two years.

The Director also informed the Committee that on 5 April 1996, the Court of First Instance in Genoa issued a list of admissible claims (the

"stato passivo") in the total amount of £78,000,000 together with interest and adjusted to compensate for the devaluation of the Italian Lira. On many claims, the Court upheld the 1971 Fund's position, but on other major claims, including the claim of the Italian Government for environmental damage, the position of the IOPC Fund was not upheld. On another important matter, the Court held that the claims were not time-barred. The Committee requested the Director to lodge an opposition to the stato passivo, including the ruling on the time-bar issue.

The Committee noted that all 33 French public claims (other than that of the French State) had been paid, the first payment of claims since the HAVEN incident happened in April 1991.

#### **49th Session of the Committee June 26-28, 1996**

Respecting the HAVEN incident, the Director advised the Committee that there had been no progress since the 48th session in April 1996, except that the 1971 Fund's many oppositions to the stato passivo would be heard by the Court of First Instance in Genoa on 28 November 1996.

The Committee reviewed the AEGEAN SEA incident and the consequences of the judgement by the Spanish Criminal Court at La Coruña on April 30, 1996. The Court upheld the position of the 1971 Fund that without sufficient supporting evidence, it would not be possible to assess the actual damage suffered by claimants. The Court also found that the pilot assigned to the AEGEAN SEA, a government employee, was 50% to blame for the grounding of the vessel. The Committee noted that the Government of Spain had offered to use its best efforts to have fishery claimants produce documentation to substantiate their claims, but their efforts had so far not been successful.

In dealing with the BRAER incident, the Committee was informed that although all pay-

---

<sup>7</sup> At its 3rd Extraordinary session in April 1997 the 1971 Assembly agreed that the deferred levy be reduced to £31,000,000 payable on 1st September 1997. At this session the Assembly decided that an additional amount of £15,000,000 should be levied as a 1997 contribution in respect of the NAKHODKA incident which occurred in the Sea of Japan on 2nd January 1997, also payable on 1st September 1997.



ments of compensation had been suspended, there had been some settlement discussions and a number of claims withdrawn. However, with the first court case scheduled to commence only in April 1997 in the Scottish Court at Edinburgh, the prospect for any early settlements of these fishery claims appeared to be remote.

With respect to the SEA EMPRESS incident, the Committee approved in principle one claim from a fish processing company, but the Committee was not prepared to make decisions on other preliminary claims for economic loss where no claims had actually been submitted. The Committee reaffirmed that payments of claims should be limited to 75% of damages actually suffered since the total amount of claims arising out of this incident might exceed the total amount of compensation available under the 1969 CLC and the 1971 Fund Convention.

#### **50th Session of the Committee 21-23 October 1996**

The Committee reviewed the HAVEN incident and noted that the 1971 Fund Assembly had instructed it to approve a global settlement that met the following criteria:

- a) The 1971 Fund's contribution would not exceed the difference between the shipowner's Limit of Liability (14 million SDRs) and the maximum amount payable by the 1971 Fund (60,000,000 SDRs).
- b) All other claims would be settled by the ship owners liability insurers.

Respecting the AEGEAN SEA incident, little progress had been made in the settlement of fishing claims since the 49th session of the Committee in June 1996 as claimants had not yet produced their catch records.

In reviewing the BRAER incident, the Committee agreed to maintain the suspension of all payments of compensation in view of the pending litigation in the Scottish Court.

The Committee also reviewed developments in the KEUMDONG No. 5 and SEA EMPRESS incidents. With regard to the latter incident, because of the uncertainty as to the level of claims

at this stage it was agreed that all payments of compensation should be limited to 75% of the proven damage. The Director reported that the SEKI incident that took place in the United Arab Emirates (Fujairah) had been settled without recourse to the 1971 Fund.

#### **51st session of the Committee 25 October 1996**

This session took place immediately following the 19th Assembly. Mr. Oosterveen of the Netherlands and Miss A.N. Ogo of Nigeria were elected as Chairman and Vice Chairman respectively of the Committee for the coming year.

#### **52nd Session of the Committee 18th-19th February 1997**

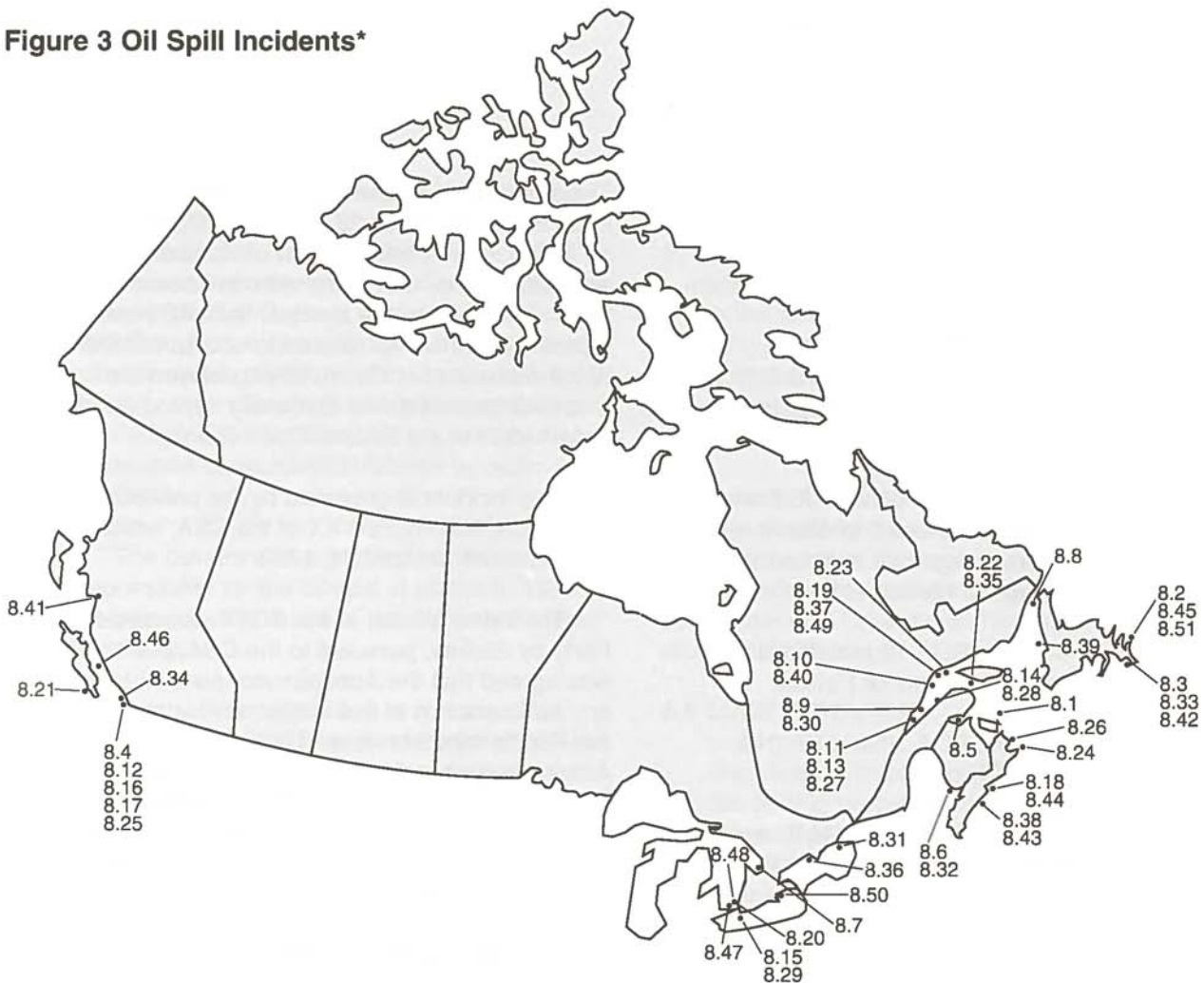
The focus of the session was on the NAKHODKA incident which took place in the Sea of Japan on 2nd January 1997. The oil tanker, enroute to the Kamchatka Peninsula from China with a cargo of some 19,000 tonnes of heavy fuel oil, broke in two in stormy weather. The bow section of the tanker later came ashore in Fukui Prefecture some 330 km west of Tokyo. Extensive pollution ensued with considerable damage being done to the shell fishery and also to edible seaweed.

The spill is covered by both the 1969/1971 regime and the 1992 regime. Many claims may be expected.

The Committee again reviewed the HAVEN incident, but no progress had been made on reaching a global settlement. Respecting the AEGEAN SEA incident, no progress had been made in the matter of fishing claims. In the BRAER incident, proceedings continued before the Scottish Court. The Committee discussed at some length the admissibility of certain claims respecting the SEA EMPRESS incident and noted that the major unknown claim would be the salvage claim arising from the efforts to float the tanker after seven separate groundings. The Committee decided to continue to prorate claims at 75%.



**Figure 3 Oil Spill Incidents\***



\* Refer to Section 8 for a description of the oil spill incidents shown on this map.

## 8. Oil Spill Incidents

During any particular year the Ship-source Oil Pollution Fund (SOPF), receives many reports of oil pollution incidents from a variety of sources, including individuals who wish to be advised if they are entitled, under the Canada Shipping Act, to be considered as potential claimants as a result of oil pollution damage they have suffered. All such reports and inquiries are fully investigated by the Fund and those which fell within its purview are noted hereunder.

### 8.1 IRVING WHALE (1970)

See Annual Reports for 1991-92, 1992-93, 94-95, and 1995-96 for the earlier history of this incident. During the period April 1, 1996 - March 31, 1997 covered by this Annual Report, the following events should be recorded.

1. During the period commencing on March 19, 1996 public consultation meetings were held

at Dartmouth, N.S., Charlottetown, P.E.I., Caraquet, N.B., Iles de la Madeleine, Qc., Montreal, Qc., Stephenville, Nfld., Cheticamp, N.S.

2. On April 16, 1996 after the 30 day public review period expired, the Minister of the Environment and the Minister of Fisheries and Oceans announced their intention to proceed with the recovery operation during the summer of 1996, after the Société pour Vaincre La Pollution (SVP) agreed to abandon it's challenge to the 1995 lift decision.

3. After a hearing in the Federal Court on June 3-4, 1996, the Court allowed the recovery project to proceed.

4. On June 25, 1996, the Canadian Coast Guard (CCG) commandship, SIR WILLIAM ALEXANDER, arrived on-site.

5. On June 1996, the 1995 salvage contract awarded to the Don-Jon McAllister was amended to apply to the 1996 recovery operation.

6. On June 26, 1996, the recovery vessel BOA 9 arrived on site.
7. On June 30, 1996, diving operations commenced.
8. On July 30, 1996, IRVING WHALE brought to the surface at 0854 EDT and dewatering began.
9. On July 31, 1996, IRVING WHALE was placed on BOA 10 and towed to Alberton, P.E.I., to be cleaned, marine growth removed and readied for towage to Halifax, N.S.
10. August 4, 1996, BOA 10 and IRVING WHALE departed Alberton for Halifax.
11. August 7, 1996, BOA 10 and IRVING WHALE arrived Halifax.
12. August 8, 1996, IRVING WHALE was transferred to Atlantic Towing Ltd, at 1045 EDT at Halifax Shipyards.
13. On April 7, 1997, a letter of demand was sent from Crown Counsel to the Irving Group for payment of Crown's costs and expenses in the amount of \$42,226,563.65.

### **8.2 LIBERTY BELL VENTURE (1987)**

This Liberian registered tanker, of 31,331 gross tons (GT), under the management of a Hong Kong company, and time chartered to a New York company, was involved in an oil spill while alongside discharging oil cargo to the power station at Seal Cove, Conception Bay, Nfld., on March 29, 1987. An estimated 25-50 barrels (1 barrel equals 160 litres approximately) of Bunker C oil was spilled onto the vessel's deck and into the sea. The sea was covered in pack ice at the time. The ship blamed the power station for the spill and the power station blamed the ship.

Neither party would accept the responsibility for the clean-up of the oil, and the CCG incurred costs and expenses of \$11,779.71 undertaking this work.

The shipowners refused to honour the CCG invoice and on March 28, 1989, the Crown filed an action in the Federal Court of Canada against the ship, and those with an interest in her, for recovery of the monies. Initially, those representing the ship refused to accept service of the Statement of Claim, which delayed the proceedings until it was eventually served under Rule 310(2) of the Federal Court Rules.

This incident is governed by the previous legislation, namely Part XX of the CSA, which was repealed on April 24, 1989.

The Administrator of the SOPF was made a Party by Statute, pursuant to the CSA, but it was agreed that the Administrator need not take any further action in this matter, unless and until the Fund's interests were at issue. The Administrator has been advised that settlement is awaiting a decision of the Supreme Court of Canada in another case, as to the applicability of provincial contributory negligence legislation to admiralty actions.

### **8.3 SOUTH ANGELA (1988)**

There were oil spills at Come By Chance, Placentia Bay, Nfld., on March 5th and 7th, 1988 from the 59,353 GT Liberian tanker SOUTH ANGELA while alongside the Newfoundland Processing Company's refinery. It was stated that on the first occasion approximately 15 barrels of crude oil were spilled and on the second occasion approximately 500 barrels of crude were spilled. Most of the oil was contained by the refinery, but a number of fishermen alleged that their boats, equipment and fishing grounds were affected. Action was taken to ensure that the vessel posted security amounting to \$300,000 to cover CCG's costs and expenses, \$4 million to cover possible fishermen's claims and \$6 million as possible compensation to the refinery, before departing. The ship claimed the spill was the fault of the refinery and the refinery claimed that it was as a result of improper actions of the ship. On December 20, 1988 in Provincial Court, the owners of the vessel were found guilty of creating pollution under the oil pollution regulations.



There was no settlement of the CCG claim amounting to \$234,336.58 incurred in responding to the larger clean-up. On March 2, 1990, the Crown filed a Statement of Claim in the Federal Court of Canada against SOUTH ANGELA, her owners and the Come By Chance refinery, naming the Administrator as a Party by Statute. The refinery also commenced action in the Federal Court of Canada, but later these two cases were consolidated into one by order of the Court.

The owners of the ship agreed to accept responsibility for the oil spill of March 5, 1988, but refused acceptance of liability for the larger second spill.

Counsel was appointed to represent the interests of the SOPF but it was agreed with the other parties, and the Court, that no appearance was necessary unless issues arose directly affecting the SOPF.

The case came to trial at various times in the latter half of 1995. On September 23, 1996, the Court decision was filed and found that SOUTH ANGELA and the refinery were both responsible for the spill and that the cleanup of the oil spill on March 7, 1988 should be apportioned equally between the parties.

The last information the Administrator has on this incident is that settlement had not been agreed and that such resolution awaited a decision of the Supreme Court of Canada in another case as to the applicability of provincial contributory negligence legislation to admiralty actions.

#### **8.4 NEW ZEALAND CARIBBEAN (1989)**

The Administrator first became aware of this incident when notified that he was made a party in an action filed in the Federal Court of Canada by the Vancouver Port Corporation, against the ship, others with interest in the ship, and a local shipyard. The action had been filed on August 16, 1990, and alleged that the 19,613 GT Vanuatu flag combined general cargo/container ship had caused oil pollution in Vancouver Harbour on January 30, 1989. It appears that while docking at a shipyard wharf the ship came into contact with a bollard on the wharf and holed a shipside oil tank releasing a quantity of

bunker fuel oil. The Port Corporation incurred costs and expenses to the claimed amount of \$76,272.26 cleaning up the spill.

In the time between the alleged incident and the filing of the action, the vessel had changed name, flag of registry, owners and operators. Subsequently, not directly related to this matter, the shipyard went into receivership.

To date the case has not come to trial. At the time of writing this report, the Administrator was informed that, although the defendants have agreed to a settlement between themselves, the Port Corporation has not yet received payment.

#### **8.5 LUCETTE C (1989)**

This incident involved a 49 GT Canadian wooden fishing vessel which sank on May 8, 1989, in a depth of 7.5 metres off Newport, Baie des Chaleurs, Qc. The vessel had on board approximately 4,500 litres of diesel oil which spilled into the surrounding waters. In the absence of the owner taking action the CCG responded to contain and clean-up the pollution, which included raising the wreck and removing it to a safe place; thereby incurring costs and expenses claimed to be \$136,669.32.

Negotiations with the owners and their insurers to obtain payment of the sum expended by the CCG proved unsuccessful and an action was filed in the Federal Court of Canada by the Crown on April 24, 1992. Those named as Defendants were the LUCETTE C, the owners, the master and crew, and agents. A fish plant owner and the SOPF were also named as parties.

On November 3, 1992, the Administrator was advised that the Crown had suspended their court action after the owner of the LUCETTE C had declared bankruptcy. The Crown maintained its claim against the Administrator. In the Administrator's opinion, much of the costs incurred could rightly be charged to wreck removal as a hazard to navigation. Negotiations between counsel commenced, and on April 7, 1995, the Administrator was informed that the CCG had rejected a settlement offer of \$70,000. Negotiations contin-



ued and on February 20, 1997, the Department of Justice informed the Administrator that his final offer of \$100,000.00, inclusive of interest and all costs, had been accepted. The necessary funds were instructed to be transferred on February 28, 1997. The Crown, with the Administrator's concurrence, filed in the Federal Court of Canada a Notice of Discontinuance of the action on March 25, 1997, and the case was thereby closed.

### 8.6 CAMARGUE (1989)

This 69,016 GT tanker under the French flag, was moored to the Canaport Monobuoy, off Mispic Point, in the Bay of Fundy on June 18, 1989. A Canadian fueling barge, IRVING SHARK, commenced bunkering CAMARGUE and during this fuel transfer operation a considerable quantity of oil overflowed onto the tanker's deck and then into the sea. The ship was unable to contain the spill, which was subsequently estimated at 500 barrels. The incident was reported to authorities and the CCG immediately mobilized an anti-pollution team, deploying equipment to reduce the spread of the oil and to recover as much of the oil as possible. Included in the response action was aircraft surveillance. In this action the CCG incurred costs and expenses to a claimed amount of \$1,275,048.78.

CAMARGUE's owners did not pay the claim and on April 24, 1992, the Crown filed an action in the Federal Court of Canada against the ship, the owners and operators, naming the Administrator of the SOPF as a Party by Statute. On February 24, 1993, the defendants to the court action were amended to include the owners of the refueling barge, the oil terminal involved, and others.

During 1994 there was an exchange of documentation between the various parties in preparation for examinations for discoveries, prior to the hearing. On September 25, 1996, the Administrator was informed that an out of court settlement had been agreed by the parties and that the SOPF would not be involved. By the end of the fiscal year, no further information concerning the discontinuance of the court action had been received in that respect by the Administrator.

### 8.7 EASTERN SHELL (1991)

On May 10, 1991, the 4,008 GT Canadian tanker EASTERN SHELL was en route from Sarnia, Ont., with a cargo of gasoline and diesel oil to Parry Sound, in the Georgian Bay area, also in Ont. Under the blinding sun conditions early in the morning, the tanker touched a rock shoal at the entrance to the approach channel. The vessel anchored when clear of the shoal for inspection and was found to be leaking cargo. The authorities were informed, but in spite of the containment measures taken, it was subsequently stated that some 100,000 litres of gasoline and 62,000 litres of diesel fuel were lost into the surrounding waters. Typical of much of the Great Lakes, the area is considered one of pristine natural beauty.

In the containment and clean-up efforts the ship, the owners, the charterers and the Coast Guard responded. It was later claimed that the following direct costs and expenses had been incurred:

- the owners (Socanav) -	\$326,546.08
- the charterers (Shell Oil Company)	\$310,000.00
- the Canadian Coast Guard	<u>\$356,143.48</u>
Total	\$992,689.56

The ship's limitation of liability was calculated as \$728,238.33. On February 2, 1993, the Administrator received a letter from the counsel on behalf of the owners which stated the owners intended to claim limitation of liability which, in effect, would only leave \$91,692.25 for the CCG claim. The owners claimed to have had settled the Shell Oil Company claim and took the position that the balance of the CCG claim should be paid for by the SOPF.

The International Conventions did not apply in this incidents because the spillage was non-persistent oils. However, Part XVI of the CSA did apply. On March 2, 1993, counsel for the SOPF replied to the owners requiring more information and making these main points:

- doubting whether the stated clean-up figure of \$992,689.56 was a valid figure for any balance of claim consideration against the SOPF.



- expressing the view that some of the above mentioned costs were incurred in salvage of the vessel, and repair to enable her to move to a permanent repair facility.

The CCG claim was not paid by the owners and on January 14, 1994, the Crown filed an action in the Federal Court of Canada against EASTERN SHELL, all those interested in her and others to recover the monies and interest involved. The Administrator was named a party in accordance with subsection 710(1)(a) of the Act. One of the main objections of the shipowners to the CCG claim was the method of costing the CCG vessel which stood-by the accident scene and rendered support. The owners filed their Statement of Defense and Counterclaim on February 8, 1995. The Crown, and the SOPF, took the position, based on the facts of the grounding, that the owners were not entitled to limit their liability. During 1996 Examinations for Discovery progressed but on September 20, 1996, the owners, filed for bankruptcy pursuant to section 50.4 of the Bankruptcy and Insolvency Act of Canada. On February 7, 1997, the Appointed Trustee on behalf of the Official Receiver announced a date for the first meeting of the creditors, of which the Crown was one.

### **8.8 OGDENSBURG (1991)**

On September 26, 1991, the Canadian 1,405 GT barge OGDENSBURG was under tow of the Canadian tug MANIC when under conditions of adverse weather, the tow line broke and the barge drifted off. On September 28, 1991, the barge was reported to have been found sunk in a small bay some 17 miles to the west of St. Augustine, on the Quebec North Shore. The barge was carrying a load of gravel, two payloaders and two trailers. It was reported that the fuel tanks of the payloaders had been drained before shipment, but on October 16, 1991, pollution was reported to the CCG. An overflight on October 17, 1991, confirmed the existence of pollution on the shore, which area was close to a mussel farm. The pollution was found to come from the fuel tanks of the payloaders. Salvors, acting for the insurers, raised the two payloaders on October 27 and 28, 1991 thereby eliminating further pollution. The DFO analyzed samples of the mussels and pro-

nounced them untainted by the limited pollution which had existed.

The CCG incurred costs and expenses to a claimed amount of \$157,916.49 in their response to this pollution. The owner of the barge did not pay the CCG claim made against him and on March 26, 1993, the Crown filed a claim against the SOPF. The Crown also filed an action against the owner, the charterer, the barge and others, naming the Administrator as a Party by Statute in the Federal Court of Canada on May 7, 1993. The owners filed a Statement of Defence on September 3, 1993 which made the main point that the barge was on charter and that the charterers had exclusive care, custody and control of the barge at the time of the loss. These same charterers had since declared bankruptcy. The Crown and the Administrator accepted this position and resumed discussions on the Crown's claim.

The Administrator had certain concerns as to the reasonableness of the Crown's actions leading to the claim of \$157,916.49 and also about some of the costing of the claim itself. The main issue being a question as to whether the Crown had taken sufficient action in the first instance to obtain financial security for its clean-up costs. Settlement discussions to resolve the claim then took place on October 3, 1996, with the Administrator offering a settlement of \$110,000.00, inclusive of interest and legal costs. On February 20, 1997, the Department of Justice accepted this offer on behalf of their clients and the Administrator transferred the funds on March 3, 1997. The Crown, with the Administrator's concurrence, filed in the Federal Court of Canada a Notice of Discontinuance of the action on March 18, 1997.

### **8.9 IRENES SAPPHIRE (1992)**

The Administrator was formally made aware of this incident when he received a copy of an action filed in the Federal Court of Canada by the Crown on December 7, 1993, alleging that this Greek flag bulk carrier caused oil pollution when alongside in Trois Rivières, Qc., on September 22, 1992. In the absence of any response by the shipowners, the CCG had instituted containment and clean-up action, incurring costs and expenses stated to amount to



\$16,813.40. The Administrator had been named a party in accordance with subsection 713(1)(a) of the CSA. It was agreed at the time that the SOPF need not take any further steps in the matter unless the interests of the SOPF dictated otherwise.

Subsequently, the CCG laid charges in a criminal prosecution under the provisions of the oil pollution regulations against the vessel for causing pollution but, when the case came to trial, the Crown was unable to demonstrate without reasonable doubt that the pollution originated from the IRENES SAPPHIRE. It appeared that there was another ship tied up nearby and samples were not taken from that vessel for elimination purposes.

On February 8, 1995, the Crown presented its claim to the SOPF for consideration. The Administrator had concerns in this claim because all evidence pointed to the conclusion that the IRENES SAPPHIRE was the ship involved. As the level of proof for civil action is less than that required for a criminal action, the Administrator believed the court action should proceed. Negotiations between the parties continued and on February 25, 1997, the Administrator offered the Crown \$5,000 in full and final settlement of the case.

At the end of the fiscal year, a settlement between the shipowner, the Crown and the SOPF was agreed.

#### **8.10 VALERY IV (1993)**

VALERY IV was a 15 m. cement hulled pleasure craft which sank at Sabrevois, on the Richelieu River, Qc., on June 10, 1993. The owner could not be contacted at the time and the CCG organized a containment and clean-up of the minor oil pollution which resulted. The decision was also made to raise the craft as a means of reducing the potential for further pollution. Upon raising the vessel, it was found that two plugs had been removed from the engine cooling system, the removal of which had permitted an ingress of water. After the action had been taken, on June 13, 1993, the CCG was able to make contact with the owner. It was explained to him that he would have to accept the CCG costs and expenses in the response

which amounted to a claimed sum of \$14,641.68. The owner stated that he had no money or insurance to cover such a claim, but he did agree to sell the vessel, as is where is, and the money realized to be transferred to the Crown. The Crown agreed to such an arrangement. On June 15, 1993 the owner advised that he had been able to sell VALERY IV for \$2,000 and that this sum was being held in trust for the Crown.

On March 31, 1995 the Administrator was formally requested by counsel for the Crown to accept this incident as a claim against the Fund. The Administrator investigated the claim and had a number of concerns, principally the arrangement agreed for the sale of the craft. Negotiations with the Crown continued. On March 14, 1996, the Administrator offered to settle for \$12,641.68, i.e. the CCG claim less the \$2,000 said to be held in trust on behalf of the owner, plus accrued interest. This settlement offer was accepted and on April 10, 1996, the \$12,641.68 plus \$2,949.07 interest (totaling \$15,590.75) was transferred to the Crown. It was understood that the Crown would pursue the owner for the said \$2,000 in trust, and advise if the owner's circumstances had changed. To date nothing further has been heard on the matter and it is considered that the case is now closed.

#### **8.11 *Mystery Oil Spill, Sorel Harbour, Quebec (1993)***

The circumstances of this claim against the Fund differ from most claims that the Administrator receives. During the evening of November 30, 1993, the Canadian tug MANIC was working with the Canadian dredge QUIN in the Bassin Lanctôt, Sorel Harbour, Qc., when those aboard the vessels observed oil coming to the surface. After examination of the origin of the oil, it was found that the dredge had pierced an oil drum on the harbour floor which was reported to the CCG by the tug on December 1, 1993. There was some thin ice cover over the harbour at the time. The CCG mounted a response to contain and clean-up the oil, which was of a heavy variety, and incurred costs and expenses to a claimed amount of \$46,813.79.



The CCG formally submitted a claim to the Administrator for this amount under cover of their letter dated February 14, 1994.

In view of the unusual nature of the claim and the potential precedent involved, the Administrator obtained outside counsel's opinion on his liabilities in the matter which concluded that the Fund was not liable to pay this claim.

On this basis, the Administrator has denied the claim, but in spite of negotiations with the Crown on the subject no resolution has yet been agreed.

#### **8.12 GENERAL TIRONA (1993)**

This Philippine registered bulk carrier, GENERAL TIRONA, struck the dock while berthing in North Vancouver, B.C., on December 13, 1993, and holed a shipside oil tank releasing approximately 43 tonnes of diesel fuel onto the dock and into the water. The ship did not immediately respond to mount a clean-up of the pollution and the Vancouver Port Corporation called in the CCG as the lead response agency. The Department of Justice, acting for the Crown, negotiated with those acting for the ship and obtained a \$170,000 bond; this was made up for potential charges as follows: \$100,000 for clean-up, \$50,000 for environmental damage, and \$20,000 to cover any fine.

On February 3, 1994, the Administrator received a letter on behalf of the members of the Burrard Yacht Club, in North Vancouver, claiming that the hulls of approximately 22 yachts had been contaminated by the spill. They were referred directly to GENERAL TIRONA's P & I Club solicitors, who should be in a better position to assess, approve and settle such claims.

As no payment for the main clean-up operation in the harbour was forthcoming from the ship or its representatives, on December 4, 1996 the Crown filed suit in the Federal Court of Canada against the ship, her owners, and all other interested in her, to obtain reimbursement for the costs and expense to a claimed amount of \$85,090.67, plus interest. The Administrator was named a Party by Statute in accordance with subsection 713(1)(a) of the CSA.

A counter action was filed on December 12, 1994 in the Supreme Court of British Columbia by the owners of GENERAL TIRONA against the Vancouver Port Corporation and a stevedoring company alleging, in effect, that the fendering system of the wharf in question was defective. The owners were claiming repair costs, off hire costs and other expenses. A Statement of Defence on behalf of the Port Corporation was filed on January 11, 1996.

The outcome of the two separate actions is awaited.

#### **8.13 POLYDEFKIS (1994)**

On January 12, 1994, it was reported to the Harbour Master in the Port of Montreal, Qc., that an undetermined quantity of oil was suspected to have been discharged by this Greek bulk carrier while alongside berth section B-1. Ice was present around the ship and the temperature was -15°C. The master denied that the oil originated from his ship. The pollution was reported to Environment Canada (EC), who contracted for a clean-up and collected samples. The Marine Safety Branch of Transport Canada (TC) conducted an investigation and found oily sludge around the stern of the ship consistent with bilge pumping. Analysis of the samples proved that the oil came from the ship; the ship was charged and subsequently found guilty and assessed a fine of \$15,000 which was paid.

The DFO, representing the CCG Branch, presented a claim to the Administrator on April 3, 1997, amounting to \$4,377.32 which sought to have reimbursement for their costs and expenses in the clean-up. The Administrator pointed out that in accordance with section 710 of the CSA, for him to consider such an oil pollution claim, it must be filed within two years after the day on which the damage occurred, or if no damage occurred, within one year after the occurrence. As a result, the DFO withdrew its claim and the SOPF closed its file.

#### **8.14 CALYPSO IV (1994)**

This 3,010 GT Panamanian registered, bulk carrier was tied up alongside a shipyard at Les Méchins, Qc., on the south shore of the Lower



St. Lawrence River when, on February 2, 1994, there was a suspected spill of lubricating oil from the vessel. The vessel was surrounded by ice at the time. A subsequent examination revealed that the amount was approximately 13-22 litres of oil. An undetermined larger amount of bilge waste and general refuse was strewn on the ice around the vessel. The shipyard contracted with a specialized firm to effect a clean-up, which operation was monitored by the CCG. A letter of undertaking for \$70,000 was obtained from representatives of the ship's P & I Club on February 11, 1994, to cover potential claims against the ship from the Crown, the shipyard and the SOPF. The media reported that on February 20, 1994, the vessel sailed from Les Méchins to complete repairs in the United States, but because of further machinery problems aboard the vessel, she had to put into Sept.-Iles Bay, Qc. Undergoing repairs in the bay, the vessel was again reported to be the origin of further oil pollution.

On June 22, 1994, the SOPF counsel for the incident received a request on behalf of the P & I Club as to whether or not the shipyard had presented its claim to the Fund. No such claim had been received by the Administrator. On June 16, 1995, the Crown submitted its claim on behalf of the CCG for its monitoring costs to the SOPF. In his acknowledgment of the claim, the Administrator confirmed his understanding that the Crown would also submit its claim directly to the ship's representatives, who would be called upon to ultimately pay in any event, on the premise that the polluter pays. It now appears that the claim was not presented to the ship.

On February 11, 1997, the Crown received advice from the ship's P & I Club representative that they would no longer entertain a claim because the three year time-bar period had passed. The Crown then re-iterated its position it had passed a claim to the Administrator for consideration. On March 17, 1997, the Administrator raised two fundamental legal issues related purely to monitoring costs with the Crown, namely:

- a) what portion of the CCG costs, if any, are not "monitoring costs; and

- b) whether "monitoring costs" were legally recoverable from the shipowner at the time of this incident.

Meanwhile, the Administrator awaits a reply from the Crown.

#### **8.15 PRINCESS No. 1 (1994)**

A Canadian tug, the 87 GT PRINCESS No. 1, sailed from Erieau, Ont., on February 9, 1994 en route to Windsor, Ont., without requesting advice from the CCG Ice Information Officer. The tug became immobilized in heavy ice in Lake Erie listing to about 55°, necessitating a call for assistance. During the early morning of the next day, the US icebreaker NEAH BAY responded and relieved the ice pressure around the distressed vessel. The tug had four crew aboard, but the master, who was the registered owner, had been injured in an unrelated accident ashore and was taken off by a US helicopter because of his incapacities and dangerous situation for the tug. NEAH BAY stood by until relieved by a Canadian icebreaker, SAMUEL RISLEY. The Marine Safety Branch suspected that the tug was not manned in accordance with the CSA and ordered her into the nearest port of refuge. The nearest port was amended to be the nearest suitable ice free berth which was the CCG base at Amherstburg, Ont. SAMUEL RISLEY led the way through the ice vested waters, then escorted PRINCESS No. 1 to Amherstburg.

The two vessels arrived at the CCG base late in the afternoon, February 11, 1994, and the tug tied up. Subsequently, PRINCESS No. 1 sank at the berth which allowed residual oils and diesel fuel to escape.

It was stated that the tug had no insurance and, as an oil and water damaged vessel there was very little residual value. The CCG responded to the need for oil pollution containment and clean-up. It was decided that for the quickest response in the ice covered water the use of CCG ships and crews were required. Initially, the 2,212 GT icebreaker GRIFFON was employed and she was then relieved by the 1,967 GT SAMUEL RISLEY. The use of these ships incurred considerable claimed costs. The pollution was contained and as much oil recov-



ered as possible in the difficult circumstances. In the meantime the owner, using his own resources, made preparations for the lifting of the "Princess No. 1". Upon lifting ashore, it was found that the hull had several small leakages which were attributed to ice damage. A claim was received by the Administrator on December 30, 1994, from the Crown on behalf of the CCG, for reimbursement of their costs and expenses in the pollution clean-up.

On November 19, 1996, the Administrator made an offer of compensation in the amount of \$105,000.00 in settlement of this claim, which offer was accepted and, subsequently, the Administrator authorized the transfer of funds to the Crown.

In accordance with Section 711(3)(c) of the CSA, the Administrator filed an action in the Federal Court of Canada (Trial Division) on February 10, 1997, seeking to recover \$105,000.00, with interest, from PRINCESS No. 1, her owners, operators and all those interested in the ship.

#### **8.16 LEADER (1994)**

The Greek flag bulk carrier LEADER was alongside a grain loading terminal in Vancouver Harbour on April 8, 1994, when she reported a spill of a few gallons of fuel oil. The Harbour Master's launch responded to investigate and found a significant oil spill alongside the vessel. It was later determined that during a bunker transfer aboard there had been a spill, much being contained on deck, but that a quantity had been lost overboard. Among other areas in the harbour, about 3 cables of shoreline bounding New Brighton Park had been oiled. The CCG assumed the role of lead agency for the clean-up.

At the Crown's instigation, the P & I Club provided Letters of Undertaking for \$180,000 to cover the clean-up costs and \$10,000 as security for any potential fine. No claim was filed with the Administrator and on November 14, 1996, he was informed that the CCG had accepted settlement of \$80,000 for their claim in their incident without recourse to the SOPF and the file was closed.

#### **8.17 SKY PRINCESS (1994)**

SKY PRINCESS is a 46,087 GT cruise ship, registered in London, England. On April 22, 1996, the Administrator received a claim from the Vancouver Port Corporation in respect to an oil pollution clean-up undertaken by the Corporation on May 16, 1994. The claim amounted to \$46,045.83 (excluding taxes) and termed by them as a mystery spill. This was the first information the Administrator had received on this incident.

On April 8, 1997, an action was filed in the Federal Court by the Vancouver Port Corporation and the Administrator of the SOPF against this vessel, the owners, operators and all those interested in SKY PRINCESS, P & O Steam Navigation Co., and Princess Cruises Inc., alleging that on or about May 16, 1994, while at Centerm Pier in Vancouver, B.C., the vessel discharged a quantity of bunker oil. In the action, the Port Corporation is claiming \$46,045.83 which it incurred in cleaning up the spill and taking the necessary preventive measures.

#### **8.18 ZIM SAVANNAH (1994)**

This vessel is a 36,263 GT container ship registered in Haifa, Israel. The owners engaged contractors to clean-up a Bunker C oil spill noticed around the ship when she was alongside in Halifax, N.S. on May 30, 1994. The CCG required a monetary security in response to the spill, which was also posted. On sailing that same day, while still in Halifax harbour, an oil slick was noticed streaming from the ship and reported to the authorities. On return to its berth in Halifax for inspection, action to contain and clean-up the further pollution was taken. An inspection by the Marine Safety Branch could find no obvious source of the oil pollution emanating from the ship. Later ZIM SAVANNAH sailed with no further pollution.

The oil pollution sampling was not comprehensive and the samples taken did not prove a match. As its ship was not identified as the origin of the oil, the owners claimed it was a mystery spill and, on July 29, 1994, the Administrator received a claim amounting to \$99,579.58 to recoup the owner's costs and



expenses in connection with the incident. The Administrator investigated the circumstances of the oil and found that, in one of the inspections, a diver had taken a video showing a leakage of oil through one of the ship's underwater discharges. At year end, the claim was still under investigation.

#### **8.19 PIERRE CHAUVIN (1994)**

This vessel is a Canadian 70 GT passenger vessel engaged primarily on whale watching expeditions. On August 8, 1994, a CCG vessel reported that there was oil pollution in Tadoussac Bay, Qc. Several yachts and some shore facilities were oil contaminated. A member of the public reported that the oil came from the PIERRE CHAUVIN moored alongside unattended. After investigation, it was reported that an automatic oil transfer pump malfunctioned causing the oil spill.

On October 13, 1995, the owners were found guilty of causing oil pollution and fined \$4,000. The CCG incurred costs and expenses in the clean-up amounting to \$22,341.27, which were to be billed to the owner.

Any claim would normally be time barred against the Administrator on August 9, 1996, and no claim had been filed by that date.

#### **8.20 MISS STEPHANIE II (1994)**

A small Canadian steel hulled fishing vessel of 14 GT engaged in fishing whitefish six miles off Kettle Point, Lake Huron, Ont. on August 11, 1994, slowly took on water and sank. A guest passenger and his two year old son lost their lives.

Diesel oil leaked out of the vessel until divers closed the valves on August 13, 1994, and the wreck was raised on August 17, 1994.

No claim has been submitted to the SOPF, and such claim would have become time barred on August 12, 1996.

#### **8.21 MARWOOD (1994)**

This vessel is a 237 GT Canadian stern trawler which sank alongside the dock at

Ucluelet, B.C., on August 14, 1994. A trawl door on the ship's side caught on the dock on a rising tide which contributed to the vessel down flooding. The Chief Engineer lost his life in the sinking.

In the absence of effective response from the shipowners, the CCG initiated pollution containment and clean-up efforts in view of the approximate 36,000 litres of diesel fuel and 2,700 litres of lubricating oil on board. The vessel was refloated on August 17, 1994, by contractors engaged by the owners.

The CCG incurred costs and expenses, including taxes, to a stated amount of \$178,951.65, which claim was presented to the owners by the Crown on December 15, 1995.

The Department of Justice commenced negotiations with representatives of the owners to obtain security to cover the Crown's costs and expenses involved in containing and cleaning up the oil pollution. As no agreement could be reached in the matter, on February 21, 1995 the Crown filed a Statement of Claim in the Federal Court against the vessel, her owners & others, and taking legal action to have MARWOOD arrested, naming the SOPF a party. It appears that the main value of the vessel at that time was her fishing license.

On August 4, 1995, the P & I Club issued a Letter of Undertaking in the amount of \$250,000 to cover the costs and expenses in preventing and cleaning-up the oil pollution caused by the sinking of MARWOOD. On August 5, 1995 the vessel was released from arrest.

At the end of the fiscal year the Administrator was informed that negotiations are still in progress.

#### **8.22 STEVE C (1994)**

On August 15, 1994, this Canadian registered 44 GT wooden fishing vessel was reported aground on the south coast of Anticosti Island, Qc. The crew abandoned the vessel which was, subsequently, declared a total loss. Approximately 5,000 litres of diesel fuel were aboard at the time and this was transferred to another fishing vessel, which reported the oper-



ation successfully completed on August 20, 1994. No pollution was reported at that time.

The vessel had pollution insurance cover and the CCG advised the owner that it would be recovering the monitoring costs reported to be \$27,677.88.

No claim has been received at the SOPF and, in the absence of pollution, such a claim would normally be time barred on August 16, 1995.

### **8.23 POINTE SEPT ILES (1994)**

This pollution incident occurred at Sept. Iles, Qc. on August 24, 1994, when POINTE SEPT-ILES, a 424 GT Canadian registered tug, accidentally discharged approximately 100 litres of lubricating oil into the harbour. The clean-up was carried out by the dock owners, monitored by the CCG. The tug owners stated they would accept the invoices for fair costs covering the work involved. The Administrator was informed the CCG incurred costs and expenses to a claimed amount of \$2,984.66.

No claim has been received by the SOPF for this incident and any claim would, normally, be time barred after August 25, 1996.

### **8.24 WORKBOAT No. 5**

On December 4, 1994, a small workboat sank, unattended, at an old pier in the south arm of Sydney Harbour, N.S. The boat was used by contractors demolishing the pier. On sinking, the boat released diesel oil into the harbour. The owners of the boat undertook clean-up action and the oil quickly dissipated.

A fisherman with crab holding crates in Sydney Harbour telephoned the SOPF on December 14, 1994, advising that he wished to make a claim against the Fund for contamination of his crab catch. On December 5, 1994, inspectors for DFO had tested samples of the crabs in question and no evidence of hydrocarbons could be found. However, on December 13, 1994, officials from the same service ordered that 60 of the holding crates were not to be used in their present condition for holding fish products for human consumption. It

appears that this later occurrence was a second incident and was caused by an oil can found in the area.

The SOPF wrote to the would-be claimant on March 30, 1995, advising him how a claim should be filed but, to date, no claim has been received.

### **8.25 NAHMINT (1994)**

NAHMINT is a 172 GT Canadian fishing vessel which was laid-up in Gunderson Slough on the Fraser River near Delta, B.C. The vessel sank overnight December 28/29, 1994, and released an estimated 900 litres of diesel and lubricating oils. Contractors were employed to contain & clean up the oil. The oil remained within the slough and a greater impact on the environment was avoided.

The cause of the sinking was not immediately apparent and the insurers delayed payment of the contractors oil clean-up costs. In view of this delay, on December 28, 1995, the Administrator received a letter outlining a claim on behalf of the contractors amounting to \$78,272.39. The letter was a precautionary measure in the event that the owner/insurer did not settle the claim already made on them.

The Administrator investigated the circumstances of the claim and there seemed to be good reason to believe that it would be paid by the owner/insurer. On February 20, 1996, the Administrator acknowledged the claim. To date, no further information on the claim has been received.

### **8.26 Mystery Oil Spill, New Haven, Nova Scotia (1995)**

The Administrator received a letter on July 28, 1995 from a fishing cooperative based in Neil's Harbour, N.S. making a claim for \$6,856.00 in respect of a batch of lobster tails condemned by a DFO inspection. On investigation, it was found that the claim covered 1,260 lbs. of lobster being processing ashore and found to be contaminated with diesel fuel. Further investigation revealed that on July 13, 1995, an anonymous caller reported to the CCG that a fishing vessel had dumped approximately



700 litres of diesel fuel within approximately 160 metres off the New Haven shoreline in the area of Neils Harbour. It is not known if the contaminated lobster and the anonymous warning were related.

Difficulties with settlement of the claim arose because it transpired that part of the 1,260 lbs of condemned lobster had been sold to another fish plant which was processing it on their production line, where the contamination was found. On January 28, 1997 the claim was settled and the necessary releases were received releasing the SOPF from further claims by either of the two plants. On February 25, 1997, the Administrator sent a cheque in the amount of \$6,675.28 to the original fishing cooperative in full and final settlement of the claim.

#### **8.27 *Mystery Oil Spill, Montreal Harbour, Quebec (1995)***

CCG and EC officers responded to a report of oil pollution found in Montreal Harbour in the evening July 23, 1995. A Canadian tanker, LE BRAVE, berthed at section 105, reported that a wave of light oil followed by one of heavy oil was brought down onto the vessel by the current. The CCG employed contractors who cleaned up the oil, including that from the hull of LE BRAVE. On March 24, 1997, the Crown filed a claim amounting to \$27,212.01 to recover the CCG costs and expenses in the clean-up for what, the Crown considered to be a mystery spill.

In accordance with his responsibilities under the CSA, the Administrator commenced an investigation into the incident.

#### **8.28 *Mystery Oil Spill, Sainte Félicité, Quebec (1995)***

Through a report to the Quebec Ministry of the Environment and Wildlife, on July 27, 1995, the existence of an oil slick on the River St. Lawrence became known. A survey was carried out and heavy Bunker C type oil was discovered in various patches on the south shoreline of the river, stretching from Sainte Félicité to Cap Chat, a distance over some 60 kilometres. The Marine Safety Branch commenced an investiga-

tion in an attempt to identify the vessel involved. However analysis showed the oil to be at least several weeks old and thus made the task of identifying the offending ship impossible.

Contractors were employed to clean up the spill but, in some instances, as soon as a beach was cleaned further oil floated in. On February 27, 1997, the Administrator was presented with a claim by the Crown to recover the CCG costs and expenses in this connection amounting to \$127,177.83. The Administrator is investigating the claim.

#### **8.29 *CHANTY (1995)***

A CCG Environmental Response Status Report provided the Administrator with the first information on this incident. It was reported that on August 11, 1995 a sunken US registered pleasure craft was leaking gasoline and oil in a marina on the Canadian side of the St. Clair River near Port Lambton, Ont. It was subsequently stated that previously the US craft began to sink in the channel and was brought into the marina as a port of refuge.

The CCG responded to the pollution threat and the owner, together with the marina, arranged for the boat to be raised and put ashore. On August 15, 1995, the Administrator wrote to the owner of CHANTY in the US requesting details of any insurance and advising of the owner's liabilities under the CSA. No reply was received.

To date no claim has been received at the SOPF in respect to this incident and the Administrator awaits developments.

#### **8.30 *GRETE STAR (1995)***

This 11,318 GT Panamanian registered container ship, was berthed at section 16, Trois-Rivières, Qc. on August 16, 1995, when a patchy oil spill was reported in the area from section 14 to section 17. Another vessel was at section 17, but it was stated at the time that Marine Safety Officers determined the spill came from GRETE STAR. The CCG Response organization employed contractors to effect a clean up.



To date no claim has been received by the SOPF for this incident.

### **8.31 SIMCOE ISLANDER (1995)**

This 24 GT cable ferry runs between Wolfe Island and Simcoe Island in the Canadian Thousand Islands area of the St. Lawrence River, Ont. On September 12, 1995, the ferry suddenly capsized, in fair weather conditions, in the middle of the channel while carrying a large truck filled with rock. Oil from the ferry and the truck spilled into the river. The ferry was brought back to Wolfe Island and righted, and, later, the truck was raised. The CCG Response Branch organized the oil pollution containment and clean up.

On October 3, 1996, the Crown presented a claim to the Administrator amounting to \$12,751.08 to recover the CCG's costs and expenses in the response. After investigation and assessment, on March 27, 1997, this claim was referred to the ferry's owners for payment.

### **8.31 BOREE (1995)**

The Administrator received a report that, on September 27, 1995, this tanker experienced a bunker spill while moored at Canaport, off Saint John, N.B., harbour. BOREE is a 132,914 GT French flag tanker and was engaged in an internal bunker oil transfer at the time. The ship did not immediately initiate a response and the CCG obtained a Response Order. Then a local Response Organization was employed to carry out the clean up, monitored by the owners. The ship reported that about two barrels of oil had been spilled, but contractors reported that approximately 16 barrels of oil were recovered. Local shorelines had been contaminated.

On September 28, 1995, the Administrator was provided with a Letter of Undertaking from the ship's P & I representatives to the amount of \$50,000 to cover the cost of the clean up. The final invoice from the contractors was stated to be \$77,785.84 which amount was subsequently settled by negotiation between the owners and the contractors. On January 17, 1997, the Administrator received a letter on behalf of the shipowners stating that settlement of all clean up costs had been effected without recourse to

the SOPF and requested the return of the Letter of Undertaking. The Letter of Undertaking was duly returned and the file closed.

### **8.33 BERGE LORD (1995)**

On October 22, 1995, this 139,776 GT tanker registered in Stavanger, Norway, was moored alongside the refinery at Come By Chance, Nfld., when the crew observed oil in the water alongside the ship. It transpired that the oil filled stern tube was leaking and about 10 litres of the specialized oil lost. A boom was placed around the tanker and the refinery employed their own staff to clean up the oil. Aboard the ship, the stern tube was attended to and the leak stopped.

On September 23, 1996, counsel for the refinery submitted a claim of \$67,997.74 to the Administrator to recover the refinery's stated costs and expenses in this containment and clean up operation. The Administrator investigated the circumstances of the claim and found that the representative of the shipowner expected to pay for the operation. This information was passed by letter on October 15, 1996, from the Administrator to the refinery's legal counsel. To date, nothing further has been heard regarding this claim.

### **8.34 PRINCE GEORGE (1995)**

Built in 1948, of 5,825 GT, PRINCE GEORGE was a well known Canadian passenger ship operating on the west coast until laid up a number of years ago. On October 15, 1995, a fire started aboard the ship while being used as a movie set when moored alongside at Britannia Beach, Howe Sound, B.C.

The registered owners of the vessel were listed as a Hong Kong based organization, but did not come forward to accept any responsibility and the CCG was unable to locate the company. At that time it was thought that the ship had a considerable quantity of Bunker C and diesel oils aboard and the CCG, and other agencies, responded appropriately. The quantity of oil on board at the outbreak of the fire was revised to be approximately 9,000 litres of diesel and only residual amounts of Bunker C. Fire fighting efforts by a local fire brigade continued



over a number of days. On October 20, 1995, a DND shipboard fire fighting team determined two fires were still burning deep in the ferry. On November 3, 1995, the DND team declared all fires aboard had been extinguished. The CCG commenced supervising the dewatering of the vessel, which water consisted of an oily mix. There had been no loss of oil from PRINCE GEORGE into the surrounding waters. A containment boom was placed around the ship and security arrangements made.

Those responsible for the vessel could not be traced and a Court Order was obtained granting ownership of the vessel to a Seattle based company. This latter company arranged for the burnt-out hulk to be towed away for scrap. The media reported the hulk sank while under tow of a Canadian tug in storm conditions off the Aleutian Islands on October 24, 1996.

No claim has been received at the SOPF in respect of this incident.

### **8.35 HALTREN No. 1 (1995)**

This incident, which resulted in a substantial claim being made to the SOPF, involves a number of issues which makes it one of the more complex claims to be considered by the Administrator.

On October 25, 1995, the 1,178 GT Canadian registered barge sailed light ship from Grande Vallée, Qc., bound for Port Menier, Anticosti Island, under tow of the Canadian tug TECHNO ST. LAURENT. The barge had been used as a tank barge by her previous US owners, but at the time of the incident was employed as a pulp wood timber deck-loading barge in a one way trade from Anticosti Island to the mainland. With a gale warning for the Anticosti area in effect with winds reported to be gusting to 27 knots, late in the evening when off Port Menier, the barge broke its tow. It was considered too dangerous to attempt to reconnect the tow overnight. During a daylight search the next morning the barge was found to be aground on the southwest coast of Anticosti Island. The owners reported to the CCG that the barge showed no visual signs of damage, that there was no threat to the environment but there were 272 litres of hydraulic fluid in drums

on board. Several refloating attempts were made by the owner without success.

On November 16, 1995, CCG personnel went to the site of the grounded barge by helicopter to inspect and report on the incident. They found that there was a slight leak of light oil from the barge and on examination they found that, in addition to the hydraulic oil reported by the owners, there was approximately 56,000 litres of an oily mixture in the holds and a further 5,600 litres of diesel oil in a stern compartment.

On November 21, 1995, the CCG sent a letter to the barge owner requesting the owner's action plan to prevent pollution. A response plan was received by the CCG on November 27, 1995, and accepted by the authorities. Following the hull insurers decision that it was not practical to refloat the barge, it was then declared a Constructive Total Loss and the P & I Club took over responsibility for the removal of the oils. Between December 8 and December 12, the diesel oil was removed but, with the onset of extreme cold, the oily mixture started freezing and further efforts were abandoned until the spring.

The CCG commenced negotiations with the owners insurers representative at the end of April, 1996, but no steps was taken by the owners to remove the remaining oily water. On July 4, 1996, a local fisherman reported that the abandoned barge was causing oil pollution and the CCG vessel MARTHA L. BLACK responded with interim containment measures. On July 16, 1996, under CCG surveillance, contractors employed by the P & I Club commenced removing the remaining oils on board. There were numerous difficulties, including storms and the obtaining of the required permits to transfer the oil when ashore. Beach access was about 2 kilometres away from the barge and movement along the beach was impossible either side of high water. On July 25, 1996 the P & I Club representatives stopped further work on the basis that the shipowner's Limitation of Liability (approximately \$318,000.00) for the barge had been reached.

Beginning on August 8, 1996, work resumed to remove the remaining oil/oily sludge



under contract by the CCG. Commencing with the first efforts in July, shore material had been placed in the barge to prevent movement in high water conditions. The decision was made not to remove the final oil clingage within the barge, and to complete the operation, some of the less oil contaminated beach material was also put into the barge. The work was completed to the satisfaction of the CCG and EC on August 24, 1996, and the barge openings welded shut for safety purposes.

The Crown filed a claim amounting to \$306,706.63, with the Administrator on October 28, 1996, to recover their costs in this incident. At the end of the fiscal year under review, the Administrator is continuing his investigation and assessment of the claim.

### **8.36 JAMES NORRIS (1995)**

This Canadian registered, 12,962 GT self-unloading bulk carrier, was alongside a cement plant berth at Ogden Point, Colborne, Lake Ontario, on November 11, 1995, when a storm developed. The berth is exposed and with the ship subjected to pounding on the berth the Master decided to sail. All efforts to sail were frustrated by the conditions and JAMES NORRIS continued to pound heavily alongside until she was holed in the engine room and sank. Before the crew were safely evacuated ashore, they were able to secure valves controlling the various oil sources aboard. Consequently, when the ship sank, there was minimal oil pollution. The CCG responded and maintained a monitoring brief over the pollution containment activities. On November 18, 1995, the vessel was refloated and towed to a shipyard.

The Administrator was informed that the Crown would be making a claim against the SOPF to recover its costs and expenses in this incident. It is understood that the claim will not exceed \$20,000. As of March 31, 1997, no claim had been received.

### **8.37 APJ SHALIN (1995)**

The Société d'électrolyse et de chimie Alcan, Ltée., (Alcan Ltd) submitted a claim to the Administrator amounting to \$14,454.91 in

respect of a clean up of an oil spill discovered on November 17, 1995, in the water at the company harbour facility at La Baie, Saguenay River, Qc.

The APJ SHALIN sailed from La Baie early morning November 17, 1995, and, as it pulled away from the berth, oil was observed in the surrounding water. The ship bunkered overnight.

A claim by Alcan was received by the Administrator on October 15, 1996.

Pursuant to the CSA subsection 710(2)(a) the Administrator investigated the claim and concluded that the oil originated from the 41,699 GT Indian registered bulk cargo ship, the APJ SHALIN. Having obtained the necessary subrogation and witness statement documents from Alcan Ltd, on February 28, 1997, the Alcan claim was settled to the amount of \$15,749.26, which sum included \$1,294.35 interest.

The Administrator is continuing his recourse action.

### **8.38 ACADIAN PAL (1995)**

On November 4, 1995, the 64 GT Canadian wooden fishing vessel ACADIAN PAL ran aground a half mile from Petit Passage in St. Mary's Bay, N.S. A CCG lifeboat recovered all the crew aboard and the fishing vessel was abandoned.

The vessel was reported to have 9,000 litres of diesel on board. The CCG requested a Response Order and attempts were made by the Environmental Response officers to board the vessel for pollution containment purposes. However, the weather was poor and the vessel broke up, with the heavy seas dispersing the oil.

To date, no claim has been submitted to the SOPF for this incident.

### **8.39 LE SAULE No. 1 (1996)**

Very little is known by the Administrator regarding this incident. A copy of a CCG Status Report advised that, on January 12, 1996, crew members of this Canadian registered, 5,114 GT



tanker observed diesel fuel among the ice flows while alongside at Curling, Bay of Islands, Nfld. Pumping cargo was stopped. A leak in a cargo tank was found aboard the ship, and its contents of diesel oil transferred until the leak stopped.

The ship's crew effected a clean up of the oil in difficult ice conditions, in the presence of P & I Club representatives and of CCG officers.

To date, no claim has been submitted to the SOPF.

#### **8.40 KOLOMNA (1996)**

On February 23, 1996, oil was observed in the water between this Russian 15,903 GT roll-on lift-off cargo ship and the quay when she was alongside in Quebec harbour, Quebec. Both Marine Safety and CCG Environmental Response officers went to the scene. A detention order was served on the ship by Marine Safety. The ship's agent contracted with a Response Organization, which company cleaned up an estimated 1 barrel of heavy oil.

On February 25, 1997, the Harbour Master reported that oil was again escaping from KOLOMNA. Again the government agencies sent officers to the scene. This time the Master of the vessel refused to accept responsibility and the CCG had to hire a contractor to carry out the clean up. At the same time divers inspected the hull of the vessel.

The sailing of the vessel was delayed until a financial guarantee for the clean up could be obtained. The last information from the CCG on this incident was that cost recovery was underway. At the end of this fiscal year, no claim in respect of KOLOMNA had been received by the SOPF.

#### **8.41 KATHY K (1996)**

KATHY K was a 28 GT wooden workboat, registered in Vancouver, B.C. The craft was originally built in 1912 and rebuilt in 1944.

On April 2, 1996, the owner reported to the CCG that KATHY K had sunk at her berth in the government dock at Kitimat Village, B.C. The owner estimated that there was approximately

3,100 litres of diesel oil and an unknown quantity of lubricating oils aboard. He further advised that he had no means to effect a clean-up and that the work boat carried no insurance.

The CCG contracted for the containment, clean-up and separately, the raising of the vessel. On April 5, 1996, after the salvaged vessel was being towed to a secure mooring, it again started to sink and was beached at the nearest convenient facility.

Because of the vessel's poor hull condition, after discussions with the owner, it was agreed that a contractor could break up the craft at no cost to the CCG or owner and, in recompense for the effort, could keep any salvaged material. KATHY K was then broken up.

The Administrator has been informed to expect a claim from the Crown to cover the CCG costs and expenses in responding to this incident.

#### **8.42 Mystery Oil Spill, Come By Chance, Newfoundland (1996)**

Two ships were at the oil terminal in Come By Chance, Nfld, during the morning of April 19, 1996, when oil was discovered around one, a 18,033 GT tanker PETROBULK RACER. The refinery turned out its Oil Spill Response Team and cleaned up an estimated 10 litres of an oil sludge mixture. The Marine Safety Branch conducted an investigation, including oil sample analysis, but was unable to show that PETROBULK RACER was the source of the oil.

On August 12, 1996, the Administrator received a claim on behalf of the refinery to recover its costs and expenses for this clean up.

The costs and expenses amounted to \$7,088.49, but, without explanation, the amount was increased by a factor of three, making a total of \$21,265.47. The Administrator offered a settlement of \$7,088.89 on September 17, 1996, conditional upon the necessary subrogation document being signed by the refinery. A reply is awaited.



#### **8.43 *Mystery Oil Spill, Little Harbour, Nova Scotia (1996)***

The SOPF Halifax counsel received a telephone call on May 31, 1996, from a fisheries company complaining that one of the company's lobster holding cages (car) in the harbour had been contaminated by oil by a local person. The Administrator investigated the incident and was informed that there was a diesel oil spill which occurred in Little Harbour, Cherry Hill, N.S. on May 18/19, 1996. The CCG and DFO Fish Inspection Branch were involved in the incident. No source of the oil was identified.

On July 5, 1996, the SOPF received a claim from the fisheries company concerned amounting to \$26,306.38 for the replacement of the lobster holding cage, transportation costs and lost income. A reply letter was sent on July 19, 1996, on behalf of the Administrator requesting more technical information concerning alternatives to a complete replacement of the cage. To date, no reply has been received.

#### **8.44 *Mystery Oil Spill, Halifax Harbour, Nova Scotia (1996)***

A claim was received on August 16, 1996, from a Dartmouth, N.S., based oil refinery in respect to the clean up of a mystery oil spill off their facility on July 3, 1996. The claim was for \$28,083.45. The Administrator commenced an investigation and it transpired that the Marine Safety Branch of TC had launched an investigation at the time in conjunction with EC. On the Dartmouth side of the harbour in the general area of the spill, one ship was at the refinery facility, another ship was at the autoport and, a US submarine was berthed at the Shearwater Naval Base. The commercial ships were boarded, but access to the submarine was denied.

The refinery turned their own response team to and also employed a Response Organization. The oil had the appearance of new lubricating oil and the quantity was estimated as being between 2 and 5 barrels. Samples were taken from the commercial vessels, and from the spill, but no absolute match was obtained. In the morning of July 3, 1996, a sheen of oil was also reported off the container pier in Halifax. In the afternoon of July 3, 1996,

DND reported that one of their ships had been involved in a diesel fuel oil spill at the Halifax Naval Base.

The Administrator was concerned with the organization and cost of the clean-up. The refinery claimed that 29 persons in their organization had been involved plus, as a separate issue, those of the contractor.

On October 1, 1996, the Administrator received an amended claim submitted by the refinery of \$30,133.45 in respect of this incident.

Following negotiations, on January 22, 1997, the Administrator arranged an interim payment of \$19,046.60 to be made, comprising \$18,356.68 and \$689.92 by way of interest. Further negotiations followed after which it was agreed that an additional amount of \$5,888.39 plus \$296.80 interest, was payable. This amount was paid on March 24, 1997.

#### **8.45 *R.D.R. ENTERPRISE (1996)***

On July 6, 1996, this 42 GT Canadian wooden crab fishing vessel ran aground and sank on Green Island, Witless Bay, Nfld. The crew was safely rescued. Green Island is a prime bird nesting site and, at that time, it was estimated that more than 60,000 young birds were ready to leave their nests. The CCG Response and Provincial Environmental organization responded, as did the owners and their P & I Club representatives.

Although there was only a small quantity of oil aboard the vessel, in view of the danger to the birds, it was decided to refloat the vessel and sink her in deeper water. The CCG submitted their invoice for costs and expenses to the owners and settlement was agreed.

#### **8.46 *NORTHWIND (1996)***

The 163 GT US registered fishing vessel, NORTHWIND, south bound from Alaska to Seattle, went aground on September 2, 1996 near Fancy Cove, Lama Passage, which is in the mid-part of the B.C. inside passage route. The vessel was holed and capsized with only the rudders and propellers visible. It was estimated that NORTHWIND had 17,000 litres of



diesel fuel on board at the time, but the capsizing resulted in minimal oil pollution. The CCG, owners and insurers responded. The CCG and insurers made arrangements for site containment of pollution. Salvors were employed and on September 7, 1996, NORTHWIND was rolled upright with some release of oil, which was mostly contained in the boom. Oil was recovered from within the boom and from inside the vessel. The vessel was then taken to Bella Bella, B.C.

It was originally understood that the insurers would accept the costs and expenses for the CCG response, but the latest information received by the Administrator is that the Crown intends to make a claim on the SOPF.

#### **8.47 Motor Yacht 42E 6903 (1996)**

A 10 m wooden motor yacht, registration number 42E 6903, sank at her moorings at the Driftwood Motel Marina on September 21, 1996. The motel is a few kilometers north of Sombra, Ont. on the St. Clair river. The owner could not be immediately contacted and the CCG responded with their own personnel and equipment to contain and clean up the minor spill of diesel fuel oil. It was raining heavily at the time. The boat relied on a power lead ashore to keep the automatic bilge pump in operation and the boat was in poor condition. On contact being made with the owner, he stated his belief that the boat must have been sabotaged.

The CCG incurred costs and expenses in the order of \$3,000 which they state will form the basis of a claim to the SOPF.

#### **8.48 Mystery Oil Spill, Goderich, Ontario (1996)**

The Administrator was made aware that the CCG would be making a claim against the SOPF to recover their costs and expenses incurred in responding to an oil spill from an unidentified source, in Goderich Harbour, Ont. on October 11, 1996. The Master of the tug, employed in a dredging operation with a barge and two scows, observed oil being blown down on to the dredging operation in the harbour, and reported the pollution to the Harbour Master who, in turn, reported it to the locally based

CCG vessel. The oil had the appearance and smell of diesel. The CCG responded to the report and incurred costs and expenses in the order of \$3,000. The Administrator awaits developments.

#### **8.49 HARALAMBOS (1996)**

Some 20 nautical miles SW of the lower St. Lawrence port of Port Cartier, on the Quebec north shore, there is the small community of Rivière Pentecôte. On December 3, 1996, local residents of this community reported oil washing up on the beaches and the CCG responded with contractors to effect a clean-up. It was reported that over a 100 barrels of oiled beach material were recovered.

On February 27, 1997, the Administrator received a claim on behalf of the Crown amounting to \$73,483.00, to recover the CCG's costs and expenses in this incident. The claim did not identify a ship and classified the incident as a mystery spill. The Administrator commenced an investigation in accordance with the CSA subsection 710 (2)(a). The early indications were that a Cypriot flag 63,083 GT bulk carrier, HARALAMBOS, had experienced bunker fuel oil spills in Port Cartier harbour on two separate occasions, i.e. on November 19, 1996 and again on November 25, 1996. Between these dates the ship had been at anchor off the harbour awaiting cargo. It is understood that the shipowner's insurers accepted responsibilities for the clean up of the spills within the harbour.

The Administrator's investigation into this incident continues.

#### **8.50 JADE STAR (1996)**

An oil facility at Nanticoke, Ont., reported that on December 21, 1996, this Canadian 6,262 GT tanker had experienced a loading hose break resulting in an estimated 22,500 litres of Bunker C being spilled. Most of the oil was contained on the ship's deck but an estimated 4,500 litres was discharged into the water. The oil company responded but the oil pollution damage was minimal as JADE STAR was boomed off when the break occurred.



The CCG monitored the clean up operation and informed the Administrator that it would present a claim in the order of \$3,500, pursuant to 710 (1) of the CSA for their costs and expenses in this regard. The Administrator awaits developments.

**8.51 *Mystery Oil Spill,  
Placentia Bay, Newfoundland (1997)***

The Administrator received CCG Situation Reports reporting that, on January 20, 1997, large patches of oil were observed floating off St. Bride's Wharf, in Placentia Bay, Nfld. An aerial survey was ordered and officers of the CCG and the Canadian Wildlife Services found oiled seabirds in the area, with further oil patches on other beaches and more oiled seabirds. In another aerial survey on January 21, 1997, approximately 430 dead oiled seabirds were collected. The incident generated considerable media interest.

The CCG, the Marine Safety Branch of TC and EC commenced an investigation. Samples of the oil were collected for analysis. In this process charges for unlawfully dumping petroleum products were laid against the Bahamian cargo vessel ELM which had been observed on November 23, 1996, in an overflight to be discharging oil approximately 20 nautical miles south of Nfld. It transpired that oil samples from ELM did not provide a match with the oil samples collected in Placentia Bay, but the charges were allowed to stand.

The final Situation Report issued by the CCG on March 19, 1997, stated that a rehabilitation centre had been established in St. Brides to clean the recovered oiled birds, and that over 2,700 oiled dead birds had been collected to that time. Such mystery spills are a recurring problem for SE Nfld. waters during the winter periods. The Government agencies concerned are carrying out an exhaustive investigation into the likely source of such spills with a view to taking remedial measures.

In the meantime, the Administrator awaits the outcome of the Placentia Bay clean up response.

## 9. Financial Summary

During the fiscal year 1996-1997, the Ship-source Oil Pollution Fund paid out at the direction or the request of the Administrator:

(a) Pursuant to sections 706 and 707 of the Act, the total sum of \$666,714.63 comprising the following costs and expenses:

Administrator Fees	\$ 62,750.00
Legal Fees	\$242,925.70
Professional Services	\$256,193.51
Secretarial Services	\$ 45,531.70
Travel Expenses	\$ 25,281.78
Printing	\$ 9,627.97
Office Expenses	<u>\$ 24,403.97</u>
	\$666,714.63

(b) Pursuant to section 701 of the Act, the Administrator directed the payment of \$1,111,828.20 in contributions to the IOPC Fund out of the Ship-source Oil Pollution Fund in accordance with Articles 10 and 12 of the 1971 Fund Convention:

The above amount paid to the IOPC Fund comprised:

SEA EMPRESS Major Claims Fund -	\$671,358.16
SEA PRINCE/YEO MYUNG/YUIL No. 1 Major Claims Fund -	\$776,149.11
LESS CREDIT: Canada's Share of Repayment of Working Capital -	<u>-\$335,679.07</u>
TOTAL	\$1,111,828.20

(c) Pursuant to sections 710 and 711 of the Act, the Administrator settled claims for the sum of \$401,640.23.

During the reporting fiscal year, interest credited to the Fund was \$15,484,806.67.

At March 31, 1997, the balance in the Fund was \$260,637,762.68.

Yours sincerely,



Peter M. Troop  
Administrator  
Ship-source Oil Pollution Fund



