

Corrected

Ship-source Oil Pollution Fund Annual Report 1997-1998



Canada

Cover: Barge HALTREN No. 1, wrecked on 25th October 1995, on the southwest coast of Anticosti Island, Qc., Gulf of St. Lawrence. Details of the incident are given on page 25 incident 7.27

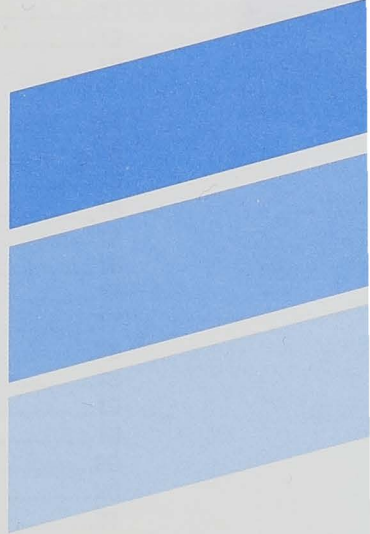
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Ship-source Oil Pollution Fund Annual Report 1997-1998



Ship-source
Oil Pollution Fund
Annual Report
1997-1998

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

Dear Mr. Collette,

1. Introduction

Pursuant to Section 722 of the Canada Shipping Act (CSA) I have the honour to submit to you my Annual Report on the operations of the Ship-source Oil Pollution Fund (SOPF) commencing on April 1, 1997 and ending on March 31, 1998.

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); and
3. The International Oil Pollution Compensation Fund (1971 Fund) established in 1978 by the 1971 International Convention on the Establishment of an International Fund for Oil Pollution Damage (1971 Fund Convention).

The enabling legislation for the Canadian Regime is contained in the amendments to the CSA (S.C. 1987, C.7), proclaimed into force on April 24, 1989².

Figure 1 shows the amounts of compensation as at April 1, 1998 that can be made available under the three components of this regime.

With one exception³, 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 by 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.

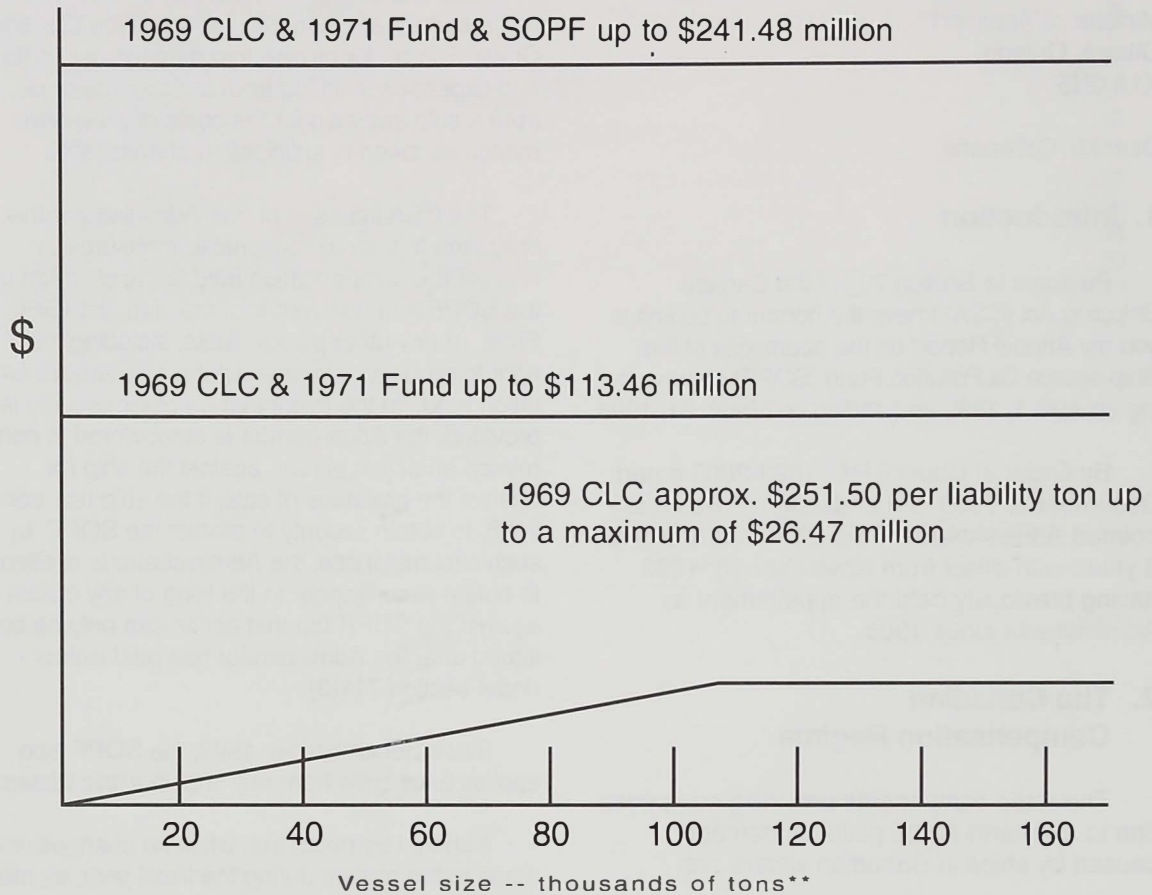
It should be noted that while no changes were made to the regime during the fiscal year, as mentioned in my previous report, the proposed legislation to implement the 1992 Protocols to the 1969 CLC and the 1971 Fund Convention was reintroduced in the thirty-sixth Parliament in the Senate where it received first reading on October 8, 1997. These developments are dealt with in Section 4 of this Report.

¹ 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.

² Superseded by R.S.C. 1985 C.6 (3rd Supp.) on May 1, 1989, amended by S.C. 1993 C36 and further amended by S.C. 1996 C31.

³ 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, 1998)



* 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 \$241.48 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 \$26.47 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 \$113.46 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, 1998 the balance in the SOPF was \$268,931,270.65⁴.

Interest:

During the fiscal year the SOPF was credited with a total of \$13,987,903.61 as interest by the Minister of Finance, calculated on a monthly basis, giving an average rate of about 5.28% during 1997-1998.

Limit of Liability:

During the fiscal year commencing April 1, 1998 the maximum liability of the SOPF is \$128,024,764.60 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.⁴

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.

4. 1992 Protocols to the 1969 Civil Liability Convention and the 1971 Fund Convention

As mentioned in my Report last year, the undernoted states party to the Protocols would cease to belong to the 1969 CLC and 1971 Fund Convention on May 15, 1998 and would then 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

As already mentioned in Section 2 of this Report, legislation to implement the 1992 Protocols was reintroduced in Parliament on October 8th, 1997. It was assented to on May 12, 1998 and is now S.C. 1998, C.6.

On May 29, 1998, instruments by Canada of denunciation of the 1969 CLC and the 1971 Fund Convention and accession to the 1992 Protocols were deposited with the Secretary-General of the International Maritime Organization. Consequently, on 29 May 1999, Canada will cease to be a member of the 1969 CLC and the 1971 Fund Convention and will become a member state of the 1992 Protocols. 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 \$5.67 million for a ship not exceeding 5,000 units of gross tonnage, increasing on a linear scale to \$112.89 million for ships of 140,000 units of tonnage or over.
- Increase in the limit of compensation payable by the IOPC Fund to \$255.29 million, including the compensation payable by the shipowner under the 1992 Protocol to the Civil Liability Convention.

⁴ 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.

- 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 of 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 the current 1969/1971 Regime and revised limits of liability and compensation as specified in the 1992 Protocols.

5. 1971 Fund - The Assembly and the Executive Committee 1992 Fund - The Assembly

The 3rd extraordinary session and the 20th session of the 1971 Fund Assembly and the 53rd, 54th, 55th, 56th and 57th sessions of the Executive Committee and 2nd extraordinary session of the 1992 Fund Assembly took place during the year.

The Canadian Delegation to these meetings held at IMO Headquarters at London, was headed by the Administrator.

The Assemblies

3rd extraordinary session of the 1971 Assembly and the 2nd extraordinary session of the 1992 Assembly-15th-17th April 1997

The 1971 Assembly was attended by 37 contracting states, observers from 9 non-contracting states and observers from 4 intergovernmental and non-governmental organizations.

The 1992 Assembly was attended by 14 contracting states and observers from 19 non-contracting states.

Both Assemblies were chaired by Mr. Charles Coppolani of France.

The 1971 Assembly reviewed the HAVEN incident. The Director advised that the insurers had settled and paid the bulk of claims admitted under the *stato passivo* procedure with the result that the only remaining unsettled claims were that of one contractor and that of the Italian State. Nevertheless, until such time as these two claims were settled, the global settlement, so long in the making, would remain out of reach.

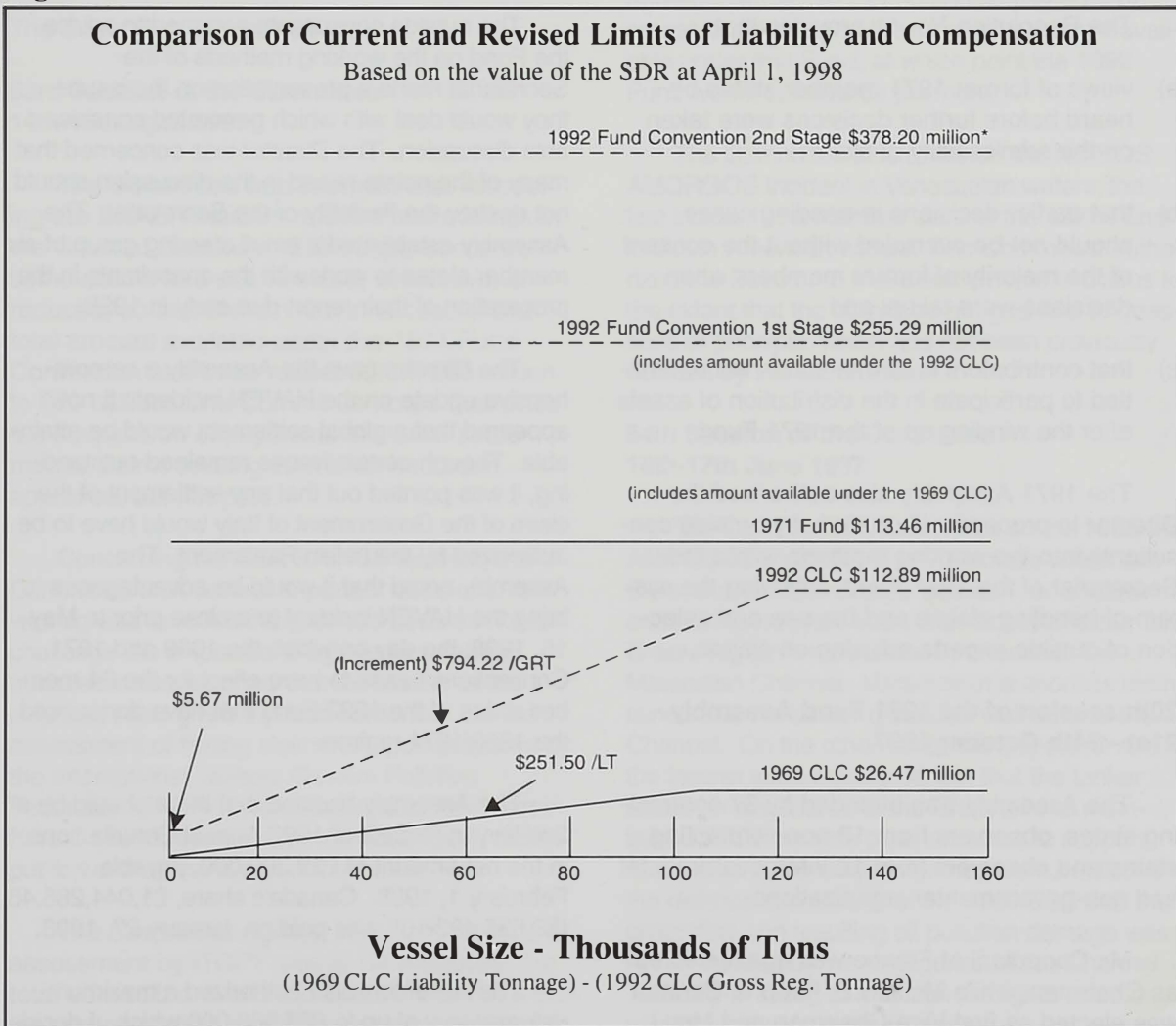
The Director advised that a further complication had arisen as 28 new fishing claims totaling £13 million had been presented in the limitation proceedings against the shipowners and insurers, thus adding a further hurdle to the global settlement. In view of these uncertainties, the Assembly decided that the funds reserved for this incident should be used for other purposes.

My report for last year advised that both Assemblies had decided to introduce a deferred invoicing system for contributions to achieve greater flexibility and to avoid a buildup of unnecessary money in General Funds and Major Claims Funds. Consequently, in October 1996, the 1971 Assembly authorized a maximum deferred levy of £57 million. Authority was given to the Director to issue invoices for all or any part of such a levy.

On July 18, 1997, the Administrator received from the 1971 Fund an invoice for £1,166,690.50, payable not later than September 1, 1997, in respect of:

1. The balance of Canada's 1996 Annual Contribution comprising:
 - a) a credit of £99,403.24 respecting the unused portion of the TAIKO MARU Major Claims Fund, representing Canada's share of a £3,500,000 credit based on 30,595,967 tonnes of contributing oil received in Canada in calendar year 1992;
 - b) a credit of £136,613.84 respecting the unused portion of the TOYOTAKA MARU Major Claims Fund, representing Canada's share of the £4,700,000 credit based on 32,044,153 tonnes of contributing oil in calendar year 1993;
 - c) a call for £617,874.38 in respect of the SEA EMPRESS Major Claims Fund, being Canada's contribution for this Major Claims Fund based on 36,668,232 tonnes of contributing oil received in Canada in calendar year 1995;
 - d) a call for £302,322.11 in respect of the SEA PRINCE/YEO MYUNG/YUIL No. 1 Major Claims Fund, being Canada's contribution to the amount being levied based on 33,072,837 tonnes of contributing oil received in Canada in calendar year 1994; and
2. The first levy of Canada's 1997 Annual Contributions consisting of a call for

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.

£482,511.09 for the NAKHODKA Major Claims Fund, being Canada's contribution to the amount being levied at this time based on 39,581,235 tonnes of contributing oil received in calendar year 1996.

The total amount of £1,166,690.50 (\$2,606,269.91) was paid in full by the Administrator out of the SOPF on 20 August 1997.

Respecting the denunciation of the 1971 Fund Convention, the 1971 Assembly adopted a resolution to protect the rights of member states who would leave the 1971 Fund on May 15, 1998, but whose contributors will remain liable to contribute for incidents that happened prior to that date.

The Resolution No. 11 provides that:

- a) views of former 1971 member states be heard before further decisions were taken on the admissibility of claims;
- b) that earlier decisions in pending cases should not be overruled without the consent of the majority of former members when decisions were taken; and
- c) that contributors in former states will be entitled to participate in the distribution of assets after the winding up of the 1971 Fund.

The 1971 Assembly also authorized the Director to proceed with a study by outside consultants into the working methods within the Secretariat of the 1971 Fund, including the system of handling claims and the use and selection of outside experts advising on claims.

20th session of the 1971 Fund Assembly - 21st - 24th October 1997

The Assembly was attended by 37 contracting states, observers from 13 non-contracting states and observers from 10 intergovernmental and non-governmental organizations.

Mr. Coppolani of France was again elected as Chairman, while Mr. A.H.E. Popp of Canada was elected as first Vice-Chairman and Mrs. I. Barinova of the Russian Federation as second Vice-Chairman.

On financial matters, the Assembly noted that as of June 30, 1997, the 1971 Fund held investments totaling £150 million. The question of policy as to the proper amounts of funds that should be on hand at any given time was discussed and it was agreed that the policy of holding the Fund's assets in pounds sterling should be maintained.

Regarding contributions, while the Director's report indicated that 94% of 1996 Annual Contributions had been paid, questions remain on the completeness of oil reports given that many contracting states are not able to certify the correctness of oil reports submitted by contributors. The Director was requested to examine how this obligation could be enforced.

The outside consultants engaged to advise the Fund on the working methods of the Secretariat made a presentation on the issues they would deal with which generated considerable discussion. The Director was concerned that many of the points raised in the discussion should not destroy the flexibility of the Secretariat. The Assembly established a small steering group of six member states to work with the consultants in the preparation of their report due early in 1998.

The Director gave the Assembly a comprehensive update on the HAVEN incident. It now appeared that a global settlement would be attainable. Though certain issues remained outstanding, it was pointed out that any settlement of the claim of the Government of Italy would have to be authorized by the Italian Parliament. The Assembly noted that it would be advantageous to bring the HAVEN incident to a close prior to May 15, 1998, the day on which the 1969 and 1971 Conventions cease to have effect for the 24 member states of the 1992 Fund that have denounced the 1969/1971 regime.

The Assembly decided that there should be a 2nd levy in respect of 1997 Annual Contributions in the net amount of £32,200,000, payable February 1, 1998. Canada's share, £1,044,286.46 (\$2,535,423.10), was paid on January 27, 1998.

The Assembly also authorized a maximum deferred levy of up to £27,000,000 which, if decided on by the Director, would be payable by September 1, 1998.

The Assembly also discussed the application of the 1969 and 1971 Conventions to Floating Storage Units (FSUs) and Floating Production Storage and Offloading Units (FPSOs) when underway and decided to defer any decision until the 3rd extraordinary session to be held during the week of April 27, 1998. The matter is of considerable interest to Canada as an FPSO will be used for exploiting the Terra Nova oil field in the Canadian EEZ, Newfoundland sector.

The Assembly further agreed that the 1971 Fund Convention will continue to apply to Hong Kong after it became a Special Administrative Region of the People's Republic of China on July 1, 1997.

The Executive Committee

53rd Session of the Committee - 14th-17th April 1997

The Committee was informed that respecting the BRAER incident and the proceedings in the Court of Session in Edinburgh, Scotland, some claims had been settled, withdrawn, or reduced, so that the amount in excess of the total amount available under the 1971 Fund Convention had been reduced from £80 million to £70 million. The Committee noted that since the suspension of payments of claims settlements, claims totaling £2 million had been approved, but not paid.

Concerning the SEA PRINCE incident, the Committee took several important decisions. It was agreed to revisit the previous decision not to challenge the shipowner's right to limit liability because it was reported that the Master of the ship had been given a prison sentence. On the assessment of fishing claims, a report prepared by the International Tankers Owners Pollution Federation (ITOPF), and submitted to the Court in Korea, questioned the assessment of such claims put forward by the claimants' experts.

The Committee agreed that if the method of assessment by ITOPF was to be accepted, the total admissible of all claims would be well within the compensation available under the 1969 CLC and 1971 Fund Conventions, without having to prorate any claims. Consequently, the

Committee authorized the Director to settle all fishery and tourist claims on the basis of the ITOPF assessments.

In regard to the SEA EMPRESS incident, it was agreed the prorating of claims at 75% should be maintained, as there was no certainty that all claims could be satisfied within the total amount of compensation available under the 1969 CLC and 1971 Fund Convention. The Committee also examined a number of claims in respect of this incident to determine their admissibility under the 1971 Fund's claims policy.

With respect to the NAKHODKA incident, the previous decision of the Committee to prorate claims at 60% was maintained. It was further agreed that the 1971 Fund should pay 60% of provable claims up to the maximum amount available under that Fund, at which point the 1992 Fund would commence payment.

The Committee also reviewed the NISSOS AMORGOS incident in Venezuelan waters; the first incident in a member state of the 1971 Fund in South American waters. The Committee authorized the Director to make settlements of claims to the extent that the claims do not give rise to questions of principle, which had not been previously decided by the Committee.

54th Session of the Committee - 16th-17th June 1997

The focus of this session was on the NISSOS AMORGOS incident. The Committee noted that there was a major dispute between the shipowner and the Venezuelan authorities about whether this Greek flag tanker grounded in or outside the Maracaibo Channel. Venezuelan authorities maintained that the tanker grounded well outside the Channel. On the other hand, the shipowner and the insurer were equally certain that the tanker struck an obstruction in the Channel and maintained that there was clear evidence to support this position. Consequently, they were entitled to the defence in Article III of the 1969 CLC that the grounding and resulting oil pollution damage was wholly caused by the negligence of the Channel Authority in failing to maintain the lights or other navigational aids in the Channel.

The Committee noted with concern that the tanker and the Master had been under arrest since 28 February 1997, the date of the incident. Nevertheless, there were some indications that the tanker and Master would be released shortly.

The Committee decided that compensation should not be payable in respect of this incident to fishermen who did not hold a valid fishing license required by Venezuelan law. However, the Committee requested the Director to study this issue in more detail so that the Committee can revisit the matter again at a later date.

The Committee again reviewed the SEA EMPRESS incident and discussed whether it was still necessary to prorate payment of claims to 75%, in view of the fact the maximum liability of the 1971 Fund is £51 million and the estimated total claims amount to £41 million, as well as a salvage claim together with interest and professional fees. The Committee was informed that there was a possibility of recovery of an additional £20 million from CRISTAL Ltd., as the incident took place prior to the expiry of the CRISTAL agreement on 20 February 1997.

The Committee decided that the matter of the level of payments should be deferred to the next session in October 1997, so as to provide sufficient time to work out the terms of a binding agreement with CRISTAL Ltd.

A new Korean spill, the JEONG JIN No. 101 incident, was discussed in the Committee respecting the application of the 1969 and 1971 Conventions. The Committee concluded that the oil discharged was in fact "oil carried in bulk as cargo". Consequently, the spill did fall within the scope of the 1971 Fund Convention.

Regarding the NAKHODKA incident, the Committee noted that only a limited number of claims had been received to date. Large claims may be expected for clean up operations and attempted salvage. Also, it had now been found that the break up of the tanker was caused by excessive corrosion. The ramification of this finding has yet to be determined, although the prospects for recourse action appears remote.

In the latest developments in the AEGEAN SEA incident, it was disclosed that the Spanish

Government had made loans at low interest rates of up to a total amount of £52 million to make up for the delay in payment by the insurer and the 1971 Fund. With regard to the delay, it was pointed out in the Committee that the Criminal Court in Spain had, to a large extent, supported the 1971 Fund and that the underlying problem was the lack of evidence required by the Court to support the claims presented.

55th Session of the Committee - 20th-22nd October 1997

Developments in the AEGEAN SEA incident dominated this session of the Committee as the final judgment of the Criminal court of Appeal in La Coruña had been delivered on 18 June 1997, one day after the 54th Session of the Committee. The judgment confirmed the 1996 Lower Court decision holding that:

- a) the Master and Pilot were equally liable for the casualty;
- b) the UK P&I Club and the 1971 Fund were directly liable for the damage caused; and
- c) the owner of the ship and the Spanish State, as employer of the pilot, were subsidiarily liable.

There was much debate in the Committee on the correct assessment and impact of this judgment, particularly on the claim of the Spanish State for clean up costs. After a lengthy discussion, the Director was requested to obtain a second legal opinion on the correct interpretation of the Court of Appeal Judgment.

The Court rejected the 1971 Fund's strict policy on the definition of pollution damage and preventive measures. The impact of this cannot be calculated until the claims are subject to the "Execution of Judgment Process". Consequently, the Committee decided that all established claims should continue to be prorated at 40%.

Concerning the BRAER incident, the Committee was told that the unpaid claims in the Scottish Court had now been reduced to about £50,000,000. The Committee maintained the suspension of payments (imposed in 1995) until it was clear that the total amount of established

claims did not exceed 60 million SDR (£50,000,000).

The Director also reported that:

- a) The Court had ruled that the shipowner's liability insurer had been granted the right to limit its liability in the amount of £4.9 million, to be deposited in Court by October 25, 1997.
- b) The Court had not yet decided whether the shipowner can limit its liability to the same amount which is being contested by at least one major claimant.
- c) The Court has heard the contested first case, a smolt supplier in western Scotland. Although no decision had been rendered by the time of meeting, a judgment in favour of the 1971 Fund has now been rendered. The contention of the Fund was that there was no reasonable proximity between pollution on the Shetlands and the plant on the Scottish mainland was upheld by the Court.

Respecting the SEA EMPRESS incident, the following developments were reported and decisions taken:

- a) The Director was authorized to increase payments to claimants to 100% (from 75%) after the U.K. Delegation agreed to defer its claim to all other claims and agreed to secure its claim with CRISTAL Ltd. in the event that the monies available under the 1971 Fund are not adequate to pay all established claims.
- b) Various claims were rejected as a matter of principle.

Regarding the NAKHODKA, it was reported that this incident had now become the largest oil spill in the history of the IOPC Fund. The Committee noted that claims so far amount to £156 million against both the 1971 Fund and the 1992 Fund. Between them, the 1971 Fund and the ship's liability underwriters have already paid out £16 million. So far, payment of claims have been prorated at 60%. When the claims reach £50 million, the 1992 Fund will take over, also paying out 60% of the provable amount of each claim. At this stage, it was impossible to predict the final result. The Committee decided to maintain the

level of payments until the claims situation became clearer.

In the NISSOS AMORGOS incident, the Committee was advised that the following claims have been received:

a) Claims presented to the Claims Agency (established by the 1971 Fund and the shipowner's insurer)	£4.8 million
b) The claim of the Republic of Venezuela	£12.3 million
c) The claim of the Fisherman's Trade Union filed in the Civil Court in Caracas	£79.0 million
d) The claim of the Venezuelan Minister of the Environment for compensation under several heads of damage	<u>£37.0 million</u>
TOTAL	£133.0 million

With the very high level of claims, and the uncertain liability of the shipowner, the Committee decided to prorate the payment of claims at 25% of the provable amounts.

56th Session of the Committee - 24th October 1997

This session took place following the 20th 1971 Fund Assembly which elected members of the Executive Committee to serve until the next Assembly. Having served for two years, Canada was not eligible to serve for another term.

The Committee reviewed a number of incidents that had not been dealt with at the 55th session.

Regarding the IRVING WHALE incident, the Director provided a brief report on the background of this 1970 incident, the subsequent raising in 1995-1996 and the ensuing legal proceedings in the Federal Court of Canada.

Based on the precedent of a previous Canadian incident (the CZANTORIA in 1988),

the Committee decided that the claim of the Canadian Government did not fall within the scope of application of the 1971 Fund Convention. As the Government of Canada, by its counsel, had given notice to the 1971 Fund in accordance with Section 697 of Part XVI of the Canada Shipping Act, the Director will intervene in the Federal Court Action to protect the 1971 Fund's interest.

The second Japanese incident in 1997, the DIAMOND GRACE appeared at the outset to be a major oil spill, however the Director reported that it may be possible that the claims would not exceed the shipowner's limit of liability.

Although the EVOIKOS incident resulted from the collision of two tankers in Singaporean waters, only a member of the 1969 CLC but not a 1971 Fund member state, the oil discharged from the EVOIKOS entered into Indonesian and Malaysian territorial waters (both member states). It was too uncertain at the time of the meeting to provide any instructions to the Director. Subsequent reports appear to show widespread oil pollution and a significant level of claims.

The Director also reported, for information only, on various Finnish, Japanese and Korean incidents. The Committee also agreed to amend the Rules of Procedure of the Executive Committee.

57th Session of the Committee - 4th-6th February 1998

Respecting the HAVEN incident, the Italian Delegation informed the Committee that on January 30, 1998, the Italian Cabinet had approved a Bill to be submitted to the Italian Parliament to authorize the Italian Prime Minister to execute a "settlement agreement" with the 1971 Fund and the U.K. P&I Club. Under the terms of the settlement, the 1971 Fund's liability is to only pay the balance remaining to the Italian State after the amounts already paid or to be paid out of the 60,000,000 SDRs to other claimants for this incident.

The same Bill also seeks authority for the Italian Government to ratify the 1992 Protocols. Both branches of the Italian Parliament must approve the Bill.

In the AEGEAN SEA incident, the Committee noted that there are outstanding issues on liability and on proof of claims which, as presented, exceed the available funds by a factor of two.

The liability issue directly affects the Spanish State because the Court has held that the pilot on board the AEGEAN SEA, an employee of the Spanish State, was 50% liable for the incident and by Spanish law, the Spanish State is liable for the pilot's negligence.

The Committee was advised that claimants continue to refuse to supply any documented proof of their claims, notwithstanding that the Spanish Court has and will continue to dismiss unproven claims.

In view of this apparent impasse, a consultation group was set up to assist the Director in a search for solutions.

Respecting the NAKHODKA incident, the Committee was advised that in January 1998, total claims received from this Japanese incident amounted to some £147,000,000, with payments to claimants amounting to £26,600,000 paid out of the 1971 Fund alone. The Committee noted that the payments by the 1971 and 1992 Funds together will make this incident the most expensive incident in the history of the IOPC Funds.

The Committee also noted that the Director's investigation into the incident and any possible recourse action was not yet complete.

In regards to the EVOIKOS incident, the Committee agreed that the Director's report on this collision in the approaches to Singapore showed it would be premature to determine the extent, if any, of the IOPC Fund's exposure. However, the tanker's very large limitation fund of approximately £8,000,000 may be sufficient to satisfy all claims.

Concerning the BRAER incident, the Director reported the result of the first Scottish Court decision in favour of the 1971 Fund and against a large fish processor in western Scotland. The Court upheld the contention by the 1971 Fund that there was no reasonable proximity between the pollution on the Shetlands and the processing plant on the Scottish

mainland. It was noted however, that the claimant had filed an appeal to the Scottish Court of Appeal and under Scottish law, there is a right of appeal to the House of Lords in London.

It was also reported that the Court of Session had granted the Skuld Club the right to limit its liability to £4.7 million, but the shipowners right to limitation had still to be dealt with.

The Committee agreed that the suspension of further settlement payments, imposed in 1995, be extended until it was clear that the total amount of all claims would not exceed 60 million SDRs.

Pertaining to the SEA EMPRESS incident, the Committee was informed that the settlement of claims at 100% is proceeding well with backup, if necessary, from CRISTAL Ltd. Under insurance provided by the CRISTAL contract, some 130 claimants have given notice of their claims as has the United Kingdom Government.

The Director proposed to the Committee that the 1971 Fund had no grounds to dispute the shipowner's right to limit its liability. Nevertheless, the Director was requested to obtain more information as to the cause of the incident and to report back to the Committee at its next session in April 1998.

PONTOON No. 300, the first incident in 1998, is unusual in various aspects. It occurred in the United Arab Emirates when the barge sank 6 nautical miles off Hamriyah Free Port, apparently carrying contraband Iraqi oil. The Director put forward the view that the barge was a Convention ship and this view was not disputed in the Committee.

At the time of the session, neither ownership of the barge, nor of its cargo, had been established. It was also reported that the barge had been lifted, upside down, and towed into port and that no claims had been received. Having regard to the great uncertainty, the Committee agreed that only 50% of established claims would be paid for the time being.

6. International Oil Spill Conference

The 15th International Oil Spill Conference took place from April 7 to April 10, 1997 at Fort Lauderdale, Florida. The Conference was sponsored by the American Petroleum Institute, the

U.S. Coast Guard, the U.S. Environmental Protection Agency, the International Petroleum Industry Environmental Conservation Association and the International Maritime Organization. The conference was attended by the SOPF Director, Technical Services. Total attendance was some 1,500 delegates who came from 50 countries around the world.

The basic conference goal is unchanged since its inception in 1969, ".....to delineate the overall dimensions of the oil spill problem, explore the present state of prevention and control of oil spills, and review the relevant research and development efforts of government and private industry around the world".

The main underlying theme of this year's conference was "Improving Environmental Protection - Progress, Challenges, Responsibilities", as they relate to oil spill issues. Some 142 papers were presented and over 250 companies and agencies exhibited products and services related to spill prevention and response.

Subjects that were addressed during the Conference were grouped under the headings of: Training and Exercises; Case Studies; Response; Planning; Technology, Research and Development; Spill Management; Prevention; Perceptions; and Environmental Effects. There was also a special session relating to the February 1996 SEA EMPRESS incident at Milford Haven, United Kingdom. In addition to the presentation of the formal papers, there were also a total of eight informational Poster Sessions.

The new feature of White Papers introduced at the last conference, held in 1995, was again utilized with the pre-conference publication of three papers entitled, "Putting Dispersants to Work: Overcoming Obstacles", "Differences in Risk Perception: How Clean is Clean?" and "International Responsibilities: Are We Our Brothers Keeper?" These White Papers were subsequently discussed and debated during special interactive sessions.

During the Conference, informal discussions were held with a number of other countries delegates, response organizations and private industry on matters of common interest and concern.

Figure 3

**Incidents Handled by the MPCF/SOPF
1973 - 1997/98**

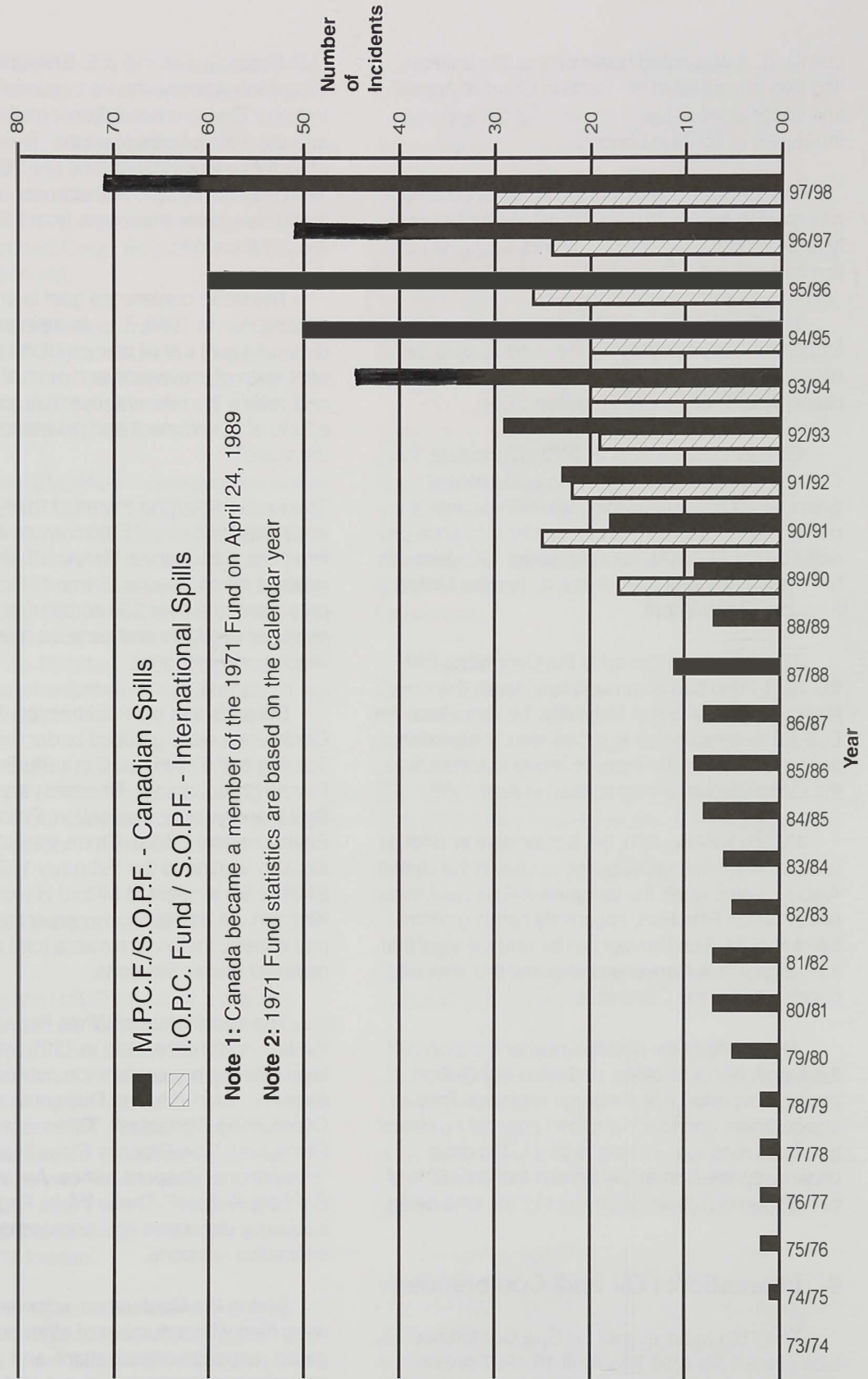


Figure 4
Oil Spill Incidents



7. 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 (CSA), 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 SOPF and those which fell within its purview are noted hereunder.

7.1 IRVING WHALE (1970)

For the earlier history of this 1970 incident, please refer to the Annual Reports for 1990-91, 1991-92, 1992-93, 1993-94, 1994-95, 1995-96 and 1996-97.

For the period covered by this Report, there were the following developments:

- a) On 29th July 1997, the Deputy Attorney General of Canada, on behalf of Her Majesty The Queen, filed a Statement of Claim in the Federal Court of Canada (File T-1625-97) against the following defendants:

J.D. Irving Limited
Atlantic Towing Limited
Irving Oil Company Limited
The tug IRVING MAPLE, her owners, and all others interested in her
Universal Sales Limited

and, as a Party by Statute, the Administrator of the Ship-source Oil Pollution Fund

- b) In the Action, the following relief was claimed:

- 1) payment to Her Majesty The Queen by such of the Defendants named in paragraphs 1, 3, 4, and 6 hereof as is found to be the owner of the IRVING WHALE as defined in section 673 of the Act, damages in the amount of \$42,447,638.75;

- 2) interest on such damages or on such other amount as the Honourable Court may award, at such rates prescribed under section 723 of the Act commencing from the dates upon which such costs and expenses were incurred;
- 3) an order that the defendant IRVING MAPLE be sold, if necessary, to pay the amount awarded herein;
- 4) alternatively, payment to Her Majesty The Queen by such of the defendants which are found to have been the creators and responsible for the private, statutory and public nuisance, damages in the amount of \$42,447,638.75 or such other sum as this Honourable Court deems just for the costs and expenses incurred by the plaintiff in abating such private, statutory and public nuisance by preventing, minimizing, repairing or remedying oil pollution and PCB contamination from the IRVING WHALE;
- 5) damages in an amount to be determined for the ongoing costs and expenses being incurred by the plaintiff in monitoring the seabed site in relation to PCB contamination;
- 6) a reference to the learned Prothonotary to assess damages;
- 7) such other relief as this Honourable Court deems just; and
- 8) costs of this action.

- c) On 29th September 1997, the above defendants filed a Statement of Defence and Counterclaim in the Action, alleging various defenses against the claims by the Crown and counterclaimed against the Crown that in the event that the defendant J.D. Irving Limited, or any other defendant, is found liable for the Crown's claim, based on section 677(1) of the CSA, those defendants were entitled to limit their liability pursuant to section 679 of the Act because the sinking of the IRVING WHALE occurred without their actual fault and privity and the applicable limitation fund is 258,178.66 Special

Drawing Rights, duly converted into Canadian currency.

- d) On November 28, 1997, the Crown filed a Reply and Defence to Counterclaim, joining issue with the various allegations of fact and conclusions of law in the Statement of Defence. In its Defence to Counterclaim, the Crown alleges that if the sinking of the IRVING WHALE was the occurrence giving rise to liability, it occurred with the fault and privity of the owner of the IRVING WHALE, and the owners of the IRVING WHALE are not entitled to limit their liability.
- e) On 29th January 1998, J.D. Irving Limited, Atlantic Towing Limited, Irving Oil Company Limited, the tug IRVING MAPLE and Universal Sales Limited filed a Statement of Claim in the Federal Court of Canada (Court File T-158-98) against the 1971 Fund, claiming that if the Plaintiffs are found liable to the Crown, they are entitled to indemnification from the 1971 Fund in accordance with Article 5 of the 1971 Fund Convention.
- f) On 3rd March 1998, the Administrator gave Notice of Motion to the presiding judge of the Federal Court of Canada to be heard on 16 March 1998, for an order pursuant to section 713 of the CSA for an Order for directions to enable the Administrator, as a Party by Statute, to participate in the Crown's Action.

7.2 LADY ERA (1977)

The LADY ERA was a 8,109 gross ton (GT) Greek flag cargo ship which ran aground on Île du Diable, off Port Cartier, Qc., on December 1, 1977. The ship was subsequently abandoned and declared a total loss. In view of the lack of response from the registered owners, the then Minister of Transport, under the authority of the CSA, authorized the local Marine Emergency Officer to remove the pollutants aboard the ship and, if necessary, to dispose of the wreck. On September 8, 1980, the Crown filed an Action in the Federal Court against the owners to recover costs and expenses amounting to \$305,839.03, less \$2,499.77 recovered from the sale of the wreck as scrap. The company purchasing the

wreck for scrap also paid a \$5,000.00 security deposit, which was forfeited as the company went out of business. The person in Greece stated to be associated with the ownership of the LADY ERA was served with the appropriate documents but did not respond and the ship was stated to carry no insurance. Following negotiations, on September 2, 1982, the then Administrator authorized the payment of \$298,339.28 in full and final settlement of the Crown's costs, interest and expenses in this incident. As a condition of settlement, the Administrator obtained a full Release executed on behalf of the Crown, and the Court proceedings were then discontinued.

On July 11, 1997, it was found that the LADY ERA was again leaking oil. An informal approach was made to the Administrator as to whether the SOPF would entertain a claim for recovery of the CCG costs and expenses, incurred in respect of this release of oil. On July 23, 1997, the Administrator wrote to the Crown Counsel involved referring him to the terms of the 1982 Release. This advice was not disputed and the Administrator considers the matter closed.

7.3 LIBERTY BELL VENTURE (1987)

There was a spill of Bunker C oil during this 31,331 GT Liberian flag tanker's discharge of cargo at the Newfoundland Hydro plant terminal, situated in Seal Cove, Conception Bay, Nfld., on March 29, 1987. The CCG responded to the spill and incurred costs and expenses to a claimed amount of \$11,779.71. The ship blamed the terminal for the spill and the terminal blamed the ship. It was estimated that 25 to 50 barrels (1 barrel = 160 litres) was spilled.

On March 28, 1989, the Crown filed an Action in the Federal Court to recover its monies, naming the Administrator a Party by Statute. Local representatives of the owners refused to accept service of the Statement of Claim, which was eventually served pursuant to Rule 310(2) of the Federal Court Rules.

Final settlement of this Action was further delayed awaiting the decision of the Supreme Court of Canada in the *Bow Valley Husky v. Saint John Shipbuilding et al.* This case

involved the fire aboard a Canadian built drill rig. The owners of the rig brought suit against the shipyard for breach of contract. The defendants argued that common law principles applied and that the owners contributory negligence constituted an absolute defence. The Supreme Court, in its December 1997 ruling, held that such disputes should be settled using the principles of Canadian maritime law and that law allowed for the apportionment of liability between the parties.

As the law has now been clarified, settlement of the LIBERTY BELL VENTURE case can be pursued between the Crown and the shipowner.

7.4 SOUTH ANGELA (1988)

The 59,353 GT Liberian tanker SOUTH ANGELA, on March 5, 1988, discharged a portion of her crude-oil cargo into the water while alongside at the Come By Chance refinery in Placentia Bay, Nfld. There was a further discharge of oil in a similar fashion on March 7, 1987. The amounts discharged were estimated at 15 and 500 barrels, respectively. In the absence of action by the shipowner, the CCG arranged for the clean-up, assisted by the refinery. The CCG incurred costs and expenses to a claimed amount of \$250,169.00 for the two incidents. At the time, local fishermen feared that their livelihood would be affected. The refinery also claimed damages. To enable the tanker to sail, the Protection and Indemnity Club (P&I Club) posted bonds for the following amounts: \$300,000.00 for the CCG, \$4 million against potential claims from the fishermen and \$6 million against refinery claims.

The ship accepted responsibility for the first spill but no resolution could be achieved for the second spill and on February 22, 1991, the Crown filed a claim in the Federal Court to recover the CCG costs and expenses, amounting to \$234,336.58 naming the Administrator a Party by Statute. The refinery also filed a court Action, but both Actions were consolidated into one to avoid duplication. It was agreed with the parties, and excused by the Court, that the SOPF need not be represented at the hearing, unless it was determined that the interests of the Fund were at stake.

A pretrial conference was held in April, 1994, and the case came to trial at various times during 1995.

The decision of the Supreme Court of Canada in the *Bow Valley Husky v. Saint John Shipbuilding et al.* may enable the parties to this Action to reach a settlement without the participation of the Administrator.

7.5 DUKE OF CONNAUGHT (1988)

This 17,963 GT dry-dock had served for many years in Montreal, Qc., when in 1988 it was sold. The structure was under tow to Sydney, N.S. when, in heavy weather on November 22, 1988, it broke adrift and grounded on Îles de la Madeleine, Qc. Subsequently, the dry-dock was declared a total loss and abandoned. In 1989, the CCG inspected the wreck and it was not considered to be a pollution threat. A local contractor worked on the wreck but there was a dispute over ownership.

On July 23, 1997, the CCG received a telephone call from an Îles de la Madeleine journalist asking what the CCG was going to do about the pollution coming from the wrecked dry-dock. The CCG responded and with the use of a helicopter, recovered 6 barrels of Bunker C mixture, 2 barrels of an oily liquid, 1 barrel of oil contaminated asbestos and some containers of chemicals. At the close of the fiscal year under review, the Administrator had not received a claim; any such claim would appear to be time barred.

7.6 NEW ZEALAND CARIBBEAN (1989)

The first information the Administrator received on this incident was notification that the SOPF had been made a Party by Statute in an Action filed in the Federal Court on August 16, 1990, by the VPC against the cargo ship NEW ZEALAND CARIBBEAN, a local ship repair yard, and others. It was alleged that, on January 30, 1989, the hull of the 19,613 GT Vanuatu flag cargo ship had struck a bollard while berthing at a North Vancouver, B.C., repair facility jetty and holed a shipside fuel tank, releasing bunker fuel oil into the harbour. The VPC later stated it had incurred costs and expenses amounting to \$76,272.26 in the clean-up of the oil.

In 1996, information was received that the Court proceedings were on-going but that settlement between the defendants had been agreed. It was a condition of a final settlement of the VPC's claim that the Receiver of the repair facility, in bankruptcy, would pay a portion of the claim.

It is understood that, following the out of court settlement between the parties, the shipowners paid their agreed portion of the claim to the VPC. However, the Receiver for the repair facility has so far not responded to the Direction to Pay issued in favour of the VPC for the remaining \$25,000, the amount of the shipyard's share. The Action against the ship and owners was discontinued by agreement but the VPC's Action against the shipyard continues.

7.7 CAMARGUE (1989)

This ship, a French flag motor tanker of 69,016 GT, was discharging a cargo of crude oil on June 18, 1989 while moored to the Canaport Monobuoy off Saint John, N.B. A local fueling barge, the IRVING SHARK, tied up alongside the CAMARGUE to refuel the tanker. During the refueling operation, a quantity of No. 2 fuel oil overflowed onto the tanker's decks and into the Bay of Fundy. Initially, the spill was reported to be a few litres but it was eventually estimated to be some 480 barrels. The CCG responded and led the containment and clean-up efforts. The Crown obtained a Letter of Undertaking from the CAMARGUE's P&I Club before allowing the tanker to sail.

The CCG's costs and expenses in the response were claimed to be \$1,275,047.77. On April 24, 1992, the Crown filed an Action in Federal Court against the CAMARGUE, her owners and others, naming the Administrator a Party by Statute. On February 24, 1993, the Action was amended to add the owners of the IRVING SHARK and others, involved in the fueling operation.

On December 1, 1997, the Administrator was informed that an out of court settlement had been reached and a Notice of Discontinuance was filed on November 28, 1997. The settlement did not involve the Administrator.

7.8 EASTERN SHELL (1991)

A Canadian single-hulled tanker of 4,008 GT engaged on a voyage carrying diesel oil and gasoline from Sarnia, Ont., to Parry Sound, Ont., when, on May 10, 1991, she struck rocky bottom. It was early morning and it appears that the navigation aids were missed in the early morning blinding sun conditions. The ship was holed and it was later estimated that 100,000 litres of gasoline and 62,000 litres of diesel were lost into the Georgian Bay.

The CCG, the owners and the charterers responded to the spill providing a containment and clean-up operation. The CCG could not obtain settlement of their costs and expenses, which were stated to be \$356,143.47. The IOPC Fund was not involved, as the spilled hydrocarbons did not come within the definition of "persistent oil" in the Fund Convention. On February 2, 1993, a letter was received from counsel for the shipowners in effect, making a claim against the SOPF for the balance of monies paid over and above the tanker's calculated limit of liability. The owners claimed costs and expenses as follows:

- the owners (Soconav)	\$326,546.08
- the charterers (Shell Oil Co.)	\$310,000.00
- the CCG	<u>\$356,143.48</u>
Total	\$992,689.56
- the EASTERN SHELL's stated limit of liability	<u>\$728,237.33</u>
Excess	\$264,451.23

Another relevant calculation is the amount of money the owners claimed was available to settle the CCG claim, namely:

- stated limit of liability	\$728,237.33
- Owners/Charterers costs (above)	<u>\$636,546.08</u>
Balance remaining	<u>\$ 91,692.25</u>

On March 2, 1993, counsel for the SOPF replied to the owners to seek 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 a claim against the SOPF; and
- 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.

Discussions and negotiations took place on these issues, and others, without resolution. On January 14, 1994, the Crown filed an Action in the Federal Court against the EASTERN SHELL, her owners and others, to recover the CCG costs and expenses, naming the Administrator a Party by Statute. Statements of Defence and a Counter Claim for Limitation of Liability were filed on behalf of the shipowners on February 8, 1995. The parties exchanged documents and Examinations for Discovery were held. The Crown and the SOPF both took the position that the shipowner was not entitled to limit its liability.

On February 7, 1997, notice was received that the shipowners, Soconav, had been placed into bankruptcy, which event was deemed to have taken place on September 20, 1996. A number of discussions have taken place with the Administrator regarding the Crown's claim since 1996.

7.9 Oil Barrel - Sorel Harbour, Qc. (1993)

One of the more unusual claims presented to the Administrator was one received from the CCG, dated February 14, 1994, amounting to \$46,813.79. It concerned a drum lying on the harbour bed of Lanctôt Basin, Sorel, Qc., which was perforated by the action of a dredger working in the basin on November 30, 1993. Perforating the drum released its contents of heavy oil which floated to the surface and contaminated the basin, together with ships moored in the basin. There was light ice in parts of the basin at the time. The spill was responded to by the CCG who employed contractors to effect a clean-up.

On July 12, 1994, the Administrator rejected the claim on the material so far submitted, but agreed to review any further submissions the Crown may wish to present. Since that date,

there have been further correspondence and discussions, but no agreement has been reached on whether the claim, as presented, is valid under Part XVI of the CSA.

7.10 GENERAL TIRONA (1993)

Early morning December 13, 1993, it was reported to the CCG Vessel Traffic Services (VTS) that the ship GENERAL TIRONA was damaged and had released a quantity of oil while berthing at a wharf in North Vancouver, B.C. The ship is a Philippine registered bulk carrier of 19,510 GT. Later it was reported that 43 tonnes of diesel oil had been lost into Vancouver Harbour. Initially the VPC responded to the pollution, but due to the magnitude of the spill, the Corporation requested that the CCG assume the lead agency role. A Letter of Undertaking was issued on behalf of the P&I Club on December 15, 1993, in favour of the CCG, amounting to \$100,000.00.

On February 3, 1994, the Administrator received a letter on behalf of the Burrard Yacht Club members, North Vancouver, B.C., claiming that approximately 22 yachts moored at the Club had been contaminated by the oil and required cleaning, estimated at \$1,000.00 per yacht. After acknowledging the potential claim, the Club was referred to the local representatives of the ship's P&I Club insurers.

The owners of the ship filed an Action in the B.C. Supreme Court on December 12, 1994, against the VPC and a local stevedoring company. It was alleged, in effect, that the wharf fendering system was defective. The Port Corporation filed a Statement of Defense on January 11, 1996.

On February 3, 1995, the Crown had presented the CCG claim for its costs and expenses to the shipowners but the claim was not settled and, on December 4, 1996, the Crown filed an Action in the Federal Court against the GENERAL TIRONA, its owners and others, naming the Administrator as a Party by Statute, seeking to recover the amount of \$85,090.67. The defendants filed a Statement of Defence on August 6, 1997, which was followed by the Administrator filing a Statement of Defence on September 9, 1997.

As a result of case management by the Federal Court, it is expected that the Action will proceed more quickly.

7.11 CALYPSO IV (1994)

This ship is a 3,010 GT bulk carrier, registered in Panama, owned by a company in Tortola, British Virgin Islands and operated by a company in the USA. On February 2, 1994, when the CALYPSO IV was under a CCG Ship Safety Branch (now the Marine Safety Branch of Transport Canada - MSB) detention order for various deficiencies at the Les Méchins, Qc., shipyard on the south shore of the Lower St. Lawrence River for the necessary repairs, ice around the ship was found to be polluted. It was subsequently ascertained that lubricating oil, a quantity of bilge waste and general garbage from the ship had been deposited on the ice.

The shipyard arranged for contractors to carry out the clean-up under the supervision of the CCG and Environment Canada (EC). At the same time, CCG icebreakers were engaged in clearing ice to free the approach to the shipyard's dry-dock. At first it was feared that this operation would free the polluted ice which would drift off but, after evaluation, the icebreaking was allowed to continue. In order to avoid the CALYPSO IV being further detained, on February 11, 1994, the P&I Club issued a Letter of Undertaking to the amount of \$70,000.00 addressed to various parties with potential claims related to the pollution.

The Crown submitted the CCG/EC portion of the clean-up action, amounting to a stated \$8,181.49 to the Administrator, which he received on June 16, 1995. In his acknowledgment, the Administrator confirmed his understanding that the Crown would also supply a copy of the claim directly to the shipowners representatives; this copy was never submitted. Representations were made to the shipowner's representative on or about February 11, 1997, who took the position that any claim was time-barred against the ship.

One of the main issues in the claim is the fact that the CCG's costs and expenses consisted of costs to monitor the contractor's work, under contract to the shipyard.

On March 17, 1997, the Administrator wrote to the Crown counsel involved raising the issue of monitoring and seeking his opinion. In the same letter, it was pointed out that Bill C-58 would clarify whether or not the Crown's costs and expenses in the monitoring role were recoverable, if and when the Bill was enacted into law.

The Administrator continues his negotiations to settle this claim.

7.12 PRINCESS No. 1 (1994)

This 87 GT Canadian tug sailed from Eriau, Ont., on February 9, 1994, bound for the Thames River, Ont., to break the ice cover in the river. The tug had previously been requested to consult with the CCG Ice Officer prior to departure, but this did not happen. On February 10, 1994, the tug became beset in heavy ice in Lake Erie and listed to some 55°. A USCG icebreaker responded to the urgent situation and broke the ice around the tug, relieving the pressure. The PRINCESS No. 1 was ordered to port by the MSB because it was considered that the tug was not correctly certificated for the voyage being undertaken. The Master of the tug was removed by a USCG helicopter as a precautionary measure because of the danger to the crew and as he was incapacitated by injuries received previously in an unrelated accident ashore. A CCG icebreaker then escorted the tug through the ice infested channels to the CCG base at Amhurstburg, Ont.

The tug arrived at the base late in the afternoon of February 11, 1994, where she was met by a MSB Surveyor. As the tug was effectively without heat, two of the three remaining crew left for their homes. The third crew member, the chief engineer, also left to obtain a hot meal ashore. When the chief engineer returned, he found the tug in the process of sinking. Emergency action was taken by the local fire brigade with pumps, but it was too late and the tug sank at the berth. As a result of the sinking, a quantity of oils were released. The CCG responded and used CCG vessels and crews, which were in the area, to contain and clean-up the pollution, some of which was contaminated ice. Subsequently, the owner raised the tug with

his own resources and put her ashore. It was found that the tug had developed a number of leaks in her hull, which were presumed to have been caused by operations in the ice.

The owner alleged that the tug was not insured and that he had no funds to pay the clean-up costs. The 91 year old tug in her raised condition had limited value. Thus, on December 30, 1994, the Crown presented a claim amounting to \$250,742.38 to the Administrator, for reimbursement of the CCG's costs and expenses.

The Administrator had a number of concerns regarding the quantum of the claim, in particular the costing of the CCG vessels and crews. Following a number of meetings a settlement of \$105,000.00 including interest, was agreed and on November 26, 1996, arrangements were made to transfer this amount to the Crown.

On February 10, 1997, the Administrator filed a Statement of Claim in the Federal Court against the PRINCESS No. 1 and her owner, to recover the amount of \$105,000.00 plus interest. Local counsel for the SOPF was appointed to commence negotiations with the owner but at the end of this fiscal period no settlement had been reached as of March 31, 1998.

7.13 SKY PRINCESS (1994)

The Administrator became aware of this incident on April 22, 1996, when he received a letter from the VPC presenting a claim to the SOPF to a stated amount of \$46,045.83, in respect of a so-termed mystery spill which had taken place in the harbour on May 16, 1994. On investigation, the Administrator found that oil had been discovered around the 43,682 GT British flag cruise ship SKY PRINCESS when she had shifted berth early that morning. The ship's officers denied their ship was the source of the oil. The MSB surveyor commenced an investigation on scene but, because the SKY PRINCESS had just refueled, did not take samples aboard. He concluded that he was unable to establish that the ship was the origin of the oil. However, there were no other ships in that bight of the harbour, none had been at that particular berth for some two days and no source of

a land based spill could be found. The oil from the harbour was sampled and identified as bunker oil.

On March 11, 1997, the SOPF paid the Port Corporation 50% of their claim, namely \$23,022.15, pending action against the ship. In view of the circumstantial evidence, on April 8, 1997, the Port Corporation and the SOPF (as Plaintiffs) commenced an Action in the Federal Court against the SKY PRINCESS, her owners and others (Defendants) to recover the sum of \$46,045.83 with interest and costs.

Following efforts by SOPF counsel, on May 5, 1997, the P&I Club issued a Letter of Undertaking to the amount of \$70,000.00 to avoid the arrest of the SKY PRINCESS. Counsel for the Defendants filed a Statement of Defence on June 19, 1997, denying the main issues alleged in the Action. On October 8, 1997, the necessary steps were taken to compel the Defendants to file an Affidavit of Documents within 15 days.

On October 20, 1997, another order was issued requiring the Defendants to comply with preparations for the case to go forward. No response to the orders had been received from by the Defendants by November 6, 1997, the Plaintiffs considered them in breach of the Order.

On December 5, 1997, the Defendants offered to settle out of court for 50% of the Port Corporation claim, namely \$23,022.15, with no interest. This offer was accepted by the Plaintiffs and payment received, and on December 29, 1997, the Action against the SKY PRINCESS was dismissed with the consent of all parties.

On December 30, 1997, the amount of \$23,022.15 recovered from the shipowner, less the legal expenses of \$5,140.24, was paid to the Port Corporation, and the Administrator was able to close his file on the incident.

7.14 ZIM SAVANNAH (1994)

During the early afternoon on May 30, 1994, this 36,263 GT Israeli registered container ship was involved in an oil pollution incident while

alongside the Halterm terminal in Halifax Harbour, N.S. The oil was found between the ship and the solid pier. The owners contracted for the clean-up of the spill. The CCG attended the site and the clean-up was completed to their satisfaction. The owners provided a Letter of Undertaking for an amount up to \$5,000.00 as a security in the event that a fine was imposed on the ship. A MSB Surveyor also attended and took samples. No source of the spill could be immediately found and the ZIM SAVANNAH was permitted to sail. During her passage out of Halifax Harbour later the same day, May 30, it was observed that the ship was trailing oil. She was turned around and put back to her berth in Halifax to investigate the source of the oil. Further investigation by the MSB did not disclose the precise cause of the leakage which had ceased and the ship was again permitted to sail. Later analysis of the oil samples by the MSB did not provide a match between those taken on the ship and those taken from the water. However, it transpired that there were a number of problems with the sampling which had not been comprehensive.

On July 29, 1994, the Administrator received a claim on behalf of the shipowners, Zim Navigation (Canada) Ltd., amounting to \$99,579.58 to cover their costs and expenses in containing and cleaning up the spill. The claim was presented to the SOPF on the basis that it was a mystery spill, as it had not been demonstrated that the oil came from the ZIM SAVANNAH.

Pursuant to his responsibilities under CSA 710 (2) (a), the Administrator investigated the claim of the shipowner. In his detailed investigation he discovered that an underwater video of the inspection of the hull of the ship taken on May 30, 1994, showed a slight leakage of oil from an underwater discharge. Through counsel, on February 23, 1996, the Administrator advised representatives of the owners of his findings, inviting them to withdraw their claim, thereby avoiding the Administrator ordering an investigation under subsection 710 (3) of the CSA. This offer, in effect, was rejected by the shipowners who required more information regarding the oil sampling which had taken place. Further investigation followed and correspondence. On March 24, 1997, the shipowners suggested a 50/50 set-

tlement of their claim by way of a compromise. The Administrator rejected this offer through the SOPF's counsel by letter dated May 15, 1997. Counsel for the shipowners, in his letter of August 12, 1997, agreed that his clients would not pursue their claim against the SOPF further. The Administrator thereafter closed his file on this incident.

7.15 PIERRE CHAUVIN (1994)

On August 8, 1994, a CCG vessel reported oil pollution within Tadoussac Bay, Qc. Further investigation found that several yachts and boat pontoons had been oiled. An anonymous caller reported that the source of the oil was a local whale watching boat, the 70 GT PIERRE CHAUVIN. It transpired that the boat had an automatic oil transfer pump which had malfunctioned. The CCG responded and thereby incurred costs and expenses in the clean-up claimed to amount to \$19,942.12. On October 13, 1995, the owners were found guilty of an offence under the Oil Pollution Regulations and fined \$4,000.00.

No claim has been received by the SOPF in respect to this incident and, normally, any claim would have been time-barred on August 9, 1996. The latest information from the Crown is that the owners/insurers have offered to settle for \$15,000.00, and this offer was under consideration on March 31, 1998.

7.16 MARWOOD (1994)

This 237 GT Canadian flag fishing trawler sank while alongside the government wharf in Ucluelet, B.C., on August 14, 1994. The chief engineer, asleep at the time, lost his life. The Transportation Safety Board of Canada (TSB) investigated the sinking and found that the vessel's trawl doors caught under the wharf on a rising tide and contributed to the downflooding, which caused the sinking. The trawler contained approximately 36,000 l of diesel oil, 2,700 l of lubricating oil and an undetermined quantity of hydraulic oil.

The CCG responded to the oil released from the sunken vessel using their own and contractor's personnel. The MARWOOD's owners arranged for the salvage of the trawler,

which was effected on August 17, 1994, and the clean-up effort was ended. Through counsel, the SOPF was instrumental in the P&I Club issuing a Letter of Undertaking to the amount of \$250,000.00 in respect to the clean-up of the oil pollution, or to furnish bail in the event of litigation. It had been shown that there was limited value in the salvaged vessel, but considerable value in the fishing license and it proved necessary to arrest the MARWOOD before the Letter of Undertaking was received.

By letter of December 15, 1995, the Crown submitted their claim, amounting to \$178,951.65, directly to counsel acting for the owners. As no settlement could be agreed, on February 21, 1995 the Crown filed an Action in the Federal Court against the MARWOOD, her owners and others. The Administrator was named a Party by Statute.

A Statement of Defence and a Counter Claim by the Defendants were filed and on November 19, 1997, were amended, denying a number of issues and alleging, among other matters, negligence by the Minister of Transport in the inspection of the vessel. Pending an Order for Directions from the Court, the Administrator is waiting to file his Statement of Defence in the Action.

7.17 STEVE C (1994)

It was reported that on August 15, 1994, this 44 GT Canadian fishing vessel went aground on the south coast of Anticosti Island, Qc. All four crew members were safely evacuated by a SAR operation. The owner and the P&I Club arranged for the approximately 5,000 l of diesel fuel aboard to be transferred to another fishing vessel and pollution was largely avoided. The fishing boat was subsequently declared a total loss.

The SOPF has limited information on this incident and no claim has been received by the Administrator. Any claim would normally be time-barred two years after the day on which the pollution damage occurred.

The latest information from the Crown is that the costs and expenses claimed to have been incurred by the CCG responding to the threat of pollution from this vessel amounted to

\$27,677.88. The owner/insurer has offered to pay up to the STEVE C's limit of liability amount, but that there appears to be a dispute concerning the calculation of this sum.

7.18 WORKBOAT No. 5 (1994)

This small former fishing vessel was in use by contractors engaged in demolishing old piers in Sydney Harbour, N.S. when, on December 4, 1994, she sank at the work-site. On sinking the vessel released some of the diesel fuel aboard through the vent pipes of the fuel tanks, causing a sheen in the harbour. The contractors quickly responded, raised the vessel and cleaned up the pollution where practicable, leaving the remaining sheen to disperse naturally.

A local fisherman held some 10,000 to 12,000 live crabs in crates within the harbour and he expressed concern that some of the crabs might have been contaminated. An inspection by a Fishery Officer found that the crabs showed no evidence of hydrocarbon contamination. However, the Officer did find that the 60 crates in which the crabs were held were not acceptable for holding fish products for human consumption and stated that the crates had to be replaced.

The fisherman telephoned the SOPF in contemplation of making a claim against the Fund. It subsequently transpired that there was a second incident of oil pollution at the crab holding site, but this incident originated from a floating automobile lubricating oil container. On March 30, 1995, information on how to make a claim against the Fund was sent to the fisherman, stating that the Fund was available only to pay claims for ship-source oil pollution.

It should be noted that whereas most claims for pollution damage must be submitted to the SOPF within two years after the day on which that damage occurred, fishermen's claims for loss of fishing income under section 712 of the CSA must be filed within three years after the date when the discharge of the oil occurred or first occurred. Any claim from the fisherman in this incident should have been made by December 4, 1997, and any claim after that date would be time-barred. No claim has been filed as of March 31, 1998.

7.19 NAHMINT (1994)

The NAHMINT, a 172 GT Canadian wooden fishing vessel, was laid up in the Gunderson Slough off the Fraser River, B.C., when on December 28/29, 1994, she sank, releasing a quantity of residual oils. It was reported that she was out of service and had no engine. The slough had recently been remediated as a salmon habitat and is adjacent to an environmental conservation area. The vessel's owner contracted for the containment and clean-up in cooperation with EC, DFO and the Fraser River Harbour Commission. The main pollution was caused by the discharge of an estimated 900 l of lubricating and diesel oils.

On December 28, 1995, the Administrator received a faxed notification of a claim, without supporting documentation, in the amount of \$78,272.39, on behalf of the contractors who had been employed in the clean-up. On investigation, the Administrator was informed by the solicitor acting for the claimant that the vessel's owner had placed \$90,000.00 in trust with his counsel to pay the contractors claim, but was withholding payment until his insurers met their liability to him. In turn, the insurers had problems finding an explanation as to why the vessel sank. While settlement remained unresolved, one of the counsel and then the vessel's owner died.

Recent information is that settlement has now been reached between the parties without recourse to the SOPF and the incident can be considered closed.

7.20 COGNA (1995)

The first the Administrator was aware of this incident was on November 27, 1997, when he received a claim from the Crown on behalf of the CCG to recover its costs and expenses. The amount claimed totaled \$6,034.12. On investigation it transpired that the COGNA was a 7 GT workboat, which had been moored in an exposed position to winter on the Ottawa River at Gatineau, Qc. On January 19, 1995, the boat sank due to higher than normal water levels combined with ice conditions. On sinking, the boat released a quantity of oils. The stated owner could not be contacted and the CCG organized the pollution response with contrac-

tors. An estimated two barrels of oil and oily debris were recovered. The boat was refloated and placed ashore.

The Crown made attempts to recover its monies from the registered owner, but this person claimed to have sold the boat to another person who was now a US resident. As it was claimed to be impossible to recover from the alleged new owner, the claim was submitted to the SOPF.

After investigation and assessment, the Administrator considered that if proceedings had been commenced earlier, and within time, the limit of liability of approximately \$1,400.00 for the boat could have been recovered from the original owner. In view of this fact, on January 22, 1998 the Administrator settled the Crown's claim for the amount of \$4,634.12.

7.21 Mystery Oil Spill - Montreal Harbour (1995)

The Canadian tanker LE BRAVE was moored at section 105, Montreal Harbour, Qc. when, late in the evening on July 23, 1995, the ship reported to the VTS that a quantity of light oil had been brought down to its berth by the current in the river. Then the ship reported that a spill of heavy oil had also been carried down to its berth. The LE BRAVE emphasized that it had not been involved in any spill.

A number of agencies responded to the reports and the CCG appointed contractors to contain and clean-up the oil. The Crown submitted a claim to the SOPF amounting to \$27,212.01 to recover the CCG claimed costs and expenses, in what was termed to be a mystery spill. The Administrator received the claim on March 24, 1997. It was subsequently found that the MSB had investigated spills of oils on July 24, 1995, associated with two vessels upstream, but no charges were laid. It was also discovered that on July 23, 1995, there had been torrential rain for much of the day in Montreal and this had resulted in EC instructing a shorebased oil facility to take action to reduce oily run off into the harbour.

In view of the fact that, in the Administrator's opinion, some of the oil could be demonstrated to not be of ship-origin, following negotiations on

October 16, 1997, he offered the sum of \$22,663.00, in full settlement of the CCG claim. This offer was accepted.

7.22 Mystery Oil Spill - Sainte Félicité, Qc. (1995)

This incident proved to be one of the more complex claims to assess, as it involves limited amounts of oil found at various locations, on shore and off shore over some 60 km, the actions by two Federal agencies, and claimed response costs of over \$127,000.

A CCG Status Report stated that on July 27, 1995, the Quebec Provincial Department of Environment and Wildlife reported to Federal agencies the presence of an oil slick in the water on the lower St. Lawrence River's south shore between Sainte Félicité and Anse à la Croix. At that time, the slick was stated to have contaminated some 9 km of shoreline. Initially, it was thought that the oil originated from a land source. Under the applicable Federal/Provincial agreement, both Environmental departments and the CCG responded. On the basis that the slick appeared to be heavy oil and considered to be of a marine origin, the CCG was made the lead agency. The MSB commenced an investigation.

Analysis of the oil showed it to be Bunker C and to have been weathered for at least two weeks before coming ashore. As a result, it was impossible to ascertain by oil sample analysis which of the numerous ships that had transited the river during the relevant period was responsible. The spill was then classified as a "mystery spill".

After a beach survey, oil was found at a number of places from Sainte Félicité to Cap-Chat and an estimate of a total quantity of 23,000 l was given. Contractors commenced clearing up the oil on July 28, 1995, and in a number of instances, as soon as a beach was cleaned it became re-oiled. It is not clear that all the oil came from the same source. By the time the contractors had completed their work on August 2, 1995, approximately 30 barrels of oil/heavily oiled material had been recovered.

On February 27, 1997, the Administrator received the Crown's claim on behalf of the

CCG to recover the costs and expenses incurred. The claimed amount was \$127,177.83, including taxes on Federal Government costs, which taxes are not payable by the SOPF.

Since that date, the Administrator has been investigating and assessing the claim. This claim raised a number of concerns which were submitted to counsel for the CCG for clarification and a reply received. An offer of settlement for this claim is likely in the new fiscal year.

7.23 CHANTY (1995)

By way of a CCG Status Report, the SOPF received information that, on August 11, 1995, this 10 m US pleasure craft sank at a Canadian marina near Port Lambton, Ont., releasing about 45 l of lubricating oil and 270 l of gasoline. The local fire brigade initially responded to the pollution, but requested the CCG assistance with more booms. The pollution was contained and cleaned-up. On August 12, 1995, the owner raised the boat, carried out the necessary repairs and returned to the USA. The SOPF wrote to the owner reminding him of his responsibilities under Canadian law with regard to recovery of pollution damage costs and expenses, but received no reply.

Normally, any claim made to the SOPF in this incident would be time barred after August 12, 1997. As no claim had been received by that time, the Administrator considers the incident closed.

7.24 GRETE STAR (1995)

On August 16, 1995, a report was received that a patchy oil slick extended over sections 14 to 17 in the Port of Trois-Rivières, Qc. Berthed at section 16 was the 11,318 GT Panamanian flag container ship GRETE STAR and another vessel was berthed nearby. The MSB Surveyor attended and samples were taken. EC and the CCG responded to the pollution and the CCG contracted for the containment and clean-up, incurring costs and expenses said to amount to \$8,565.67. The MSB was satisfied that the origin of the oil was the GRETE STAR and charges were laid. No claim has been received by the Administrator pursuant to section 710

and any such claim would normally become time-barred on or after August 17, 1997.

7.25 SIMCOE ISLANDER (1995)

This vessel is a 24 GT steel cable ferry, owned and operated by the local municipality, that runs between Wolfe Island and Simcoe Island, in the Thousand Island area of the St. Lawrence River, Ont. The registered owners are the Wolfe Island Township.

On September 12, 1995, the ferry loaded a large truck filled with boulders and set off across the approximately 500 m channel when, about half way across in fair weather conditions, the ferry suddenly capsized. The ferry operator was thrown into the water and the truck driver was trapped in his cab, but was able to free himself under water; both were rescued.

The ferry and the truck both released oil. The CCG responded and using their own personnel, was able to contain and clean-up the minimal pollution which remained. The ferry was pulled ashore and righted on September 16, 1995. The vehicle was recovered on September 15, 1995. It is estimated some 300 l of diesel and hydraulic oils and some 200 l of gasoline were lost into the river.

On October 3, 1996, the Crown presented a claim amounting to \$12,751.08 to the Administrator, in order to recover the CCG's costs and expenses in this incident. The Administrator investigated the claim before sending it to the owners for direct settlement with the Crown. On May 28, 1997, the Crown received payment in full for its claim and the Administrator's file on the incident was closed.

7.26 BERGE LORD (1995)

There was a leak of specialized oil from the stern tube of this Norwegian flag 139,776 GT tanker BERGE LORD on October 22, 1995, when alongside the jetty at the Come By Chance, Nfld., oil refinery. The Administrator was aware of the incident on September 23, 1996, when counsel for the refinery presented a claim to the SOPF. The claim amounted to \$67,997.74 for, what was claimed to be, the cost of the clean-up of 10 l of the relatively light oil.

The Administrator investigated the claim and found that the ship's P&I Club insurers expected and were prepared to handle the claim directly. This information was passed to counsel for the refinery. On January 16, 1998, this counsel advised the Administrator that the claim had been settled directly with the P&I Club. The Administrator was then able to close his file on the incident.

7.27 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, Que., 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 owners, 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' insurer's 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 22, 1996, to recover their costs in this incident. After considerable investigation, the Administrator submitted a series of questions to the Coast Guard, via his legal counsel in August 1997.

At the end of the fiscal year under review, the Administrator is awaiting the information requested.

7.28 JAMES NORRIS (1995)

On November 11, 1995, this Canadian registered 12,962 GT self-unloading ship employed in the Great Lake trade, was loading at a cement company dock near Colborne, Ont. on Lake Ontario, when strong winds suddenly developed blowing the ship onto the berth. The resulting wave action pounded the JAMES NORRIS against the dock. Attempts were made to sail the vessel, but these proved impossible in the conditions prevailing. The JAMES NORRIS continued to pound the dock until she holed herself and sank at the berth.

The owners responded to the threat of pollution with the CCG in attendance. The pollution was contained and, on November 18, 1995, the ship was refloated and towed away for repairs.

On April 2, 1997, the Administrator received a claim from the Crown to recover the CCG's attendance costs and expenses at the scene. The claim amounted to \$16,561.52. Under cover of the Administrator's letter dated April 23, 1997, the claim was presented to the owners, with a request that payment be made directly to the Crown. On August 25, 1997, it was confirmed that payment in full had been received by the Crown.

7.29 APJ SHALIN (1995)

The Administrator became aware of this incident on October 15, 1996, when he received a claim from Alcan Aluminum Ltd. (Alcan) amounting to \$14,454.91, resulting from an oil spill at La Baie, Quebec.

On investigation, it transpired that in the early morning of November 17, 1995, the

41,699 GT Indian flag bulk carrier APJ SHALIN sailed from the Alcan facilities at La Baie, Qc., and, as she left, a quantity of oil was found on the water between the vessel and the berth. The APJ SHALIN had bunkered overnight.

A MSB Surveyor took samples of the oil from the water and made a request to have the USCG take samples from the APJ SHALIN when she arrived at her next port of call, at New Orleans, USA. Unfortunately, this request was not passed on to the USCG.

The Administrator arranged on February 25, 1997, to pay the Alcan claim of \$14,454.91, together with the calculated interest of \$1,294.35 as required by CSA subsection 723 (1). As all the evidence, including witness statements points to the APJ SHALIN being the origin of the oil, the claim was forwarded by the Administrator to representatives of the ship's P&I Club on August 1, 1997.

The SOPF claim was acknowledged without admission of liability and no offer of settlement to date has been received.

7.30 LE SAULE No. 1 (1996)

As no claim has been received by the Administrator arising from this incident, the SOPF has received limited information. This Canadian registered 5,114 GT tanker was discharging an oil cargo in Curling, Bay of Islands, Nfld., on January 16, 1996, when diesel fuel was noticed in the ice around the tanker. All pumping operations were stopped until it was ascertained that there was a leak from No. 3 tank; the contents of that tank were transferred until there was no more leakage. With the P&I Club representatives and the CCG in attendance, the crew cleaned up the spill as well as they could in the heavy ice conditions. It was estimated that between 7 and 15 tonnes of diesel oil had been lost from the No. 3 tank.

At a later date, the shipowner went into bankruptcy. It is understood that the CCG incurred costs and expenses totaling \$4,840.31. Any claim to the SOPF would normally be time-barred as of January 17, 1998.

7.31 KOLOMNA (1996)

This incident has presented a unique problem to the Administrator in that, for the first time in the SOPF's experience, a P&I Club has not been prepared to immediately act in accordance with a Letter of Undertaking issued on its behalf.

On February 23, 1996, oil pollution was found between the 15,903 GT Roll-On Lift-Off Russian Federation flag KOLOMNA and the quay at which the ship was berthed in Quebec City, Qc. Initially the master refused to accept responsibility for the spill and the CCG appointed contractors for the clean up. The harbour was ice filled. A MSB Surveyor went aboard the ship to carry out an investigation and a detention order was issued.

By late afternoon February 24, 1996, the clean-up of the estimated 1 barrel of heavy oil had been completed and by agreement between all the parties, the ship accepted responsibility for the spill. It was general knowledge that the owners of the KOLOMNA were in financial difficulties and, on February 24, 1996, an Action was commenced in the Federal Court of Canada by a leasing company against many named ships owned by the Baltic Shipping Company seeking their arrest, including the KOLOMNA.

Just after midnight, on February 25, 1996, the Harbour Master reported that the KOLOMNA has been involved in a second spill of oil. The CCG responded with contractors for the clean-up and MSB sent a surveyor to carry out another investigation. Oil was seen to be escaping from the ship, but there was no immediate explanation for the loss. A diver's inspection of the hull was ordered but no defects were found which would explain the loss of oil. By early morning on February 26, 1996, the clean-up had been completed. It was reported that a further 4,000 l of oily water had been collected.

To ensure payment of any potential fine to be levied against the ship for oil pollution, on February 23 1996, the MSB obtained a Letter of Undertaking to the amount of \$30,000 from the agents of the ship. On February 26, 1996, the CCG wrote to the ship's agent requesting a Letter of Credit to the amount of \$55,000 to

cover the cost of the clean-up. On March 12, 1996, the law firm of Sproule, Castonguay, Pollack of Montreal, Qc., acting for the time charterers of the KOLOMNA, faxed a letter to the CCG pointing out the consequences if the ship did not sail. Later the same day the same law firm issued a Letter of Undertaking on behalf of the Liverpool and London Steamship P&I Club, to the amount of \$65,000 to cover the costs of the clean-ups on February 24 and 25, 1996. On the same day, March 12, 1996, the KOLOMNA was released from arrest by the Federal Court and the ship sailed.

On February 14, 1997, the ship was found guilty of causing oil pollution and was fined \$6,750, which fine was paid. Under their letter of February 27, 1997, the CCG presented their claim, amounting to \$52,837.26, to Sproule, Castonguay, Pollack in order to recover the CCG costs and expenses in the clean-up.

Following an initial acknowledgment, the law firm, by their letter of June 26, 1997 to the CCG, requested copies of all documentation for transmission to their client. In the absence of settlement, Crown counsel on August 13, 1997, wrote to Sproule, Castonguay, Pollack requesting payment of the CCG claim. There was further correspondence but in their letter of August 28, 1997, Sproule, Castonguay, Pollack requested that the Crown deal direct with the Liverpool and London Steamship P&I Club, as they did not have the mandate to represent the owners or operators of the vessel at that time.

The Crown then presented the CCG claim by letter dated August 29, 1997, to the Liverpool and London Steamship P&I Club. The P&I Club faxed a reply on September 23, 1997, acknowledging the claim but pointing out that the KOLOMNA was entered with them for charters only and any pollution matters would be for the owners account. The Club's letter went on to suggest that the Crown should present the claim to the owner's P&I Club. Further correspondence was exchanged; that from the Liverpool Club and the Montreal law firm reiterated that the claim should be presented to the owners P&I Club. The owners P&I Club was subsequently ascertained as being the United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Ltd., (commonly known as the U.K. Club).

By the Crown's letter dated January 19, 1998, the Crown presented the CCG claim to the Administrator. At the end of the financial year, the Administrator had instructed the SOPF's London Agent to clarify the matter.

7.32 KATHY K (1996)

The KATHY K, a 28 GT former tugboat registered as a workboat, built of wood in 1912 and rebuilt in 1944, was moored with no crew on board at a public dock at Kitimat Village, B.C. on April 2, 1996, when she sank at the berth. The cause of the sinking could not be positively ascertained. The workboat had on board approximately 3,100 l of diesel, together with an unknown quantity of lubricating oil. Some of these oils were released when the KATHY K sank and a boom was quickly rigged to contain the pollution.

The owner was requested to accept responsibility, but he replied that the KATHY K had no insurance cover, that the owning company had no funds and requested that the CCG make whatever disposition of the ship that they deemed appropriate. The CCG responded with contractors to clean-up the oil and to raise the sunken workboat and take her to a secure berth. Difficulties were experienced in raising the vessel and, on refloating, she was found to be leaking heavily.

On April 5, 1996, under tow, en route to a secure berth, the KATHY K threatened to sink again and had to be beached. Further damage was incurred by the beaching and the CCG decided to break up the vessel in that location. In lieu of charging the CCG for breaking up the KATHY K, certain individuals were allowed to retain any salvaged parts. The KATHY K was then broken up and her hull burnt.

On April 2, 1997, the Crown presented a claim amounting to \$73,495.30 to the Administrator to recover the CCG's costs and expenses in this incident. Advice was subsequently received that, on April 14, 1997, the person who had been the duly registered appointed manager of the KATHY K was placed into bankruptcy.

The Administrator investigated and assessed the claim, following which he had a

number of concerns which were raised in his letter to Coast Guard counsel dated December 10, 1997. A meeting to discuss settlement was planned for late April 1998.

7.33 Mystery Oil Spill - Come By Chance, Nfld. (1996)

On April 19, 1996, the 18,033 GT Liberian flag tanker PETROBULK RACER was alongside No. 1 berth, Come By Chance oil refinery jetty when, early in the morning in foggy conditions, oil was observed around the stern of the ship. This was the first day of the lobster season. The refinery's spill response team was called-out and, using boats and booms, contained the spill. The spill was estimated to be about 10 l and to be old bunker sludge. Berthed inside the PETROBULK RACER was another tanker, but no oil was observed around this ship. Later in the morning, the MSB Surveyor arrived to investigate the incident and in the course of this took oil samples. The PETROBULK RACER denied it was involved in the spill and the Surveyor was unable to find any physical evidence linking that tanker to the spill. The tanker, a regular trader, was allowed to sail.

Subsequent analysis of the oil samples found there was no match between those taken from the tanker and the spill. Unfortunately, the sampling had not been comprehensive.

The MSB informed the legal representative of the refinery that there was no evidence that the spill was connected to the PETROBULK RACER. The refinery then submitted a claim for the containment and clean-up costs and expenses to the Administrator, which was received at the SOPF on August 12, 1996, for a claimed amount of \$21,265.47. The actual amount incurred was \$7,087.49, which had been factored by the figure of three.

Following further correspondence, and the receipt by the Administrator of the required Release and Subrogation document on May 8, 1997, the Administrator paid \$7,087.89 in full and final settlement of this claim.

7.34 Mystery Oil Spill - Little Harbour, N.S. (1996)

Counsel for the SOPF in Halifax, N.S., received a telephone call on May 31, 1996, from a local Fisheries Officer advising that there had been an oil contamination of a lobster car (holding crate), in Little Harbour, N.S. On investigation by the SOPF, it appeared that on May 19, 1996, there had been a spill of diesel fuel in Little Harbour from an unknown source. On July 5, 1996, a claim amounting to \$26,306.38 was received by the Administrator from a local fishing company covering the cost of replacement of a lobster car, loss of income and other miscellaneous costs. On July 19, 1996, the Administrator sent a formal reply requesting certain information about the claim, mainly related to the alleged contaminated car and the possibility of having it steam cleaned. To date no reply has been received.

7.35 AIVIK (1996)

The AIVIK is a 7,048 GT Canadian flag passenger cargo ship. In the early morning of August 16, 1996, while alongside in Montreal Harbour, the ship reported a spill of an estimated 1,000 l of light diesel oil while refueling from road tankers. From evidence at the scene, the Harbour Master estimated the spill as being up to 25,000 l. Most of the spill was contained within a boom which had been deployed. The owners immediately responded by contracting for the clean-up. The CCG and the MSB sent officers to the scene and the CCG conducted helicopter overflights to establish how far down the river the oil had traveled. The final clean-up was completed on August 18, 1996, and approximately 27,000 l of diesel was recovered.

On June 17, 1997, the Crown presented a claim to the Administrator amounting to \$9,200.24 to recover EC and the CCG's costs and expenses, which were mainly helicopter expenses. On July 15, 1997, the Administrator forwarded the claim to the shipowner in Montreal for direct payment to the Crown. The Administrator was informed that the claim had been sent to their counsel and that the SOPF should contact him. On March 19, 1998, the claim was resubmitted to the company's counsel who also represents the shipowner's P&I Club in this incident.

7.36 NORTHWIND (1996)

On September 6, 1996, the Administrator was informed that the 163 GT US fishing vessel NORTHWIND, southbound from Alaska to Seattle, had gone aground near Fancy Cove, Lama Pass, in the B.C. coastal waters on September 2, 1996. After grounding the crew escaped, but the vessel took on water and capsized. A CCG vessel arrived on scene. Little oil had escaped, and it was estimated that 17,000 l of diesel were in the floating upturned hull. The owner contracted salvors, who arrived on scene with CCG Response and DFO officers, together with a representative of the P&I Club. The creeks in the area were noted for their fish habitat. Booms were placed and, on September 7, 1996, the salvors rolled the vessel over with some discharge of oil, mainly contained within the booms. The loose oil was collected and the remaining fuel aboard the salvaged vessel was removed. The NORTHWIND was towed to Bella Bella, B.C., and subsequently declared a constructive total loss.

It is reported to the Administrator that the vessel carried both hull and P&I Club coverage and that the CCG had advised the P&I Club representative that a claim would be submitted. It is understood that the Crown has invoiced the CCG costs and expenses, amounting to \$30,080.24, to the US owner. The Administrator awaits further developments.

7.37 Motor Yacht 42E 6903 (1996)

This was a privately owned 11 m Canadian registered wooden motor yacht which was moored in a creek off the St. Clair River, a few kilometers north of Sombra, Ont. During heavy rain conditions on September 21, 1996, the boat sank releasing diesel fuel and residual oils. The CCG sent their own personnel to the site and used their own equipment to contain and clean-up the pollution. The owner was contacted, who subsequently raised the boat. The hull of the boat was found to be rotten and it is reported that the boat was then broken up.

The owner stated that he had no insurance cover for the boat and, on October 10, 1997, the Crown presented a claim to the

Administrator amounting to \$2,560.18, to recover the CCG costs and expenses. The Administrator investigated and assessed the claim and on January 26, 1998, the claim was paid in full, plus \$209.92 accrued interest payable under section 723 of the CSA.

Throughout, it was difficult to contact the owner but, on March 31, 1998, the Administrator forwarded the claim to the owner, at an address the Administrator had been given, for reimbursement of the monies paid out by the SOPF.

7.38 Mystery Oil Spill - Goderich, Ont. (1996)

On October 11, 1996, a dredging contractor in Goderich, Ont., reported to the Harbour Master that there was oil in the harbour. This information was passed to CCG Response. The local CCG cutter investigated and agreed that the oil, which had the appearance of diesel, came from upwind of the dredging and that operation was not the origin of the spill.

There were ten ships in the harbour at the time, including four belonging to the dredging contractors. There is disagreement as to whether oil samples were taken, but in any event, none were analyzed. One tug was suspected but there was no evidence linking it to the spill. This same tug was subsequently involved in another spill in the harbour on November 24, 1996, while winterizing shipside valves.

On October 10, 1997, the Administrator received a claim presented by the Crown to recover the CCG's costs and expenses in responding to this incident, which claim amounted to \$2,553.87. The Administrator investigated and assessed the claim but was unable to find conclusive evidence as to the origin of the oil. On March 20, 1998, the Administrator paid the sum of \$2,773.68, which included \$219.80 interest as prescribed by Section 723 of the CSA, to settle the claim.

7.39 IMPERIAL ST. CLAIR (1996)

On November 28, 1996, this 7,964 GT Canadian registered single hull tanker lost main engine power while navigating downbound through the Seaway channels in Lac Saint Louis, Qc. While trying to restart the engine, the ship ran hard aground. There was no pollution, but the owners mobilized contractors to standby and the CCG sent officers to the scene. The ship was refloated with no pollution, under the watchful eye of the CCG Response personnel.

The CCG submitted a claim on February 6, 1997, to the shipowners, amounting to \$7,169.31 to recover the CCG costs and expenses and the Administrator has been informed that the claim has been paid.

7.40 HARALAMBOS (1996)

On February 27, 1997, the Administrator received a claim from the Crown to recover the CCG costs and expenses, stated to amount to \$73,483.00, incurred in the clean-up of oil found on the beaches of the Gulf of the St. Lawrence southwest of Port Cartier, Qc. The claim was presented as a mystery spill.

Oil had been found coming ashore on the beaches on December 3, 1996, by residents of the small community of Rivière Pentecôte, who informed the authorities. Officials arrived and confirmed the pollution, contractors were engaged and commenced work on December 5, 1996; the task was completed to the satisfaction of the authorities on December 9, 1996. It is reported that 103 barrels of oil and oily material were collected for disposal.

The Administrator investigated the circumstances of the oil and found that the MSB had carried out a thorough investigation of two oil spills within Port Cartier Harbour, which had occurred on November 19 and November 25, 1996, respectively. These spills had involved the 63,078 GT Cypriot flag bulk carrier HARALAMBOS. The ship had come into the harbour on November 19 when there was an oil spill. The ship had then gone out to anchor off Port Cartier awaiting cargo and had come back

in again on November 25, when the second spill of oil occurred. It was found that one of the top-side water ballast tanks had a corrosion hole through to a fuel tank, which accounted for the loss of oil. The shipowners undertook to pay for the cost of the clean-ups within the harbour. On November 30, 1996, the HARALAMBOS sailed for Iran.

In the course of his investigation, the MSB Surveyor took oil samples and also compared the results with the analysis of the oil subsequently found on the beaches at Rivière Pentecôte. It was found that oil from the harbour matched the oil from the beaches. Accordingly, on December 4, 1997, the Administrator forwarded the claim to representatives of the ship's P&I Club in Canada for direct payment to the Crown. The outcome is awaited.

7.41 JADE STAR (1996)

A 6,262 GT Canadian flag tanker, with registered owners in the Isle of Man, and operating managers in New Brunswick, the JADE STAR was alongside at Nanticoke, Ont., on December 21, 1996, loading bunker C, when it was reported that the sole generator running aboard overloaded and shut down non-essential supplies, which included the ship's manifold valves on the shore loading hose. The hose ruptured and an estimated 2,300 l of the cargo oil flowed onto the deck, with an estimated 300-400 l overflowing the deck edge into the water. The local refinery hired contractors to contain and clean-up the oil outside the ship and the ship used a private contractor and the crew to clean the deck and the ship's side. The JADE STAR sailed on December 22, 1996, with the proviso that as she went through the locks at Montreal, a check would be made on the cleanliness of the deck.

On December 17, 1997, the Administrator received a claim amounting to \$2,174.25 from the Crown to recover the costs and expenses of the CCG in attending at Nanticoke. This claim was forwarded on January 12, 1998, to the Canadian operators of the JADE STAR, with the request that settlement should be made directly to the Crown. Settlement is awaited.

7.42 Mystery Oil Spill - Placentia Bay, Nfld. (1997)

On January 20, 1997, an official of the Canadian Wildlife Service reported large patches of oil had been sighted off the wharf at St. Bride's, Placentia Bay, Nfld. Aerial and foot surveys were carried out of adjacent areas where other patches of oil were found. A number of CCG Status Reports were issued on the incident and the final one, released on March 19, 1997, noted that approximately 2,700 oiled dead birds had been collected. Other live oiled birds had been taken to a rehabilitation centre for treatment. Oil samples had been taken and a combined Federal agencies task force added this incident to others for investigation. The pollution and its aftermath attracted national media coverage.

On December 1, 1997, the Administrator received a claim from the Crown, in the amount of \$119,421.70, to recover the costs and expenses which, it was stated, had been incurred by the CCG and other government agencies in this incident. The Administrator is investigating and assessing the claim in accordance with his responsibility under subsection 710 (2) of the CSA.

7.43 NITA 1 (1997)

The Administrator became aware of this incident on December 2, 1997, when the CCG reported that a claim submitted to the legal representatives of this ship remained unpaid and that the claim would be submitted to the SOPF. Accordingly on January 8, 1998, the Crown submitted a claim to the Administrator amounting to \$3,787.30, for reimbursement of the CCG's costs and expenses in containing and cleaning-up oil found between the 10,572 GT Panamanian flag multi-purpose cargo ship NITA 1 and the quay at the port of Gros Cacouna, Qc., on March 19, 1997. The oil was on the ice between the ship and the quay.

The ship denied responsibility and the CCG engaged contractors. The clean-up was completed on March 20, 1997, and approximately 1 barrel of oily debris was recovered. Samples of the oil were taken by a MSB Surveyor and sub-

sequently, charges were laid against the NITA 1 for causing oil pollution. Before the ship was allowed to sail, the P&I Club was required to provide a Letter of Undertaking in favour of the CCG to the amount of \$5,000.

On February 26, 1998, the Administrator submitted the CCG claim to the NITA 1's legal representatives, with the request that settlement be made direct to the Crown. The claim was acknowledged by the representatives who, on behalf of the ship, denied liability. The trial of the criminal proceedings was scheduled to take place on June 11, 1998.

7.44 ARD 31 (1997)

The ARD 31, a former U.S. Navy floating dry-dock sank in Tuktoyaktuk harbour, NWT, on May 26, 1997, discharging an estimated 30 m² oil slick. The owners contracted for the clean-up, with a CCG officer on scene to oversee the operation. It was stated that a broken valve caused by ice pressure was responsible for the sinking. In spite of efforts by the contractors, oil continued to leak from the dry-dock until June 3, 1997. On that date the oil recovery operations were shut down because of unsafe ice conditions. On July 14, 1997, the ARD 31 was refloated and although there was some final release of oil, it was contained within the booms.

No claim has been submitted to the SOPF and the Administrator was informed that the CCG claims for use of equipment and their attendance, amounting to a total of \$176,927.29, was paid in full by the owners in November, 1997.

7.45 CAPE CIRCLE (1997)

A CCG Status Report was received at the SOPF which provided the information that this 716 GT Lithuanian flag trawler had been involved in an oil spill during refueling from a road tanker on June 23, 1997, in Argentina, Nfld. It is reported that the vessel was on charter to Canadian operators to catch shrimp. Apparently, in strong wind conditions, the trawler's fuel tank overfilled and the spilled fuel mainly blew overboard, with an estimated 400 l being lost.

The CCG responded using their own personnel and equipment. The owners, by letter, accepted responsibility. No claim has been received by the Administrator for this incident and it is reported that the CCG claim had been settled.

7.46 Mystery Oil Spill - Come By Chance, Nfld., (1997)

On August 11, 1997, the Administrator received a claim from the legal representative on behalf of the refinery at Come By Chance, Nfld., amounting to \$8,959.10. This was the first information the SOPF had received about this incident, which had occurred on June 4, 1997. The claim was presented as a mystery spill but, in the body of the claim, sketches show the oil spill to be adjacent to one ship, the tanker LUCKY LADY. Another tanker, the NOMAD, was at an adjacent berth but, based on the information supplied, no oil could be observed alongside her hull.

The refinery responded to the spill, taking approximately six hours to clean-up the estimated 5-8 barrels of old weathered oil, which constituted the spill. The MSB sent a surveyor to Come By Chance and with others, took oil samples. Subsequent analysis of the samples showed that the oil from the water was heavily weathered heavy marine diesel or crude oil, and did not match the samples taken from the LUCKY LADY or the NOMAD fuel oils. There was no mention of comparison with other sources of oil aboard the two ships. The MSB Surveyor concluded that neither tanker was involved in the spill. On this basis, the refinery submitted its claim for the clean-up to the Administrator.

In view of the unanswered questions surrounding the claim, the Administrator continues his investigation into the incident. By letter dated January 21, 1998 the Administrator is seeking further information from the refinery. Certain information is still awaited as of March 31, 1998.

7.47 Mystery Oil Spill - Black Creek, Ont. (1997)

On June 30, 1997, the Regional Police covering the Port Dover, Ont., area reported oil pollution in Black Creek. The CCG responded with their own personnel and equipment but, on arrival, found that most of the oil had evaporated. It appeared that the oil discharged was a diesel/bilge water mix and originated from a local marina.

The Administrator has been informed that no claim will be made against the SOPF for the minimal costs incurred by the CCG in responding to this incident.

7.48 Mystery Oil Spill - La Baie, Qc. (1997)

The 11,261 GT bulk carrier ISLAND SKY was moored alongside the Alcan facility at La Baie, Qc, in the upper reaches of the Saguenay River on July 2, 1997, when a film of oil was observed around the ship. The crew of the ship were painting the hull at the time but the ship denied they, or any operation aboard, were responsible. The Alcan Company organized contractors to clean-up the oil, but there was so little that no samples could be obtained. When the quickly achieved clean-up was completed, the CCG were informed of the incident. In view of the minor nature of the spill, no officials went to the site of this incident.

On March 2, 1998, the Administrator received a claim from Alcan for recovery of their costs and expenses amounting to \$607.57. It was designated a mystery spill, although no other ship was involved. The Administrator has a number of concerns regarding this claim and is seeking further information from Alcan.

7.49 Mystery Oil Spill - Sorel Harbour, Qc. (1997)

The Administrator received a claim on January 8, 1998, from the Crown seeking to recover the costs and expenses incurred by the CCG in responding to an incident of oil pollution in Lanctôt Basin, Sorel, Qc., on July 3, 1997, which totaled \$13,581.64. The pollution was reported by a CCG ship on scene and the CCG

used their own personnel and equipment to respond to the spill. It was recorded that Sorel experienced a total of 31.3 mm of rain during a 45 minute period overnight.

The MSB sent a surveyor to the scene and the most likely origin of the oil at the time seemed to be a Canadian Great Lake vessel discharging grain at a nearby berth, upriver from Lanctôt Basin. The ship had save-alls under the hydraulic winches which contained quantities of oil covered rain water. Oil samples were taken but, on analysis, there was not a match and it was found that the sample taken from the water in Lanctôt Basin was vegetable oil based. The ship's hydraulic oil was mineral based.

The Administrator continues his investigation of this claim.

7.50 AQUA HOPE (1997)

A CCG Status Report was received advising that, on July 12, 1997, the cargo ship AQUA HOPE had leaked a quantity of Bunker C oil while at anchor in English Bay, Vancouver, B.C. The ship was new and, apparently, an error occurred in operating the valve system aboard, releasing an estimated 40 l of oil.

The owners engaged contractors for the clean-up and the oil was reported to be mainly contained, although one local beach was affected. The clean-up was monitored by the CCG.

No claim has been received at the SOPF and it is understood that any claim is unlikely.

7.51 SIN WAN HO (1997)

This ship was an old South Korean fish factory trawler which was towed to Long Harbour, Nfld., to be converted to a barge. On July 17, 1997, during reconstruction involving steel burning, a fire broke out aboard. The local fire brigade and the CCG responded and the fire was finally extinguished the following day. During pumping out of the accumulated water inside the hull, the owner's personnel accidentally allowed some of the oil pollution with the water to discharge into the harbour. CCG per-

sonnel responded with booms and absorbent materials.

The CCG claims to have incurred costs and expenses in the amount of \$13,956.76 in responding to the fire and for the pollution clean-up. It was reported that ownership of the SIN WAH HO was disputed. The Administrator was informed that no claim would be submitted to the SOPF on behalf of the Crown for this incident.

7.52 JADE STAR (1997)

The TSB Daily Occurrence Report advised that on July 29, 1997, this 6,262 GT Canadian registered and operated, Manx owned tanker was involved in a spill of an estimated 2,200 l of diesel oil. Apparently, the tanker was moored in the George River, Ungava Bay, Qc., when she was swung by the strong current. The shore discharge hose broke and oil was released. No claim has been received to date by the Administrator in respect to this incident.

7.53 ETHEL K (1997)

The ETHEL K is a Canadian registered 8 GT wooden gillnet fishing vessel, built in 1953 and rebuilt in 1995. On July 29, 1997, the vessel, berthed at a private marina in North Vancouver, B.C., started to sink. The marina operators attempted to contact the owner.

The VPC boomed off the partially sunk vessel and the CCG placed absorbent pads to absorb the small amount of oil leaking from the hull. The vessel's condition continued to deteriorate and, on August 26, 1997, the CCG decided the best course of action was to pump-out the vessel and remove the pollutants.

It is understood that the Crown will present a claim in the order of \$6,000 to the Administrator to recover the CCG's costs and expenses. The Administrator awaits developments.

7.54 NAVIMAR V (1997)

On August 7, 1997, this 12 GT pilot boat, had just put a pilot onto the lowered gangway of

the Philippine bulk carrier NAVIOS MINERVA in the port area of Quebec City, Qc., when the gangway caught in the boat's wheelhouse structure. Both ships were underway and in an instant the boat capsized. Several local vessels were in the immediate vicinity and attempts were made to keep the upturned hull afloat, but it sank with little or no pollution. The crewmember on deck of the NAVIMAR V had been able to jump into the river, but the coxswain in the small wheelhouse of the upturned boat had great difficulty escaping with his life as the hull sank.

The boat sank in some 30 m of water with an estimated 250 l of diesel and 10 l of lubricating oils. The CCG required that the wreck be raised, which happened on September 16, 1997, with minimal pollution. To date, no claim has been submitted to the Administrator in respect to this incident.

7.55 Mystery Oil Spill - La Baie, Qc. (1997)

Three ships were berthed at two wharves at the Alcan facility, La Baie, Qc., in the upper reaches of the Saguenay River, when a film of oil was noticed between the two wharves. The oil appeared to be a bunker mix and samples were taken but the Alcan personnel were unable to determine from which ship the oil originated.

Initially Alcan personnel responded to the spill, but contractors were then called-in for the clean-up. The authorities were informed but did not attend the site, which is some three hours drive from Quebec City, the nearest CCG/MSB offices.

On October 19, 1997, the Administrator received a claim from the Alcan Company in respect to the attendance of their personnel amounting to \$344.00 and, on November 6, 1997, received a further claim amounting to \$890.10, for the work of the contractors. The Administrator continues his investigation and assessment of this claim.

7.56 DALEO (1997)

The DALEO is a 33 GT Canadian drum seiner fishing vessel which, on August 11, 1997, sank in 30 m of water, in a channel off Hanson Island, in the northern part of the B.C. coastal inside passage. An oil slick was reported but divers were employed to plug the worst of the oil leaks, pending a decision on the feasibility of raising the sunken vessel. Over the weekend of September 6/7, 1997, the DALEO was raised by the insurers with very limited pollution.

The CCG attended the scene and it is understood the minimal costs incurred will be billed to the owner.

7.57 OSSIAN (1997)

A Status Report issued by the CCG stated that on the night of August 14, 1997, this Canadian pleasure craft caught fire in Ship Harbour, N.S. The local fire brigade responded, but requested the assistance of the CCG. The two owners aboard at the time were rescued and had to be taken to hospital. Two small coves had been contaminated with oil and a local mussel farmer expressed his concern at the pollution. The CCG determined that approximately 300 to 500 l of diesel had been aboard the boat and that pollution clean-up was required.

The last information received by the SOPF on this incident is that the CCG was negotiating for payment of their costs and expenses, but the insurers have indicated they would only pay the shipowner's limit of liability, calculated at \$3,100.00. No claims have been submitted to the SOPF.

7.58 GEORGE A STINSON (1997)

The GEORGE A STINSON is a 34,569 GT US flag self unloading Great Lakes bulk carrier. On August 20, 1997, when she was at a refueling dock in Sarnia, Ont., there was a spill of #2 diesel fuel. It was estimated that 2,300 l of the fuel was spilled. The local refinery response team, together with contractors, contained and cleaned-up the oil. The CCG Response personnel attended. The Administrator was informed

that the CCG would make no claim to the SOPF in respect of this incident.

7.59 Mystery Oil Spill - Sept-Îles, Qc. (1997)

A CCG Status Report was received at the SOPF which advised that, on August 29, 1997, an oil spill consisting of an estimated 9 - 13 l of light diesel oil had been observed in Sept-Îles harbour, Qc. The oil had stained the hull of a DND vessel which was in port at the time. The CCG responded by employing a local contractor to contain and clean-up the oil. The incident was termed a mystery spill and, on January 8, 1998, the Administrator received a claim from the Crown seeking reimbursement of the CCG costs and expenses, amounting to \$5,242.95.

In accordance with his responsibilities under section 710 of the CSA, the Administrator investigated and assessed the claim. It transpired that an analysis of the oil showed it to be a mixture of diesel and lubricating oil. The oil was mainly in the fishing harbour of Sept-Îles, but some had flowed out into the main harbour. On this basis it was considered that one of approximately 20 fishing vessels in at the time was the origin. However, no one fishing vessel was the obvious origin and as they mainly all obtain their oils from the same source, oil analysis was considered impractical.

At the end of this fiscal year the Administrator was in the process of proposing to the Crown that, on receipt of proof of payment of the contractors invoices, he would pay the claim in full.

7.60 MAERSK BISCAY (1997)

It was reported that, on September 6, 1997, this tanker was involved in a discharge pipeline break, with an estimated 700 l of jet fuel spilled into the sea at Hall Beach, N.W.T. The tanker was moored in a three knot tidal current which contributed to the hose coupling parting. On parting, the pumping system automatically shut-down.

The CCG Response organization monitored the situation by telephone, but it was deemed unnecessary to send an officer to the area as

the spill dispersed naturally. No claim has been received by the Administrator and it is stated that such a claim is unlikely.

7.61 RHEA (1997)

The RHEA was a 41 m former US Navy mine sweeper and had been purchased approximately ten years ago for use as a houseboat in Oshawa, Ont., harbour. On October 4, 1997, while no one was aboard, the ship sank, coming to rest in 7 m of water with only her superstructure showing. It was reported that the ship had some 1,600 l of heating oil, 4,500 l of diesel and 450 l of lubricating oils aboard which, on sinking, immediately began to seep out. The local Marine Rescue Association responded and boomed the sunken ship. The owner stated that he had no insurance and is unable to accept responsibility for the oil pollution containment and clean-up.

The RHEA was subsequently raised and removed from the Oshawa Harbour and the Oshawa Harbour Commission has submitted a claim to the SOPF in the amount of \$99,054.21 for the portion of the response activity pertaining only to the oil spill clean-up.

The Administrator is currently investigating and assessing this claim.

7.62 RANI PADMINI (1997)

This ship is a 42,151 GT Indian flag bulk carrier which, on October 9, 1997, developed a crack in a fuel tank and released oil while coming alongside the public wharf at Baie Comeau, Qc. The ship had an arrangement with a Response Organization, but refused to invoke it. This situation required the CCG to appoint contractors to contain and clean-up the oil. Approximately 12.5 tonnes of #6 fuel oil, 12 tonnes of an oily water mix, 15 m³ of soiled sorbent materials and 15 m³ of soiled vegetation, were recovered.

Before the ship was allowed to sail, the P&I Club provided a Letter of Undertaking in the amount of \$375,000.

It was understood that the CCG submitted its claim, amounting to approximately \$335,000,

for reimbursement of their costs and expenses incurred to the counsel for the owners/P&I Club on January 27, 1998, and that further correspondence ensued. The Administrator awaits further developments.

7.63 Mystery Oil Spill - Cape Ray, Nfld. (1997)

Another mystery oil spill, adding to the concern of Newfoundlanders for their coastal environment, was reported from Cape Ray, Nfld., on November 2, 1997. Cape Ray is the extreme SW promontory of Newfoundland, overlooking Cabot Strait. Local people reported that from 100 to 200 oiled birds were found near the Cape over a 3 to 4 day period. High winds and sea conditions made it unsafe to conduct a proper beach survey at that time.

To date no claim has been received by the Administrator in respect to this incident.

7.64 LINDA MAXINE (1997)

This 93 GT Canadian wooden fishing vessel caught fire during the morning of November 10, 1997, when secured to the wharf at Deep Bight, Trinity Bay, Nfld. There were approximately 4,500 l of diesel fuel aboard. The local fire department extinguished the fire during the afternoon but the vessel started to list and then rested on the harbour bottom. The CCG Response personnel arrived, boomed off the sunken vessel, and then commenced cleaning-up the escaped oil. The LINDA MAXINE's insurers stated they would accept responsibility for the CCG costs and expenses. On November 12, 1997, the burnt-out hull of the vessel was raised and by November 14, 1997, the CCG personnel had completed the clean-up.

The last report in the SOPF incident file is that the CCG had proceeded with its cost recovery for submission to the shipowner's P&I Club insurers.

7.65 Mystery Oil Spill - Placentia Bay, Nfld. (1997)

A member of the public reported on November 12, 1997, that he had found six oiled birds on Point Lance beach, Placentia Bay, Nfld.

CCG personnel responded and conducted surveys of the local shoreline by foot and by air. The Canadian Wildlife Services also participated. By November 15, 1997, a total of 608 oiled birds had been found in the general area; the majority of the birds were dead. Small patches of oil which were also found on the beaches were cleaned up.

The latest information that the Administrator has received is that this incident, and others involving mystery spills in the Maritime Provinces of Canada, are the subject of an investigation by various Federal departments.

7.66 PINE ISLANDS (1997)

On November 15, 1997, the Duty Officer at the CCG College located on the shore of the South Arm of Sydney harbour, N.S., reported the presence of oil in the harbour basin. College personnel were mobilized to contain the oil in the basin. It was then found that an estimated 2,200 to 3,200 l of what appeared to be a mixture of Bunker C and diesel was trapped between the ship PINE ISLANDS and a nearby wharf. The Belize registered cargo ship was under detention by the MSB because of a number of deficiencies affecting seaworthiness. A MSB surveyor took oil samples from the water and the PINE ISLANDS, as well as other ships in the area.

On January 21, 1998, through the SOPF counsel in Halifax, N.S., the Administrator filed a Notice of Caveat Release against the PINE ISLANDS, her owners and others; the ship being already under arrest pursuant to other proceedings in the court. It is understood that the CCG claims to have incurred costs and expenses in the order of \$18,000 for its part in the clean-up. On February 6, 1998, counsel for the ship issued a Letter of Undertaking to the SOPF up to the amount of \$20,000, upon receipt of which the Administrator authorized the withdrawal of the Caveat.

It has been reported that, on February 5, 1998, charges were laid against the ship for discharging a pollutant and that on February 23, 1998, the ship entered a plea of not guilty.

The Administrator awaits developments.

7.67 KETA V (1997)

A CCG Status Report received by the Administrator reported that, on November 19, 1997, Fundy VTS was informed that the 236 GT Canadian tug KETA V lost 160 - 180 l of diesel fuel in Saint John harbour, N.B. It appears that during refueling the day tank became full and overflowed. On behalf of his owners, the tug Master authorized the CCG to act on his behalf in respect to the containment and clean-up of the oil. The CCG responded, with the help of contractors, and by midnight the same day had collected an estimated 270 - 450 l of diesel. On the following day a vacuum truck had recovered another approximately 1,000 l. To date the Administrator has received no further information on the incident.

7.68 FLARE (1998)

On January 16, 1998, a distress message was received at CCG East Coast rescue coordination centres indicating that this 16,389 GT Cypriot registered bulk carrier was sinking. It was later found that the FLARE was in ballast at the time inbound for Montreal, Qc., when in a position southwest of St. Pierre and Miquelon, she broke in two. Only four men of a crew of 25 were saved. The stern section sank quickly but the bow continued to float and drifted off into the Atlantic. Weather continued to be adverse for an effective aerial search, but on January 23, 1998, it was concluded that the bow section had also sunk.

The owners reported that the ship had 500 tonnes of heavy fuel oil, 130 tonnes of diesel and 13,500 l of lubricating oil aboard. Attempts were made to minimize the oil pollution coming from the stern section but a report on February 6, 1998, stated that the stern part of the wreck continued to occasionally release oil. The search continued for the bow section and it was the CCG's intention to establish a program to monitor the sites where the two sections sank.

The Administrator instructed the SOPF counsel in Halifax, N.S., to be prepared to protect the Fund's interests as they may appear.

7.69 ASPHALT CHAMPION (1998)

This loaded 19,206 GT Greek flag specialized tanker departed Courtenay Bay, Saint John, N.B. on January 20, 1998, when it was observed that the ship was releasing a stream of asphalt into the harbour. It was then found that one of the ship's tanks had developed a crack. The various responsible agencies were informed and the tanker was required to anchor in Saint John harbour for inspection. The tanker then returned to the Courtenay Bay refinery complex to offload the cargo from the damaged tank and to go in for repairs.

The CCG Response personnel monitored the situation and contractors were put on stand-by. However the asphalt, on contact with the water, immediately solidified into globules and it was decided that it was not necessary to institute a recovery program. The CCG continued to monitor the situation.

In view of the uncertainty of a claim being made against the Fund, the Administrator arranged, through counsel, to obtain a Letter of Undertaking from the ship's P&I Club insurers to the amount of \$20,000.00. The Administrator was advised that, in view of the limited amounts involved, the CCG would not be making a claim against the SOPF.

7.70 SARABAND (1998)

The SARABAND was a 66,942 GT Liberian flag tanker loaded with a cargo of caustic soda for discharge at La Baie, Qc., on the Saguenay River. The tanker's draught was too deep for La Baie and a part discharge was arranged at a nearby facility at Grande Anse. The SARABAND then moved to one of the Alcan Company wharves at La Baie to complete the discharge.

On arrival for discharge at La Baie on February 2, 1998, the departing pilots noticed that the ship was leaking heavy oil. It was then discovered that the SARABAND had a one metre crack in the forward oil fuel deep tank, leaking oil at an estimated 4 l a minute. There was heavy ice in the river at the time and a CCG icebreaker observed more oil at the

Grande Anse facility some 20 miles away. The shipowners, their insurers and ITOPF, their pollution advisers, immediately arranged for the necessary clean-up. Because the oil level in the deep tank had been below the waterline, it proved difficult to estimate the amount of oil lost. The shipowners estimated 1000 l, the CCG estimated a 3/4 tonne and EC concluded that 12 tonnes had been lost. The clean-up proved difficult in the spring ice break-up conditions and the remaining impregnated ice had to be allowed to disperse naturally under CCG surveillance.

The concern was that some of the oil had been swept downriver under the ice by the current in the river which runs up to five knots. Surveys through the ice were undertaken in the area local to the La Baie facility and no recoverable quantities of oil could be found. However, it takes some weeks before all the bays in the pristine 60 mile stretch of river below La Baie/Grande Anse become ice free. Because of the possibility of claims being made against the SOPF, a \$350,000.00 Letter of Undertaking was provided on behalf of the P&I Club, made out in favour of the SOPF and the CCG. After temporary repairs, the SARABAND sailed from La Baie on February 4, 1998.

The Administrator awaits the results of the final surveys.

7.71 Mystery Oil Spill - Martinique Beach N.S. (and others) (1998)

On March 10, 1998, a private citizen reported to the CCG the presence of large amounts of oil along Martinique Beach at Clam Bay, N.S., some 30 miles east of Halifax, N.S. Over a similar time period oil, freshly washed ashore, was discovered at Donkin, Cape Breton, N.S., on Sable Island, on the French Islands of St. Pierre and Miquelon, and several other locations. Three samples from Newfoundland and two from Sable Island were immediately analyzed and found to be from a similar source, but none matched samples previously collected from known ship origins. The results of further oil sample analysis is awaited.

The CCG employed contractors to clean-up the oil on Martinique Beach and other local areas, with the work being completed by March 15, 1998. Approximately 380 bags of contaminated material were collected.

The Administrator awaits developments.

8. Financial Summary

During the fiscal year 1997-1998 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 \$505,782.84 comprising the following costs and expenses:

Administrator Fees	\$ 63,350.00
Legal Fees	\$198,209.49
Professional Services	\$142,252.24
Secretarial Services	\$ 44,537.68
Travel & Hospitality Expenses	\$ 29,404.13
Printing	\$ 12,309.60
Office Expenses	<u>\$ 15,719.70</u>
	\$505,782.84

(b) Pursuant to section 701 of the Act, the Administrator directed the payment of \$5,141,693.01 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:

NAKHODKA Major Claims Fund -	\$3,442,884.80	
NISSOS AMORGOS Major Claims Fund -	\$157,103.10	
OSUNG No. 3 Major Claims Fund -	\$157,103.10	
SEA EMPRESS Major Claims Fund -	\$1,380,269.58	
SEA EMPRESS/YEO MYUNG/YUIL No. 1 Major Claims Fund -	<u>\$876,301.95</u>	\$6,013,662.53

Less credits respecting unused funds for:

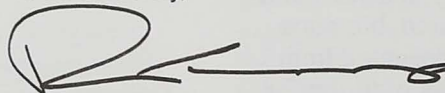
General Fund -	-\$157,179.99	
SENYO MARU Major Claims Fund -	-\$187,550.98	
TAIKO MARU Major Claims Fund -	-\$222,056.90	
TOYOTAKA MARU Major Claims Fund -	-\$305,181.65	
		-\$871,969.52
		Total \$5,141,693.01

(c) Pursuant to sections 710 and 711 of the Act, the Administrator settled claims for the sum of \$46,919.79.

During the reporting fiscal year, interest credited to the Fund was \$13,987,903.61.

At March 31, 1998, the balance in the Fund was \$268,931,270.65.

Yours sincerely,



Peter M. Troop
Administrator
Ship-source Oil Pollution Fund