

The civil liability convention and the fund convention

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Any individual who has received more than 150 000 tonnes of crude oil, as well as heavy oil in one year, and is in a member state of the 1992 Fund Convention is liable to contribute to the fund. However, the levy of these contributions depends on reports of oil receipts with regards to individual contributions. The fact that the receiver could be a company owned by a state, a government agency, or a private company is a significant determinant of applying the levy (International Oil Pollution Compensation Funds, 2009).

According to the Gard Group (2011), member states need to report to the Fund Convention the name and address of any liable person to contribute and the amount of contributing oil they receive in that state, yearly. The only exceptions to reporting to the Fund Convention are associated with persons such as subsidiaries and commonly controlled entities. In addition, the Fund levies annual contributions to its members who pay a certain amount per tonne of contributing oil they receive, so as to meet the projected expenses of the coming year (The Secretariat of the International Oil Pollution Compensation Funds, 2004).

How the 2003 protocol legal aspects differ from the 1992 version

In the 1992 Fund, there was a protocol adopted in 2003 that gave way to the establishment of the third tier of compensation on 3 March 2005, through the Supplementary Fund. The provision of the Supplementary Fund the limitation to paying for compensation for pollution damage for only the incidents that occur after the state in question accepts the Protocol. Notably, being a member of the Supplementary Fund is not a must and any state party to the 1992 Fund may join whenever they wish (The Secretariat of the

International Oil Pollution Compensation Funds 2004).

In any calendar year, any person of a member state who has received contributing oil of more than 150 000 tonnes is liable to annual contributions to the Supplementary Fund. The difference between the contribution to the Supplementary Fund and to the 1992 Fund is that they believe that each member state receives at least 1 million tonnes of contributing oil each year, for the purpose of paying contributions. The Supplementary Fund provides extra compensation that is higher than that provided in the 1992 Fund Convention for pollution damage in the states that accept the protocol (International Oil Pollution Compensation Funds, 2009).