Liability, Compensation and Interim Financing for Oil Spills from Shadow-Fleet Tankers: Insights from a Finnish Interagency Tabletop Exercise

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Liability and Compensation Regime for Ship-Source Pollution Damage

In the event of an incident involving a sea-going vessel (as applicable: 1992 Civil Liability Convention and 1992 Fund Convention, Supplementary Fund Protocol, 2001 Bunkers Convention, or 2010 HNS Convention)

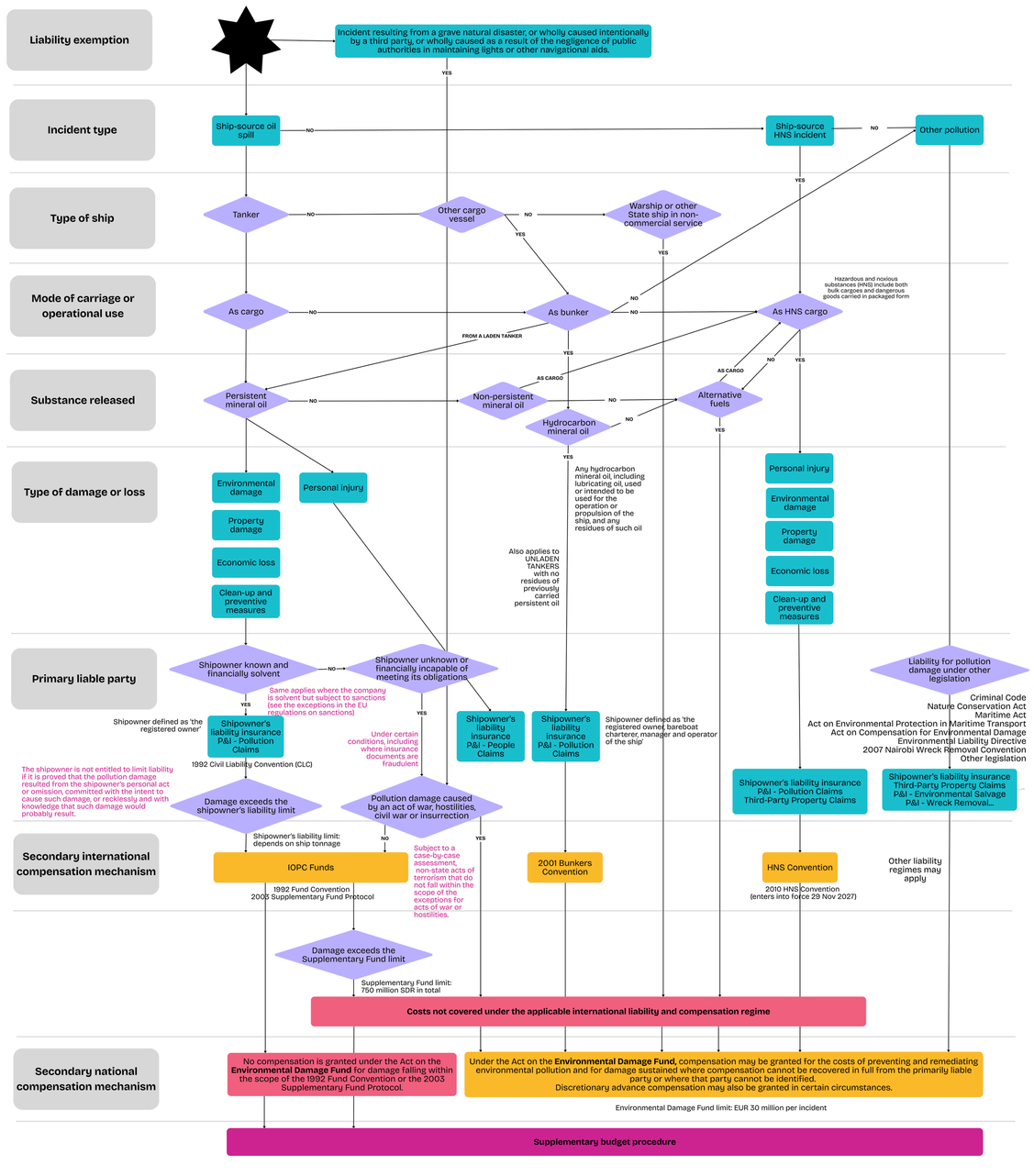


Figure 1. Simplified framework for determining the applicable liability and compensation regime, including shipowner liability, eligibility for compensation from the IOPC Funds, circumstances falling outside these regimes, and specific considerations associated with shadow-fleet tankers. The figure is intended for illustrative purposes and does not necessarily reflect the official positions or interpretations of the IOPC Funds or other relevant bodies.

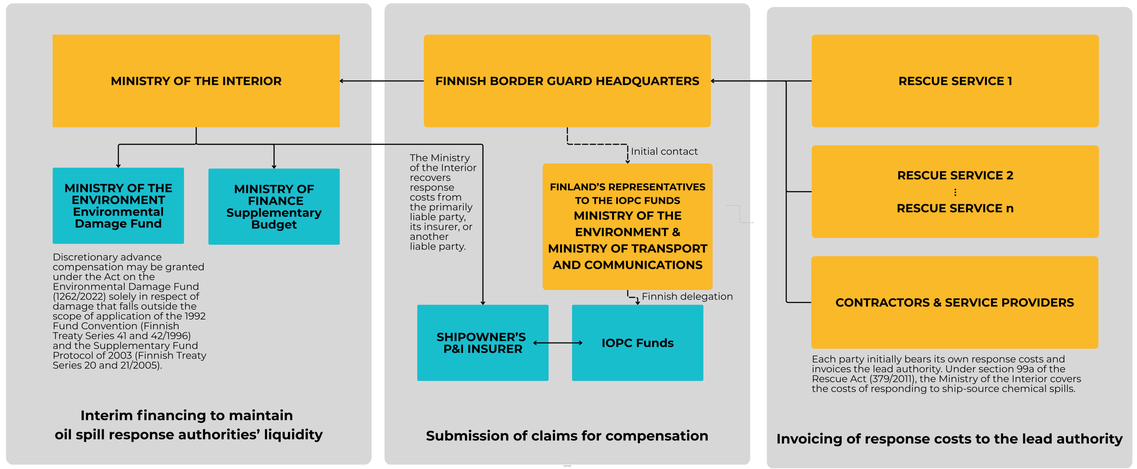


Figure 2. National procedures for claims compilation, cost recovery, and the interim financing of response costs during a multi-agency oil spill response operation led by the Finnish Border Guard.

The risk of oil spills has increased across Europe, particularly in the Baltic Sea, as Russia has increasingly relied on shadow-fleet tankers to circumvent sanctions and the oil price cap. Concerns associated with these tankers include compliance with applicable safety and maintenance requirements and the adequacy of insurance coverage. A substantial share of shadow-fleet oil transport passes through the narrow Gulf of Finland. Geopolitical tensions in the region have also increased. Finnish authorities therefore need to clarify liability for pollution damage and response costs under the applicable compensation regimes, as well as national arrangements for financing these costs pending compensation.

An interagency tabletop exercise examined the applicable liability and compensation regimes, claims compilation, cost recovery, and interim financing of response costs in multi-agency oil spill response operations arising from incidents involving shadow-fleet vessels or hybrid interference. Exercise participants included Finnish oil spill response authorities, such as the Finnish Border Guard and coastal Rescue Services, relevant ministries, P&I insurers, Finland's representatives to the IOPC Funds, and representatives of Finland's national Environmental Damage Fund.

Three challenging spill scenarios identified

The exercise addressed three potential scenarios:
1) the registered shipowner cannot be identified and the insurance certificate is found to be fraudulent;
2) the insurer is financially capable of meeting its obligations, but sanctions may prevent payment transactions; and
3) the spill results from an intentional act by a third party, such as a drone strike, raising the question of whether the incident constitutes hybrid interference, an act of terrorism, or an act of war.

Flowcharts and guidance for claims compilation and interagency coordination

The exercise produced flowcharts for assessing the applicable liability and compensation regimes and supporting interagency claims coordination in operations led by either the Finnish Border Guard or a regional Rescue Service. The flowcharts and other outputs are based on the expert judgement of the exercise participants and should not be interpreted as reflecting the official positions of the IOPC Funds, other pollution compensation funds, or insurers.

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