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WORLD MARITIME UNIVERSITY

Dalian, China

**ANALYSIS ON EFFECTIVENESS OF
COMPENSATION SCHEME FOR OIL
POLLUTION DAMAGE FROM SHIP IN CHINA**

By

SHEN YIMING

The People's Republic of China

A research paper submitted to the World Maritime University in partial
Fulfillment of the requirements for the award of the degree of

MASTER OF SCIENCE

(MARITIME SAFETY AND ENVIRONMENTAL MANAGEMENT)

2016

DECLARATION

I certify that all the material in this research paper that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

The contents of this research paper reflect my own personal views, and are not necessarily endorsed by the University.

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Title of Dissertation: **Analysis on Effectiveness of Compensation Scheme for
Oil Pollution Damage from Ships in China**

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ABSTRACT

Nowadays, in dealing with the compensation problem of cargo oil pollution damage caused by ships, a two-tier compensation regime, consisting of a liability scheme and a fund scheme, is the main stream worldwide.

More and more attention has been paid to the importance of environmental protection in China, and the legislation framework of compensation for oil pollution damage is constantly developing. As the contracting party of CLC 1992 the first tier compensation in China is in compliance with international conventions; the domestic fund scheme has also been established in China through referring to the international conventions.

The overview of international and domestic framework of oil pollution damage compensation is examined for the purpose of comparing the benefit of environmental protection.

Some hot topics and latest legislation are discussed on the basis of practical work experience in order to analyze the effectiveness of the scheme. Some continuous efforts should be taken to improve the compensation regime and the reaction against the potential risk of oil pollution damage.

KEY WORDS: CLC 1992, Fund 1992, National Fund 2012, oil pollution damage, compensation

Table of Contents

MASTER OF SCIENCE	1
DECLARATION	i
ACKNOWLEDGEMENTS.....	ii
ABSTRACT	iii
LIST OF ABBREVIATIONS	vi
CHAPTER 1.....	1
INTRODUCTION.....	1
1.1 Impact of oil pollution damage.....	1
1.2 International compensation regime for oil pollution damage	1
1.3 Objectives and methodology	3
1.4 Definition of oil pollution damage.....	4
CHAPTER 2.....	5
Legislation framework of oil pollution damage compensation in China.....	5
2.1 CLC 1992	5
2.1.1 The application of CLC 1992 in China	5
2.1.2 Relevant provisions of CLC 1992.....	5
2.2 Fund Convention	6
2.2.1 The beneficial supplement to compensation	7
2.2.2 The application of Fund Convention in China	8
2.3 Fund scheme in mainland China.....	9
2.3.1 The long-expected regulation.....	9
2.3.2 The application of National Fund 2012.....	10
2.4 Other domestic legislation concerned with oil pollution damage.....	12
2.4.1 General provisions of the civil law (GCL).....	12
2.4.2 Marine Environmental Protection Law of the People’s Republic of China (ME Law)	13
2.4.3 Maritime Code of China (CMC)	13
2.4.4 Tort Law.....	13
2.4.5 Regulation on the Prevention and Control of Vessel-induced Pollution to the Marine Environment (Prevention Regulations)	14
2.4.6 Provisions on several issues concerning the trial of compensation for oil pollution damage from ships 2011 (Provisions 2011).	14

CHAPTER 3.....	15
Some Debates on compensation mechanism in China	15
3.1 The argument of the applicability of CLC 1992.....	15
3.1.1 Legal quagmire of marine oil pollution compensation.....	15
3.1.2 Debate between monism and national condition.....	16
3.2 Choice of suitable opportunity to adopt Fund 1992.....	19
3.2.1 Consideration of cons of acceding to Fund 1992.....	21
3.2.2 The long-term strategy of acceding to Fund 1992	21
3.3 National Fund 2012— domestic fund system in China	23
3.3.1 Some hot issues of National Fund 2012.....	23
CHAPTER 4.....	28
Comparison and discussion on Specific procedures of fund schemes.....	28
4.1 Comments on latest progress of National Fund 2012.....	28
4.2 Specific procedures of National Fund 2012 -- OPC Criterion and OPC Guideline	30
4.2.1 The significance of the specific procedures	30
4.2.2 The characteristics of the OPC Criterion	31
4.2.3 The characteristics of the OPC Guideline	34
4.3 IOPC Fund Claim Manual.....	36
4.3.1 The main content.....	36
4.3.2 Different style compared with OPC Guideline	37
CHAPTER 5.....	39
CONCLUSION	39
REFERENCES.....	41

LIST OF ABBREVIATIONS

Bunker 2001	International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001
CAC	Claims Affairs Center of oil pollution damage
CLC 1969	International Convention on Civil Liability for Oil Pollution Damage, 1969
CLC 1992	International Convention on Civil Liability for Oil Pollution Damage, 1992
CMC	Maritime Code of China
Fund 1971	International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971
Fund 1992	International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992
Fund 2003	International Oil Pollution Compensation Supplementary Fund, 2003
GCL	General provisions of the civil law
HP	horsepower
IOPC Fund	International Oil Pollution Compensation Fund

ME Law	Marine Environmental Protection Law of the People's Republic of China
MSA	Maritime Safety Administration
National Fund 2012	Administrative Measures for the Collection and Use of Compensation Funds for Vessel-Induced Oil Pollution Damage
OPC Criterion	The Criterion of Oil Pollution Damage Compensation Fund
OPC Fund	Chinese Oil Pollution Damage Compensation Fund
OPC Guideline	The Guideline of Oil Pollution Damage Compensation Fund"
PL coastal	Provisions on the limitation of the maritime claims for the ships less than 300 GT and ships engage on coastal transportation and operations
Prevention Regulations	Regulation on the Prevention and Control of Vessel-induced Pollution to the Marine Environment
Provisions 2011	Provisions on several issues concerning the trial of compensation for oil pollution damage from ships 2011
SDR	Special Drawing Rights

CHAPTER 1

INTRODUCTION

1.1 Impact of oil pollution damage

Since the beginning of the last century, oil has become the main energy in the world (Woolgar, 2008). As the mode of transport is mainly by sea tankers, a huge amount of oil and its products have spilled into the ocean due to misoperation or accident. According to statistics, the total number of major accidents which result in more than ten thousand tons of oil pollution has reached 60 since 1960s and these accidents have caused great damage to the coastal state (Ke, 2012). The ship oil pollution not only causes economic losses and damage to personal safety, but also has a bad influence on fishery resources, the seashore tourism industry and the government tax revenue.

In March 1967, tanker “Torrey Canyon” ran aground in the English Channel, resulting in damaged hull, more than 10 million tons oil spilled out within the next 10 days. The accident caused huge losses, but the victims could not get sufficient and reasonable compensation according to the law at that time. The court settled the dispute through consultation to \$3 million, and the victim just received a very small part of compensation (Pavliha & Grbec, 2008). This milestone of the world's first major oil pollution damage accident triggered the subsequent development (Perrons, 2013). How to protect the parties to the full and reasonable compensation for the oil pollution damage caused by a wide range of influence has become the focus of international attention.

1.2 International compensation regime for oil pollution damage

In order to solve the major compensation for pollution damage caused by vessel oil spill, the International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC 1969) was adopted at Brussels in 1969, and its core is ensuring prompt, equitable compensation payments to victims for damage suffered could be received, and appropriate liability insurance is required at the same time. The adoption of CLC 1969 marked a concerted international effort to facilitate consistent treatment of oil pollution damage claims across national legal systems (Mason, 2003) and the liability of oil pollution damage was given to the registered ship owner directly.

Sometimes, the compensation is not fully available under CLC 1969 for some reasons: the pollution damage exceeds the limits of ship owner liability; the damage exceeds the financial ability of the ship owner; the responsible ship owner is exempt from liability. Due to the aim to enable the victim to get adequate compensation for oil pollution damage, and propelled by the concept of sharing responsibility both by the ship owner and cargo owner, International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971(Fund 1971) was formulated (Wei, 2007).

After two amendments are adopted both for CLC 1969 and Fund 1971, which are protocol 1976 and protocol 1984 (the requirement of entry into force was not met), CLC 1992 and Fund 1992 were adopted and came into force. The core content of the protocol of the Convention is to improve the scope of application and constantly improve the limitation of compensation, aiming to ensure more adequate protection for the environment and the victim (Guo, 2005).

Currently, the two-tier structure of international compensation regime for tanker oil pollution damage widens the obligations beyond personal injury and property damage to environmental impairment and provides sufficient compensation to

victims. As the first tier, strict liability is imposed by CLC on the ship owner who causes oil pollution, and this liability is limited according to ship tonnage. In the second tier, pollution damages over the limit of first tier are protected by the International Oil Pollution Compensation Fund (IOPC Fund) according to Fund 1992, and the fund is financed by levies imposed on oil receivers (Dong et al., 2015).

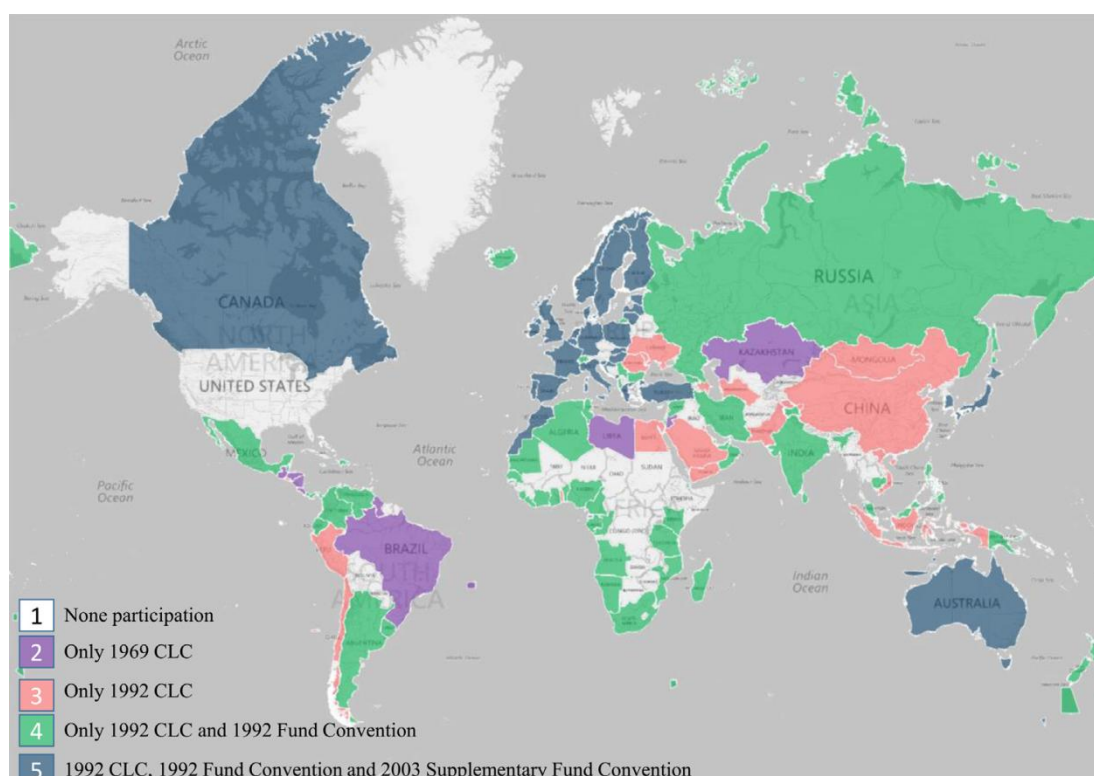


Figure 1-- Country groups according to the ratification of international conventions on compensation for tanker oil pollution damage

Source: Explanatory Note of the IOPC Fund, August 2014

1.3 Objectives and methodology

The purpose of this paper is to analyze whether the effectiveness of China's current oil pollution compensation mechanism for environmental protection is enough through the analysis of the case of domestic oil pollution compensation. In addition

the liability compensation mechanism in China is discussed.

Relevant literature is reviewed and compared, including related International Convention, domestic legislation, articles, books, comments from journals and websites. After the on-the-spot interview of ship companies and the competent authority, their opinions were comprehensively considered and referenced.

1.4 Definition of oil pollution damage

It should be emphasized that the oil pollution damage in this paper is limited to the scope of the oil defined by CLC1992, which is the cargo oil carried onboard a ship and does not include general vessel bunker oil. Bunker oil is not cargo oil, and it is the power fuel that the ship owner or ship operator prepares for the operation of the ship.

The compensation issue of bunker oil pollution damage is stipulated in International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunker 2001). Oil and residues used or intended to be used for the operation or propulsion of the ship shall be considered in Bunker 2001, and will not be discussed in this paper.

CHAPTER 2

Legislation framework of oil pollution damage compensation in China

2.1 CLC 1992

2.1.1 The application of CLC 1992 in China

In order to adapt to the international development, China approved to join CLC 1992 on January 5, 1999, and that was one of the major initiatives to strengthen Chinese water environment protection (Wang and Wang, 1999).

2.1.2 Relevant provisions of CLC 1992

As stipulated in Article I/1 of CLC 1992: “Ship” means any sea-going vessel and sea-borne craft of any type whatsoever constructed or adapted for the carriage oil in bulk as cargo, provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage in bulk aboard. The Convention is only applicable to oil pollution from oil tankers, which cannot be applied to oil pollution accidents caused by other types of vessels. Another limitation of the application of the CLC 1992 is that it is only applicable between contracting parties, if the case involving non foreign vessels or non contracting parties, it will not be applicable.

As written in Article I/6 of CLC 1992, pollution damage is defined as:

(a) Loss or damage caused outside the ship by contamination resulting from the escape or discharge from the ship, wherever such escape or discharge may occur,

provided that compensation for impairment of the environment other than losses of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken.

(b) The costs of preventive measures and further loss or damage caused by preventive measures.

From the regulation above we could figure out the environmental damage claims include not only consequential loss claims but also claims for pure economic loss, and this has made CLC 1992 extend its liability norms beyond their traditional restriction to property damage (Mason, 2003).

As Article II of CLC 1992 regulates, this convention is applicable to pollution damage in the territory, territorial sea and exclusive economic zones of the contracting states. On the other hand, when solving the problem of oil pollution damage from ships with foreign factors, China's approach is to apply the international conventions when there is conflict between international conventions and domestic laws. Unless there are other provision in laws or regulations, the civil disputes concerning oil pollution damage involving non foreign elements shall be applicable to the domestic law (Liu, 2010). It is used to considered that, the CLC 1992 is applicable for oil pollution damage caused by foreign tanker and Chinese tanker engaged in international navigation which carries more than 2000 tons of oil in bulk in Chinese territory, territorial sea and exclusive economic zones, but some argument still exists, and in the third chapter, I will discuss the problem in depth.

2.2 Fund Convention

2.2.1 The beneficial supplement to compensation

After the formulation of CLC 1969, some participating countries propose that the limit of liability provisions of CLC 1969 is too low and the principle of no fault liability gives too much pressure to the ship owner. In order to protect the victim's interests better and share responsibility with the ship owner, as a supplement of CLC 1969, the Fund 1971 was born.

In addition to the Fund 1971, the revision of the follow-up protocol has been combined with the revision of the CLC 1969, in which the Fund 1992 made substantial changes to the Fund 1971. But due to some serious oil pollution accidents, the victim still cannot get sufficient compensation. For example, in the accident of tanker Erika in 1999, due to the limit of liability of the ship owner, considerable amount of the claim, which is far more than the limits of liability, cannot be implemented. The victim's interests cannot be guaranteed, which results in a new protocol that forms the third tier of compensation for the victims of the oil pollution damage, namely the 2003 protocol to Fund 1992, and this supplementary fund produces a new inter-governmental international organization -- the International Oil Pollution Compensation Supplementary Fund, 2003 (Fund 2003).

As the supplement of ship owner compensation obligation of CLC, the contribution of the IOPC Fund levies on any person who, in the calendar year, has received in total quantities exceeding 150,000 tons crude oil or heavy fuel oil, and the oil received has been transported by sea to the Member State. By the principle of Fund 1992, demand is the root cause of oil supply and transportation also is the fundamental driving force of oil pollution, so oil exporters do not pay contributions. Furthermore, only the first physical receiver of the oil in a Contracting State is liable to pay contributions, even if it is only temporarily stored (Zhu, 2006).

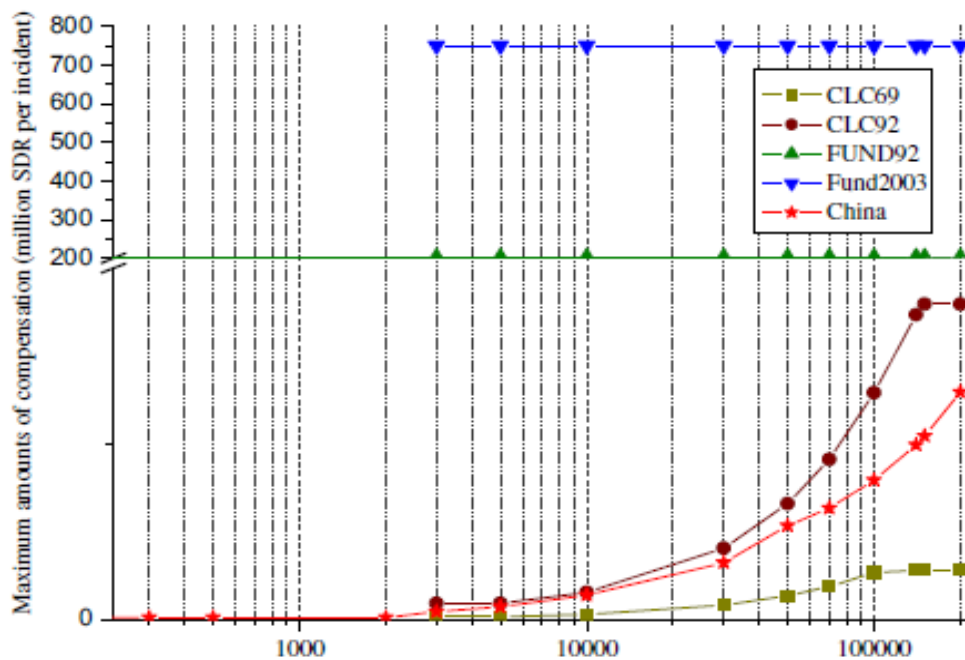


Figure 2- Comparison of the maximum amount of SDRs (million per incident) under the CLC 69, CLC 92, Fund 92, Fund 2003 and China laws.

Source: Zhang et al., 2014. Compensation for the damages arising from oil spill incidents: Legislation infrastructure and characteristics of the Chinese regime.

Currently, the maximum compensation level of Fund 1992 is 203 million Special Drawing Rights (SDR). Beyond such limit, it is possible for victim to obtain compensation from the Fund 2003, which expands the upper limit to 750 million SDR (see Figure 2).

2.2.2 The application of Fund Convention in China

On January 5, 1999, China proposed to accept the Fund 1992, but it is only applicable to the Hong Kong Special Administrative Region, China mainland has so far not joined any Fund Convention. What is more, Fund 2003 is not adopted in any

region of China so far. This means that in the mainland China, the victim of oil pollution damage accident involving foreign ship cannot obtain the compensation on the basis of Fund Convention and the Supplementary Fund (Liu & Liu, 2010).

2.3 Fund scheme in mainland China

2.3.1 The long-expected regulation

As a member state of CLC 1992, China hopes and should adopt the two tier structure composed of liability and fund scheme. At the same time, according to the actual situation of our country as a developing country, which aims to reduce native company's financial burden and to maintain the benign development of the shipping market, the application of some domestic laws and regulations is different from that of international conventions.

Before 2012, as the only major oil import country that neither joins Fund Convention nor establishes the domestic compensation fund scheme for oil pollution, China's establishment of a compensation fund system for oil pollution damage is extremely urgent: Shipping is a high risk industry, and the ship maintenance awareness of many native shipping enterprises is insufficient. Ship age is old generally, and many companies only have a single ship as the capital, after the occurrence of major oil pollution accident that results in large amount of compensation, the company would have to declare bankruptcy in order to escape liability, make a great damage to victim (Cao, 2012); When the involved ship escapes, or if it is hard to track and find the ship after accident happens, or if there is no corresponding compensation fund system, it will be difficult to ensure the victim's interest.

In 2012, after more than a decade of research and preparation, Administrative

Measures for the Collection and Use of Compensation Funds for Vessel-Induced Oil Pollution Damage (National Fund 2012) was formally implemented, which marks the establishment of the fund system of compensation for oil pollution damage in China (Jiang, 2014).

2.3.2 The application of National Fund 2012

Sources of funds

National Fund 2012 takes the principle of contribution just like Fund 1992, and they have similar framework. As regulated in Article V of National Fund 2012: any cargo owner or agent receiving the persistent oil products (including petroleum, fuel oil, heavy diesel and lubricating oil) by way of marine transportation in the water area of Chinese jurisdiction is obliged to be levied the contribution for ship oil pollution damage fund. Contribution standard is 0.3 RMB per ton of persistent oil product, and this value is close to the mean value of contribution unit of IOPC Fund over the years. (see Figure 3). Contribution will be collected for once for the same cargo. In addition, the passing transport of persistent oil products will not be levied.

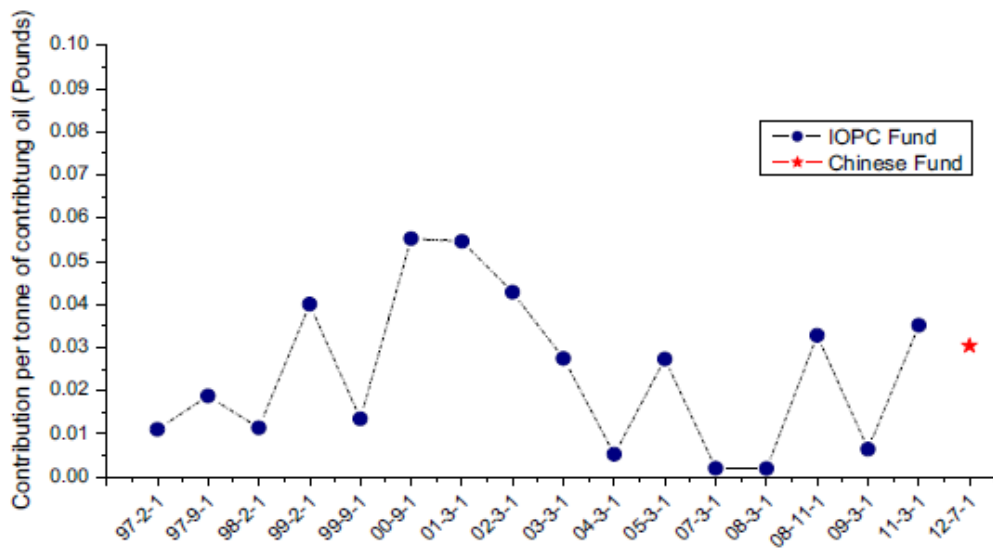


Figure 3-- Comparison of annual contribution per tonne of contribution under Fund Convention and Chinese Fund.

Source: Zhang et al., 2014. Compensation for the damages arising from oil spill incidents: Legislation infrastructure and characteristics of the Chinese regime.

Nature of fund

In accordance with Article III, the compensation fund for oil pollution damage from ships is run and managed as the government fund, and all the contribution income is collected into the national treasury, and will be devoted to the use of oil pollution damage compensation. It indicates that the nature of Chinese Fund scheme is in fact government fund, which should be given unified management by the government.

Scope of application

Four circumstances are defined clearly in National Fund 2012 to claim for compensation from the fund: the total amount of compensation caused by the same

accident is more than the ship owner's liability limit; the ship owner shall be exempted from liability for compensation in accordance with law; all or part of the obligations of ship owner, liability insurer or financial guarantor is unable to perform due to financial resources; when it is unable to find the ship that caused the pollution.

No compensation shall be provided in the compensation fund for oil pollution damage in the following 3 circumstances: oil pollution damage caused by war or hostilities or by Government ships, military ships and fishing vessels; claimants cannot prove the oil pollution damage caused by ship; all or part of the oil pollution damage is caused by the fault of the victims.

The compensation of the same accident shall be compensated as following content and sequence: cost of emergency operation to reduce oil pollution damage; cost to control or eliminate the pollution; direct economic losses of fishing and tourism; cost of the restoration of the marine ecological and natural fishery resources; cost of monitoring activities that are carried out by Compensation Fund Management Committee; other expenses approved by the state council.

2.4 Other domestic legislation concerned with oil pollution damage

2.4.1 General provisions of the civil law (GCL)

GCL provides the principle stipulation to the general pollution damage compensation that "in violation of the provisions on the protection of the environment and the prevention of pollution, it shall bear the civil liability in accordance with law."

2.4.2 Marine Environmental Protection Law of the People's Republic of China (ME Law)

This is the specific legislation on marine environmental protection. Article 90 regulates: the person liable of the marine environment pollution damage should exclude the harm and compensation for losses. However, ME Law only indicates 5 consequences of pollution damage to the environment and 2 patterns to bear the pollution liability, whereas specific provisions of the damage identification and compensation standards are not given.

2.4.3 Maritime Code of China (CMC)

Maritime Code of China did not give special provisions on the handling of cases of oil pollution damage from ships as most other countries did, and it only mentioned in Article 208 the limit of liability: this chapter is not applicable for the compensation claim of oil pollution damage regulates in civil liability convention that China takes part in. Through the article, CLC 1992 has the higher priority of applicability than CMC.

2.4.4 Tort Law

This law came into effect from July 1, 2010. In this law it is clear that the responsibility of environmental damage is the polluter, which reflects the principle that people who cause the pollution need to be responsible for it. When more than two polluters exist, proportion of responsibility shall be divided according to the types, quantity and other element of pollutants. When damage is caused by the pollution due to the third party's fault, the victim may claim compensation from the polluter or claim compensation from the third party, which is more conducive to the

protection of the victim's interests.

2.4.5 Regulation on the Prevention and Control of Vessel-induced Pollution to the Marine Environment (Prevention Regulations)

This regulation was formally promulgated by the state council on September 2, 2009. This regulation made supplementary provisions on the compensator, liability limits, compensation principles and prevention, treatment of marine pollution; it regulates that the domestic cargo owner or its agent of receiving the persistent oil products by the way of marine transportation is obliged to be levied the contribution for ship oil pollution damage fund, and to prepare for the subsequent promulgation of the National Fund 2012. It's worth noting that, as Article 52 regulates, the compensation limit shall implement in accordance with the provisions of the relevant international convention when ship carries bulk persistent oil products and causes oil pollution damage, regardless of the ship size and whether it is engaged on international navigation.

2.4.6 Provisions on several issues concerning the trial of compensation for oil pollution damage from ships 2011 (Provisions 2011).

For the first time in case of ship oil pollution, the main body, qualification, scope and standard of the claim are defined, To a certain extent, it offers the solution of how to choose the legal basis for compensation in case when it is not suitable for the International Convention.

CHAPTER 3

Some Debates on compensation mechanism in China

3.1 The argument of the applicability of CLC 1992

China's legislation on oil pollution is not perfect, and the legal applicability of oil pollution cases has always been a dispute, especially the CLC 1992 and the applicability of domestic law has been controversial.

3.1.1 Legal quagmire of marine oil pollution compensation

As listed above, the domestic legislation of ship oil pollution compensation is complex and some of the provisions are vague, and the application scope of CLC 1992 is restricted. It is easy to result in confusion of legal choice, that is, the applicability of law is different for the same type of the legal facts in maritime judicial practice. Prevention Regulations regulates that all domestic ships carrying bulk persistent oil products shall follow the compensation limit of CLC 1992, and do not distinguish between the tonnages of the ships, and this has caused a lot of controversy.

According to different laws and regulations, there is a large gap between the limit of compensation. Limitation of liability for oil pollution damage in China can be divided into three kinds of situations: CLC 1992, CMC, Provisions on the limitation of the maritime claims for the ships less than 300 GT and ships engaged on coastal transportation and operations (PL coastal).

Table 1. The compensation limitation compared according to the tonnage of the ships (Thousand SDR)

GT	20	100	200	300	500	1000	2000	5000	10000	100000
CLC 1992	3000	3000	3000	3000	3000	3000	3000	3000	5100	42900
CMC				167	167	250.5	417.5	918.5	1753.5	16778
PL coastal	13.8	26.9	51.9	83.5	83.5	125.3	208.8	459.3	876.	87389

The distinction of expense use for anti-pollution exists. Article V/8 of CLC 1992 stipulates: expenses made by the owner to prevent or minimize pollution damage shall rank equally with other claims against the fund. This cost is defined as the cost of preventive measures, included in the compensation limitation; but if applicable in ME Law, anti-pollution costs may be identified as administrative responsibility.

What is more, the main body of liability applies only to the owner of the ship in CLC 1992, but in CMC, the main bodies of liability include ship owner, salvor, ship operator, charterer and insurer.

3.1.2 Debate between monism and national condition

There are many disputes on how to apply the CLC 1992 in China. It is not controversial that this Convention applies to oil pollution case with foreign ships involved in, the focus is whether CLC 1992 is applicable to domestic cases without foreign factors, and for this scholars have different views.

Someone argues that as a developing country, China's economic structure is imperfect and the people's living standard is improving gradually, although we participated in the CLC 1992, the domestic situation is still difficult to reach the

international level, so it is improper to adopt monism to deal with all oil pollution cases. Especially for China's coastal transport vessels, small tonnage tankers, the huge amount of compensation limitation is unbearable. They point out in the case of the compensation limitation, it is not appropriate with China's status quo if the domestic cases are also applicable to CLC 1992. The actual situation in China is: small ships take the majority, and 95.5% of the tankers is less than 5000 GT, 80% of the tankers less than 1000 GT; the probability of accident is higher for small vessels due to the relative lower management level; small tanker has extremely low compensation ability, but with the development of ship oil pollution insurance system in China, affordable burden of most of Chinese tankers is low once the accident happens (Liu, 2002). However, in CLC 1992, the limitation of the compensation liability for the owner is: 4.51 million SDR for a ship not exceeding 5000 units of tonnage, or about 45 million RMB, it is obviously too high for most ship owners and increases the burden on the shipping industry. According to statistics, from 1973 to 2005, a total of 65 major accidents happened with the amount of spilled oil over 50 tons, and foreign vessels accounted for 74% of the total compensation and domestic vessels paid for the other 26%. Foreign vessels compensated 11 million RMB per accident on average, whereas Chinese ships compensated 3 million 200 thousand RMB for each accident (maritime law monograph). Thus, in accordance with the provisions of Prevention Regulations, the implementation of the monism with 45 million RMB as a minimum standard is unrealistic and it is equivalent to the requirements of unlimited liability for domestic ship owners. In addition, since Prevention Regulations require compulsory insurance system for domestic tankers and ship owners of small tanker shall pay for the high premium, it will reduce the enthusiasm of the development of the shipping market and it is also a problem whether insurers have the courage to accept such a high amount of insurance.

But in my opinion, there are more benefits than drawbacks if we unify the standard. It is a good opportunity to promote the development of the domestic shipping industry by adopting international conventions and enhance the requirements of domestic ships.

Firstly, according to China's current economic strength, this is the performance that China shall own for the national overall image. Although still a developing country, but as the world's second - largest economy and a large shipping country in the world, China should have more courage to accept the challenge by enhancing the standard, learning standards, and then leading standards, formulating standards, rather than being conservative and passive to change.

In recent years, more and more attention has been paid to the topic of environmental protection in China, and it has become a consensus that we shall not pursue economic growth blindly and ignore the environmental costs, and the road of green sustainable development is not only the demand of the domestic economy transformation, but also the expression of the social civilization. Therefore it is the trend of times to continue to strengthen environmental protection and formulate environmental protection regulations strictly. Oil pollution damage has long-term impact on environment and strict management is extremely necessary.

Secondly, the unified standard of CLC 1992 will help to clarify the chaotic status of law applicability when dealing with the oil pollution case of non foreign factor. For instance, in 1999, Guangzhou maritime court ruled on the case of tanker Min Ran Gong 2 by the application of CLC 1992, in contrast with the case in 1994 that Qingdao maritime court ruled on the case of tanker Yan Jiu You 2 according to GCL and ME Law. The flag state of the two tankers involved is China and these tankers sailed on domestic routes, carrying less than 2000 tons of cargo oil. The pollution

water areas were both in China, but they received different results due to the unified legal applicability (Liu, 2004). It is a commendable change that according to the regulation of Prevention Regulations, CLC 1992 applies to all domestic ships carrying bulk persistent oil products cargo, so it is beneficial to the fairness and consistency of law. CMC still applies to all domestic ships carrying non persistent oil products cargo, but this kind of cargo oil indicates very slight damage to the environment relatively.

Thirdly, the shipping industry should be forced to reform by raising the cost of environmental damage. Recent years, the shipping market is in a difficult situation. In order to encourage the development of the shipping market, the government has introduced a lot of measures to support the shipping industry, but also reduced the entry threshold of the shipping industry. Lot of companies which lack financial strength and operation skill are entering the industry. The existence of speculators will be harmful to the healthy development of shipping industry, so the direction of legislation should not be built on the basis of the tolerance of defects, which are unfair to the rational practitioners investing lots of capital and resources. By raising the price of oil pollution damage as well as the cost of compulsory insurance system, the participants that do not meet the requirements of the market will be eliminated. It may be painful to reform, but it is conducive to the long-term development and healthy competition in shipping industry.

3.2 Choice of suitable opportunity to adopt Fund 1992

China is a contracting party of CLC 1992, but Fund 1992 is only applicable to Hong Kong. With its rapid economic development, according to the statistics of World Bank, China has been categorized as an upper-middle income country since 2010. According to the research of Dong Bingying, Zhu Ling, Li Kevin et al. in 2015

the risk category of Chinese coastal regional seas was “High” and had the greatest risk of oil spill. As has been discussed before, the ship condition of domestic oil tankers is relatively poor, the technical conditions of the ships such as communication equipment and navigation gear are backward relatively, the undemanding market access conditions result in the ship owner’s carelessness about ship safety and improving management ability, all of which lead to higher risk of oil spill due to the low anti-risk ability. In addition to this, due to the growth in imports, China has now become the second large crude oil importing country with the import volume being about 5.658 million barrels each year, and that makes China face continuous high risk of oil pollution damage (Woolgar, 2008), see Figure 4.

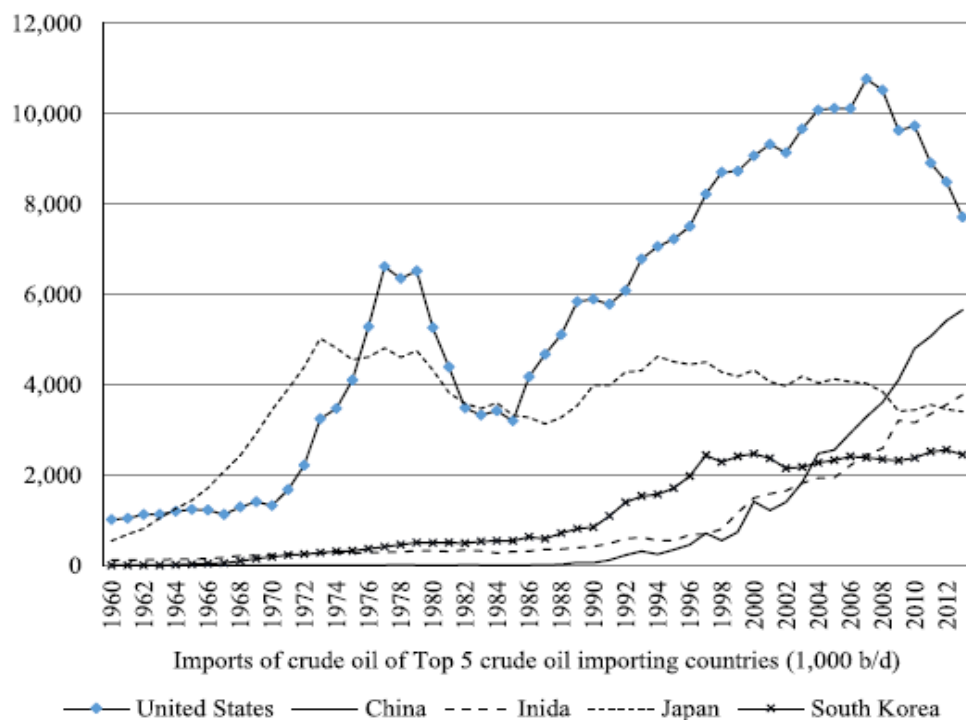


Figure 4--Top five crude oil importing countries (million barrels/day).

Source: Dong, B et al, 2015. Acceptance of the international compensation regime for tanker oil – And its implication for China.

3.2.1 Consideration of cons of acceding to Fund 1992

China does not join the Fund 1992, the main consideration is that compared with the potential gains of compensation, the costs of acceding to Fund 1992, which means the contribution to the IOPC fund, will be much higher. Since 1993, China has become a net oil importer, and in recent years it has become the world's second largest crude oil importer. According to the principle of proportional contribution, China will pay great amount of contribution for IOPC fund, which makes China's oil enterprises bear heavy burden(Liu and Liu, 2010).

Besides, as a member in fund 1992, unified management will be made by the IOPC fund. On the one hand, there is no major oil spill accident in China recent years, and we will hesitate to pay for the accident which is caused by management problems of some countries; on the other hand, in the claim for compensation after accident, the ability of our claim techniques, cleaning technology and equipment are relatively backward, which becomes the obstacles to obtain full amount of compensation. And there are concerns of being controlled by others when jurisdiction is not grasped in our own hands. Thus the mainstream opinion is that cons are more than pros to join Fund 1992 as our interests will suffer losses.

The considerations above are reasonable. With the establishment of our own fund system, the problem of insufficient compensation limitation will be alleviated to a certain extent. At the same time of straightening out the legal relationship gradually, the domestic Civil Liability and Fund scheme as a short-term plan can meet the requirements of the oil pollution damage compensation at present.

3.2.2 The long-term strategy of acceding to Fund 1992

China may face a greater risk of oil pollution accidents with the increasing volume

of oil imports and the rapid development of the oil industry. Although it may not occur frequently, but major oil spill may bring terrible consequences to our country, including economic losses and the permanent damage to the ecological environment. If such rare accident happens, it may cause a lot of damage far beyond the capacity of the domestic compensation ability.

In June of 2011, oil spilled from the largest oil platform - Penglai 19-3 in Bohai sea, with 723 barrels of oil being released into the sea and 2620 barrels of mineral oil mud being released onto the sea bed. According to the compensation agreement, the total amount of compensation was reaching 274 million US dollars. If a tanker with the same capacity of oil spill occurred, the total compensation will exceed the current maximum amount of domestic Civil Liability and Fund scheme. Instead, if China becomes a member of Fund 1992, the state and the victims may get adequate compensation from IOPC Fund.

From another point of view, indeed, it needs to pay high cost to accede to the Fund 1992, but it also means we could share our high risk with other countries, which is beneficial to safeguard our own interests. Oil pollution accident has its inevitability. We cannot predict when and where the accident will happen. With the development of producing activities, although we can improve technology to reduce the frequency of accident, we cannot eliminate the probability. With the development and improvement of economy, in case major oil pollution accident occurs, the compensation amount of claims will also increase dramatically, especially due to the particularly valuable ecological and natural resources for China nowadays.

In summary, from a long-term point of view, it is beneficial to accede to Fund 1992 since it will afford a better guarantee to Chinese environment. Canada is a typical country which adopts the dual fund scheme that combines the international

fund and the domestic fund. Canada is not only one of the parties to the Fund 1992, Fund 2003, but it also establishes the domestic oil pollution compensation fund. From the point of view of specific provisions, the Canadian domestic oil pollution fund legislation is basically consistent with the international convention, and it just makes some supplement according to national conditions.

China could establish the dual fund scheme by learning the experience of Canada. After the establishment of Chinese Oil Pollution Damage Compensation Fund (OPC Fund), as the domestic anti-pollution technology and claim ability improve, then China mainland could adopt Fund 1992 or even Fund 2003.

3.3 National Fund 2012— domestic fund system in China

As early as 1997, China has set up a research subject on the establishment of the compensation fund related to ship oil pollution damage. In January 2003, the Ministry of Transport and the Ministry of Finance proposed the establishment of China's domestic compensation fund. On the basis of a series of research and analysis, opinions of relevant departments of the State Council and the major oil receivers, the draft of the management approach was finally announced in 2004. After 8 years of preparation and discussion, National Fund 2012 was finally issued, which is the symbol of the preliminary setup of Chinese oil pollution compensation fund system.

3.3.1 Some hot issues of National Fund 2012

Limitation of compensation

In view of the existence of a large gap between domestic oil pollution damage compensation ability and the limitation requirement of International Convention, in

determining the maximum compensation limit of our fund system, Article 19 of National Fund 2012 stipulates: the total amount of compensation on each oil pollution accident shall not exceed 300 million RMB.

Table 2-- Comparison of the maximum compensation amount between 1992 CLC/Fund Convention and the Chinese domestic regime.

	The 1992 CLC/Fund	Chinese domestic regime
1st Tier	4.5 million SDR for ships not exceeding 5000 t; 630 SDR for each additional ton; not exceeding 89.77 million SDR	4.5 million SDR for ships not exceeding 5000 t; 630 SDR for each additional ton; not exceeding 89.77 million SDR
2nd Tier	203 million SDR	In no case will more than RMB 30 million be paid in addition for a single incident
Total	USD 310.39 million	USD 142.13 million

Source: Dong, B et al, 2015. Acceptance of the international compensation regime for tanker oil – And its implication for China.

As Table 2 indicates, compared with CLC 1992 and Fund 1992 compensation structure, the limitation of China's compensation fund seems to be very low. It must be clear that when determining the utmost level of compensation, status quo and future development trend of Chinese oil pollution accident should be considered. This issue should be based on condition of the primary stage of fund's establishment. A limitation of 30 million RMB should be set and it should be adjusted according to

the actual operation situation, so as to avoid too much contribution burden on the oil receivers and harmful influence on the ultimate operation of fund.

Term of validity of claim

Article 22 stipulates: victim's claim for compensation of oil pollution damage from the fund, this action shall be extinguished unless it has brought thereunder within 3 years from the date when the damage occurred, however, in no case this action shall be brought after 6 years.

Compared with the draft, the regulation of claims period is modified. In the draft version, the validity time is 3 years, now National Fund 2012 changes it to not more than 6 years. Such provisions include the general validity time and maximum time, and in the domestic legislation system it has reached a consensus with CMC. At the level of international convention it is also the same as the regulation of CLC 1992 and Fund 1992, and the consistency improves the operability of the law.

Compensation for emergency operations

After the occurrence of pollution accidents, there should be the primary mission emergency response to reduce the damage, and the clean-up operation should be followed by other compensation claims (Liu & Zhu, 2014). As the first defensive line to the occurrence of oil pollution accident, the effect of emergency response measure can reduce the total damage to minimum. If the policy of supporting and encouraging the emergency operation is insufficient, it will adversely affect the control of the accident inevitably, so the National Fund 2012 covers the cost of emergency operation to reduce oil pollution damage in its scope of compensation and puts this cost in the 1st place to get compensation. The emergency response cost compensation enjoys priority to other claims, and it is by this method that the effective operation of

the oil pollution emergency system can be ensured.

Compared with the National Fund 2012, claims priorities are not stipulated in the Fund 1992, so it is unnecessary for the victim to concern about the sequence, since all claims of pollution damage compensation will be accepted equally. The compensation priority of emergency operations in our country is mainly because the domestic fund system has just started and is imperfect, and the capital amount in the fund pool is limited, thus it is not realistic to satisfy all compensation of all claims without considering the order and amount.

After some interviews and discussions with relevant officers of Maritime Safety Administration (MSA) in China, especially some persons engaged in the search and rescue work for a long time, some realizations and opinions of emergency response operation are collected and summarized. Under China's current anti pollution emergency system, the oil pollution emergency response work is led and coordinated by the government. Port department, companies of receiving sludge water and bunker supply and other companies involved are the main forces of emergency work. Government may establish anti-pollution emergency base and purchase cleaning supplies and equipment and consider the profit and environment of the port, while port enterprise may also establish emergency resources. Related companies will be organized as members of the emergency response system by government, cleaning supplies and equipment of government may also be allocated to them and then be operated by the company when accidents happen.

The present problem is, at the time of the accident, although the government uses administrative order to enable companies to participate in emergency response, yet after the accident, resources cost and manpower cost of companies cannot be compensated in time. Sometimes the authority in charge may pay in advance, but

overall, composition for emergency response takes a long time, and companies are not enthusiastic to this dirty work, resulting in the negative and inefficient operation when accidents happen.

From the point of view of the National Fund 2012, in the use of funds, apart from the emergency rescue fee, cost of eliminating and disposal oil and loss of implement pollution prevention measures are included, which even ranks in the first place of compensation, but the provisions still fail to provide comprehensive and timely capital for our emergency response system. The so-called oil emergency operation requires funds for the prevention action to be carried out to schedule in the first time in case that oil pollution damage happens. National Fund 2012 has not reached the expected goal in the provisions of compensation priority. Each claim of funds still needs to be investigated and verified by fund management committee, then to be allocated to the claimant, the whole process of which is not “emergency” at all.

CHAPTER 4

Comparison and discussion on Specific procedures of fund schemes

4.1 Comments on latest progress of National Fund 2012

In the process of writing this paper, the latest news of National Fund 2012 was announced. On June 16th, the second conference OPC Fund Management Committee was held in Beijing. The conference reviewed and approved the “the Criterion of Oil Pollution Damage Compensation Fund” (OPC Criterion) and “the Guideline of Oil Pollution Damage Compensation Fund” (OPC Guideline), it is conducive for pollution victims to claim for their reasonable compensation conveniently. At the same time, it will enable the operation of OPC Fund to be more impartial, scientific and reasonable.

Last June, the Management Committee of OPC Fund was established in Beijing. According to the statute of management committee, the management and operation system of OPC Fund was formulated in principle of 3 levels: the top level of decision making -- Management Committee; the second level of daily affairs management-- the Secretariat; the third level, the special institution which is responsible for specific claims and compensation work -- Claims Affairs Center of oil pollution damage (CAC). Among them, as the authority level and the decision maker, Management Committee will decide “whether to compensate” and “compensate how many” according to the actual damage caused by the accident combined with specific claim standards of National Fund 2012; and these decisions will be formed by the voting result of 9 members of the Management Committee. The nine members include 6 government departments of Ministry of transport, Ministry of finance, Ministry of

agriculture, Ministry of environmental protection, the State Oceanic Administration and the National Tourism Bureau, 3 cargo owner representatives of China National Petroleum Corporation, China Petrochemical Corporation and China National Offshore Oil Corporation. According to the collected data, these 3 cargo owner representatives are the top 3 contributors of OPC Fund.

As the second tier of domestic oil pollution damage compensation mechanism, National Fund 2012 is in the process of gradual improvement. Since the OPC Criterion and OPC Guideline have been adopted this year, our own fund system has more operational and practical significance. At present, there are two cases of claims for compensation to OPC Fund under investigation:

Case 1: on January 15, 2013, large area of oil appeared in Tianjin Dagu Mouth waters area, presenting black, viscous fuel oil, and the pollution area was about 4 km in length, 4-25 meters in width, mixed with ice. Tianjin MSA conducted a sampling of oil, and the analysis result indicated it was fuel oil from ships. After investigation, it is confirmed that the sea oil pollution is due to the unknown commercial ship emissions. Professional oil pollution removal company sent two ships and 46 emergency personnel to carry out a period of 4 days of sea cleaning operation, then the sea surface pollution was cleared. The company claimed the compensation of emergency response to control and removal of oil pollution at 630,000 RMB in total.

Case 2: on April 18, 2013, Qinhuangdao MSA patrol officers found the area of Emerald Island, Repulse Bay and Golden Coast had been polluted by oil. The Theme park of Emerald Island organized to carry out clean-up operation, and authority officers carried out sampling and investigation. Further analysis indicated the oil pollution should be from ships other than official ship, fishing vessels and military ships. After the investigation of Qinhuangdao MSA, the guilty ship or other possible

source have not yet to find. The Theme park of Emerald Island claim compensation for personnel remuneration is 24,930 RMB.

The compensation of the two cases is still in process, and the claim requirement has been partly identified. All this marks the beginning of the normal operation of the Chinese own oil pollution damage compensation fund system.

4.2 Specific procedures of National Fund 2012 -- OPC Criterion and OPC Guideline

4.2.1 The significance of the specific procedures

It is indispensable to improve the procedural provisions in order to realize a good implementation of National Fund 2012. Here are two aspects of meaning: firstly, OPC Fund shall be operated and used in accordance with the normative procedures, in order to ensure the fairness and reasonability, so we need a standard for authorities to determine the work procedure; on the other hand, as victims, it is urgent need to know how to protect their own rights and interests in a convenient way (Shahriari & Frost, 2008), thus the guideline shall be published for the victims to propose claims in the proper method, so as to avoid confusion of the victims. After 4 years' preparation, the two independent specific procedures including OPC Criterion and OPC Guideline are finally approved.

The introduction of specific procedures to make the abstract regulation becomes more practical. For example, Article 20 of National Fund 2012 stipulates: "after the occurrence of oil pollution accident, the person who meets the requirement of compensation should claim for compensation to OPC Fund Management Committee in the written form". But the problems of how to make a written application to the committee and what kind of documents and materials shall be included still remain to

be solved; Article 23 stipulates as follows: "After accepting the claim for compensation, the OPC Fund Management Committee shall organize relevant officer or personnel to investigate and verify the claims and determine the specific amount of compensation. Compensation that meets the requirements should be paid timely." However, the detailed procedures of the acceptance of claims and investigation, and the time limit of the acceptance are all insufficient.

4.2.2 The characteristics of the OPC Criterion

The OPC Criterion is formulated in order to guide and regulate the settlement of OPC Fund and it is the main instructor for the work of dealing with the claim. OPC Criterion is divided into five chapters. The first chapter is the general provisions, which expounds the scope of the criterion, settlement principle and the general procedure; the second chapter to the fifth chapter are 4 specific instructors regulating the settlement procedure of claim and making specific provisions respectively: cost of emergency operation to reduce oil pollution damage; cost to control or eliminate the pollution; direct economic losses of fishing and tourism; cost of the restoration of the marine ecological and natural fishery resources;

The approved standards of compensation claims formulated by OPC Criterion shall base on the principle that a direct causal relationship between the loss and oil pollution damage is necessary, without considering the indirect economic loss compensation. OPC Criterion is based on the change of laws and regulations and the practice of claims, and shall be revised in due course, in principle, not more than two years.

Scope of application

In the scope of application, the OPC Criterion adopts the same definition in CLC

1992 and Fund 1992 in terms of the applicable provisions of the ship, oil products, and geographical scope. In addition to this, OPC Criterion is applicable to the oil pollution damage caused after zero o'clock of July 1, 2012.

Basic requirements instruction

A total of 14 basic requirements for settlement of the claims in detail shall be followed. Some essential instructions are as follows:

Emergency measures, control or removal of pollution measures, recovery of marine ecological and natural fishery resources and other measures should be appropriate, reasonable, effective and have already been taken, and the cost of claims and losses should have been the actual occurrence. The loss and the damage suffered shall be quantified by the economic loss;

For those accidents unable to find the source of oil pollution, the claimant shall submit the certificate issued by the MSA or the marine pollution accident investigation institution to confirm that the oil pollution is made by ship;

After the occurrence of an accident, the victim has the responsibility to take necessary measures to prevent or reduce the pollution damage and the loss caused by oil pollution. If the victims fail to perform the obligations, the fund does not grant them the compensation; if all or part of the oil pollution damage is caused by the fault of the victims, the fund shall not compensate;

The compensation is not subject to the restrictions of any settlement agreement between the oil pollution victims and the owner of the ship and the insurer concerning the compensation for damages. All the settlement agreement could be used as the basis and reference for the claims.

Items that are not included in the scope of fund compensation are listed in detail.

Specific instructor of claims settlement

In the first chapter of the OPC Criterion, a detailed description of claims settlement by CAC, from the receiving material to the case closed, is divided into 12 steps; the other four chapters cover the scope of claims, requirements of the audit operation, and procedure of approving compensation.

Different from the conceptual provisions of claim categories in National Fund 2012, the specific and detailed definitions of each kind of claim are indicated in the OPC Criterion, and it is more conducive to the relevant personnel for the application for the operation.

Take chapter 2 as an example. In this chapter, it stipulates clearly that the cost of emergency operation to reduce oil pollution damage includes: cost of using the ship, cost of using aircraft, cost of using vehicle, cost of using professional equipment, cost of materials consumption, waste disposal cost, personnel remuneration, monitoring costs, wildlife conservation costs, logistics costs. The calculation method of using period and the range of cost of each item are defined in detail.

The detailed provisions of the OPC Criterion, in particular, the standard of compensation for equipment and supplies in the clean-up operation, help to clarify the chaos of domestic emergency operation. Overall, the standard formulation of OPC Criterion is similar to current market standard, and the personnel costs are given the discretion of the 10% for each region to regulate the cost according to the level of economic development situation.

Table 3— Cost rate of using the ship

Under 500 HP	28.8 RMB/HP/Day
The Part from 501 to 5000	19.4 RMB/HP/Day
The Part from 5001 to 12000	13.9 RMB/HP/Day
The Part from 12001 to 20000	9.7 RMB/HP/Day
The Part more than 20001	4.9 RMB/HP/Day
<p>Remark: the ship less than 100 horsepower, accounting as 100 horsepower accounting rates.</p>	

4.2.3 The characteristics of the OPC Guideline

The OPC Guideline clearly stipulates: after the occurrence of oil pollution damage from ships, victims shall claim for compensation of pollution damage and related costs to the first tier of liability subject – ship owner and insurer when the guilty ship could be found. The victim can claim for compensation through the OPC Fund when the victim cannot obtain enough compensation from the first tier according to the verdict of the court or the fact that the guilty ship cannot be found. The OPC Guideline is the operation manual which aims to guide the oil pollution victims on how to claim for compensation of OPC Fund. OPC Guideline provides specific requirements of the application for compensation, documents or other evidences are needed to submit, and details and other comprehensive requirement shall be included

in documents that support for compensation.

The basic framework of OPC Guideline is consistent with the OPC Criterion, but between the general provisions and 4 specific instructors, there is a special chapter 2 "basic procedure of claims submission and payment ", to introduce the requirements of basic procedure and evidentiary materials when claiming for compensation, and guide the victims on how to lodge claims.

Basic procedure of claims submission and payment

The main body of claim is stipulated in the OPC Guideline The claimant could be a natural person, a partner, a company, a government department, or other corporation or individuals, such as the aquaculture farmers, fishermen, tour operators, the corporation involved in oil pollution emergency response operation, the local government and its relevant departments.

A special note that exists in the OPC Guideline is that even the cost of oil pollution damage caused by accident is not expected to use OPC Fund to compensate, the victim can also contact CAC to provide the technical support and legal advisory services if needed.

The OPC Guideline emphasizes the key to the success of the claim is the good process record and the normative evidence materials. In the initial stage of suffered oil pollution damage, the claimant should start to collect, sort and file the evidence materials and related records.

Compared with the OPC Criterion, as a summary description of the victim, the OPC Guideline describes the overall claims procedure, compensation items and documentation requirements to the claimant. In particular, as a vital part of the compensation investigation, the forms and tables in the appendix have a strong

operability.

4.3 IOPC Fund Claim Manual

The claims manual is a practical guideline to present claims against the 1992 Fund. Claims manual includes three parts: the legal framework, how claims for compensation should be submitted, and more specific information to assist claimants in presenting their claims. The latest edition was published in October, 2013.

4.3.1 The main content

Legal framework

It introduces the basic situation of Fund 1992 and Supplementary Funds and how much compensation is available under CLC 1992, Fund 1992 and Supplementary Funds. Types of incident and damage covered by the legal system are identified and explained, and the main types of pollution damage include: clean-up and preventive measures, property damage, consequential loss, pure economic loss, use of economic models, environmental damage, use of advisers. The requirements that make the claims admissible for compensation are indicated in detail (Kontovas et al, 2010).

Submission and assessment of claims

It is emphasized that only contracting parties may make a claim for compensation under certain convention. Claimants may be private individuals, partnerships, companies, private organizations or public bodies, including States or local authorities. Co-ordinate claims are recommended when several claimants suffer similar damage and it will facilitate the processing and assessment of the claims.

Several hot questions are listed: the subject claims should be submitted to;

requirements that are necessary for claims; the information needed in claims; the period permitted for claims; the procedure and requirements of assessment and payment.

Guidelines on the submission of different types of claim

Six types of claim that could get compensation are described: costs of clean-up and preventive measures; property damage; economic loss in the fisheries, mariculture and fish processing sectors; economic loss in the tourism sector; costs of measures to prevent pure economic loss; environmental damage and post-spill studies. The scope and presentation method of each claim are indicated.

The extent of the amount of loss or damage of effective claim should only be confined to the actual display. However, considering the specific circumstances of the claimant or the industry or the state, certain flexibility is permitted in the implementation of the submission of documents. All certification materials need to be considered, but the evidence provided should be made available for the formation of the actual amount of damage to the IOPC Fund organization.

4.3.2 Different style compared with OPC Guideline

The roles of OPC Guideline and IOPC Fund Claim Manual are Similar, both of which are the instructors that aim to provide the guidance and suggestion to victims of oil pollution damage, and the main principle is to help victims to protect their own rights and interests more effectively, and at the same time, make oil pollution damage compensation progress more quickly and smoothly through the standard operating guidance. But in the performance style, the differences between the two instructors are obvious.

Firstly, in the form of performance, IOPC Fund Claim Manual has taken a popular and understandable language performance style, a lot of problem base on the real scene in the form of the problem bring the reader into the procedure of claims more convenient, simple and vivid words and paragraphs, is very conducive for reading. The OPC Guideline is the formal document format, the wording of it is formal and the structure is strict, simply from the reader's point of view, and it will be harder to understand.

Secondly, in terms of content and framework, IOPC Fund Claim Manual is a reference to the practice of the OPC Guideline, however, the description of the specific claim guidance in the OPC Guideline is more detailed. In the OPC Guideline, for each specific claim, the contents of the claims permitted are listed in detail, and the tables with standard form are given to help reader to regulate the submission.

Thirdly, system support of related documents is different. After decades of development, in the process of constantly updated IOPC Fund Claim Manual, relevant guidance document system also improves a lot. At present, the relevant documents include: fisheries guidelines, tourism guidelines, clean up guidelines and example claim form. Different types of claimants could select guidance documents according their own purpose and submit the claim more effectively with the basic use of IOPC Fund Claim Manual, . The OPC Guideline is lack of systematic support and, as a newly drafted document, it needs to improve continuously through practice.

CHAPTER 5

CONCLUSION

In order to protect the environment and to deal with the seaborne oil spill, China has adopted the two-tier structure scheme of oil pollution damage compensation legislation system, including civil liability and fund system. In the first tier of civil liability protection, China has adopted CLC 1992 as a contracting party and brought all ships proceeding in the Chinese jurisdictional sea area into the scope of civil liability compensation through the implementation of Prevention Regulations. In the second tier, China has established its own Fund system—National Fund 2012, which draws lesson from the essence of Fund 1992: financial supported from the levied contributions and compulsory insurance; the core is by which way the oil fund could be collected, and in which circumstances the oil damage compensation could be obtained

As to the fund scheme in China, only Hong Kong participates in Fund 1992. From the perspective of current economic interests, China considers that it is not appropriate time to adopt the FC 1992 at present for some reasons: the heavy economic contribution need to pay as one of the biggest oil importer countries; according to the analysis of the previous accident data, the gain level of compensation is very low, and most accidents got the compensation far below the limit of CLC 1992; the ability to achieve compensation in our country is insufficient, the poor clean-up technology and equipment, as well as proof ability, is deficient. All these may prevent victim from receiving sufficient compensation after the submission of claims. However, as the second-biggest economy, China needs to establish a better environmental protection strategy to resist the greater risk and

strengthen compensation ability to formulate more environmental treaties that could protect the marine environment and victims better. Nowadays, the upper and upper-middle income countries have been the contracting parties of Fund 1992, although their domestic economy suffers heavy financial burden, they are more concerned about the potential huge oil pollution risks and the environment damage. So, from the perspective of long-term interest, it is rational and beneficial for China to accede to Fund 1992 and share our high risk of major oil spill accident with other countries.

Based on the background of continuous attention to the environmental protection, China's environmental protection laws and regulations are gradually developing and becoming more unified. As far as the formulation of the oil pollution damage compensation system of our country is concerned, the key is to improve the specific rules and provisions as soon as possible and implement them properly. The legislation system should be based on sustainable development of ocean ecology. Marine environment, shipping industry, fishery, tourism, oil industry and insurance industry shall coordinate with each other. Only in this way can we establish an oil pollution damage compensation system that is suitable for China's basic national conditions.

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