



International Oil Pollution
Compensation Funds

Agenda Item 5	IOPC/OCT17/5/1/1	
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1992 Fund Assembly	92A22	●
1992 Fund Executive Committee	92EC69	
Supplementary Fund Assembly	SA14	●

ONLINE REPORTING SYSTEM

Note by the Secretariat

Summary:	<p>At the October 2016 sessions of the governing bodies, the 1992 Fund Assembly noted that the Director would review the Internal Regulations on oil report submission to avoid the duplication in the submission of oil reports using both the Online Reporting System (ORS) and oil report forms (IOPC/OCT16/11/1, para 5.1.21).</p> <p>The Director has identified the verification of contributor signatures and requirements for minimal technical standards for use of the ORS as key considerations for the elimination of the duplicate submission. The Director considers that the use of the ORS will require Member States to verify contributor signatures.</p>
Action to be taken:	<p><u>1992 Fund Assembly and Supplementary Fund Assembly</u></p> <p>The 1992 Fund Assembly and the Supplementary Fund Assembly are invited to decide whether Member States should submit oil reports using their choice from Method 1, 2 or 3 (outlined at the Annex).</p>

1 Background

- 1.1 The 1992 Fund first considered the idea of an electronic reporting system for Member States at the 2007 sessions of the governing bodies where it was suggested that an online system would relieve some of the administrative burden of reporting, thereby improving the timeliness of the submission of reports (92FUND/A.12/28, para 13.7(c)). The ORS was also envisaged as a way to improve the accuracy of reporting by providing Member States with:
- access to contributor details;
 - a central means to send the annual requests for reports from contributors and;
 - historic reporting data for all contributors in their State.
- 1.2 The ORS operates alongside the current paper based oil reporting system, and is still officially in the ‘pilot’ stage. The two central functions of the ORS, for Member States, are contributor management and oil reporting. The contributor management functions include the ability to view and edit contact details for contributors, to create new contributor records or flag them for merging, and to view all prior tonnages reported to the IOPC Funds for each contributor. With regard to oil reporting, Member States can currently use the ORS to send a template email request for reports directly to contributors. On receipt of the completed forms, Member States type the tonnages reported by contributors directly into the ORS. In 2017, 35 of the 52 Member States registered to use the ORS submitted oil receipt data for the 2016 calendar year using the online system.

- 1.3 At the October 2016 sessions of the governing bodies, the 1992 Fund Assembly noted that the Director would review the Internal Regulations on oil report submission to avoid the duplication in the submission of oil reports using both the ORS and oil report forms (IOPC/OCT16/11/1, para 5.1.21).

2 Purpose of the review

- 2.1 All Member States, including those using the ORS, are currently obliged to submit a completed 'Form for reporting contributing oil' (paper form) for each contributor, in addition to the submission using the ORS. The elimination of the duplicate submission is hoped to encourage more Member States to use the ORS and facilitate its use as an official method of submission of reports on contributing oil.
- 2.2 It should be noted that the introduction of the ORS is not mandatory to Member States. The current method of submission, using the report form (paper form), will continue to be an option for those States who do not wish to submit their reports electronically.

3 Requirements from Member States

- 3.1 Practical, technical and legal perspectives were considered as part of the review. Two key considerations for the move to a paperless submissions process have been identified: (a) the verification of signatures; and (b) the setting of minimum IT requirements for use of the ORS. These are both expanded upon below.

3.2 Contributor and Member State signature

- 3.2.1 In accordance with Article 15.2 of the 1992 Fund Convention, each Contracting State has the obligation to communicate information on any person (contributor) who in respect of that State is liable to contribute to the Fund. Internal Regulation 4.2 of the 1992 Fund stipulates that this information shall be a report on contributing oil receipts completed by the contributors concerned and signed by a competent officer of the entity which received the oil and by a Government official. The signatures verify the two stages of submission of data: from contributors to Member States; and from Member States to the Secretariat. It should be noted that a need for the signature of the Member State is not explicitly mentioned by the 1992 Fund Convention and Supplementary Fund Protocol.

Stage 1: Contributor signature

- 3.2.2 Oil reports are signed by contributors. These signatures are necessary in the case that the Director is required to take legal action against contributors with outstanding contributions, in accordance with Article 13 of the 1992 Fund Convention.
- 3.2.3 Member States who wish to receive data from contributors in an electronic format must ensure the report is signed or authenticated in a manner that is legally valid under the national law of that Member State.
- 3.2.4 A lack of international consistency on the legal validity of 'electronic signatures' prevents the use of a single solution for electronic submission by contributors in all Member States. As such, the Director considers that Member States should plan to receive the 'Form for reporting contributing oil' from contributors in the manner best suited to their state's legislation, and the Member State should assume responsibility for verifying electronic signatures of contributors.
- 3.2.5 It is not the intention of the Director to set requirements for electronic signatures, however he does require the Member State to confirm that the contributors' signatures submitted by the Member States are legally binding.

Stage 2: Member State signature

- 3.2.6 Member States' signatures provide assurance to the Director that the State has verified the information provided by the contributor. Member States currently registered to use the ORS are issued with accounts and passwords using their official email address. All activity in the ORS, including the submission of tonnages, is recorded against individual user accounts in an 'audit trail'. The Secretariat proposes that the record of activity by a registered user in that State's audit trail will be sufficient to qualify as an electronic signature of the Member State.
- 3.2.7 In order to maintain the integrity of tonnages submitted in the electronic reporting system, security settings will be put in place to ensure that the individual submitting the reports online is the same individual who would have previously signed the report forms.

3.3 Technical Minimum Standard

In order to meet security standards and ensure the efficiency of the system, there will be certain minimum technical standards in place for use of the ORS. These standards may include users having particular versions of web browsers installed, or the latest versions of PDF readers.

4 Proposed methods of submission

- 4.1 The Secretariat has investigated the development requirements to the ORS that may be necessary to facilitate its use as an official method of submission. Security of the system is a priority, along with ease of administration and adoption by the majority of Member States. Options being considered include amending the submission method to the uploading of PDFs by the Member State, relieving them of the need to complete data-entry of tonnages. Detailed technical development plans will be drawn up after agreement is reached on the process for approving signatures and submitting reports.
- 4.2 It is proposed that three methods of submitting reports be made available, allowing Member States to choose which method best suits their needs. A brief description of each follows and a diagram of each process is produced at the Annex.

Method One

- 4.3 Method one is the current paper-based system, which requires physical signatures on the report forms from both contributors and Member State. A signed paper report is submitted from contributor to Member State, and this paper report is then signed and submitted by the Member State to the IOPC Funds Secretariat (by post or scanned and emailed).

Method Two

- 4.4 A partially electronic process would be available for those States where electronic signatures are not legally recognised or who wish to gradually transition to the paperless process. The contributor prints and physically signs the report form, and submits it to the Member State. The Member State will verify the tonnage and scan the report into the ORS. There is no requirement for a signature from the Member State as submission of the scan through the ORS will provide verification (see paragraph 3.2.6). The Member State should retain the paper copy of the oil report, with the contributor's signature, and the Secretariat will verify the contributor signature from the scanned report.

Method Three

- 4.5 In this fully electronic process the contributor provides the tonnage and signs the report electronically. The Member State verifies the tonnage and electronic signature of the contributor before submitting the

report via the ORS.

- 4.6 Preliminary research undertaken by the Secretariat, using information from the United Nations Committee on International Trade Law and legal guides published by Thomson Reuters and Adobe, indicates that up to 98% of the oil reported to the 1992 Fund in 2016 was reported by Member States where electronic signatures are legally recognised. In terms of 1992 Fund membership, 39 of the 55 Member States that reported contributing oil to the 1992 Fund in 2016 recognise electronic signatures.

5 Amendment to Internal Regulations

An amendment to the Internal Regulations, which would allow for the submission of oil reports by either the report forms (paper forms) or by electronic means, will be required if the IOPC Funds are to move forward with plans to allow electronic reporting. It is envisaged that the amendment would be presented at the 2018 sessions of the governing bodies and have effect from the submission in 2019 of the reports for oil received in the 2018 calendar year.

6 Director's considerations

- 6.1 The Director believes the introduction of an electronic submission system for oil reporting is an important step in modernising the practices of the IOPC Funds. The Secretariat will accept reports that have been signed electronically by contributors on the provision that the Member State has confirmed that signature is legally binding in that State. The Director is of the view that a change in the current practice of the Secretariat taking responsibility for verifying contributor signatures is key to the future adoption of a paperless system.
- 6.2 With regard to the Member State signature, since this is not required by the Convention and the Director is unlikely to commence legal action against Member States, substituting the signature with an electronic form of authentication appears straightforward.
- 6.3 The Director welcomes any comments from Member States on the proposed changes to the system for submitting reports on contributing oil.

Director's recommendation

- 6.4 The Director recommends that Member States submit their oil reports using their choice from Method 1, 2 or 3 (see paragraphs 4.3-4.5 and Annex).

7 Action to be taken

1992 Fund Assembly and Supplementary Fund Assembly

The 1992 Fund Assembly and the Supplementary Fund Assembly are invited to decide whether Member States should submit oil reports using their choice from Method 1, 2 or 3 (outlined at the Annex).

ANNEX

Methods for submission of oil reports from contributors to Member States to IOPC Funds Secretariat

