



International Oil Pollution
Compensation Funds

Agenda Item 9	IOPC/JUL21/9/WP.2	
Date	23 July 2021	
Original	English	
1992 Fund Administrative Council	92AC20/92AES25	●
1992 Fund Executive Committee	92EC76	●
Supplementary Fund Assembly	SAES9	●

DRAFT

RECORD OF DECISIONS OF THE JULY 2021 SESSIONS OF THE IOPC FUNDS' GOVERNING BODIES

(held from 22 to 23 July 2021)

Governing Body (session)		Chairs	Vice-Chairs
1992 Fund	Administrative Council (92AC20/ 92AES25)	Ambassador Antonio Bandini (Italy)	Professor Tomotaka Fujita (Japan) Mrs Aurenay Aguirre O. Sunza (Mexico) (absent)
	Executive Committee (92EC76)	Ms Gillian Grant (Canada)	Mr Kanagalingam Selvarasah (Malaysia) (absent)
Supplementary Fund	Assembly (SAES9)	Mr Sungbum Kim (Republic of Korea)	Mr Andrew Angel (United Kingdom) Mr Emre Dinçer (Turkey)

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*Opening of the sessions***1992 Fund Assembly**

- 0.1 Prior to the opening of the sessions, the Director welcomed participants to the third remote meeting of the IOPC Funds governing bodies and referred to document IOPC/JUL21/1/4 which provided information and guidance on the conduct of business for the virtual meeting held via the e-conferencing platform KUDO.
- 0.2 The Chair of the 1992 Fund Assembly recalled that sessions ordinarily took place in the International Maritime Organization (IMO) building in London. However, due to the COVID-19 pandemic and the consequent travel restrictions and conditions which had limited movement and travel to London, the sessions were being held remotely.
- 0.3 The Chairs of the governing bodies sought agreement from the Member States present to suspend Rule 3 of the Rules of Procedure to allow for the sessions of the governing bodies to be held remotely, as proposed in document IOPC/JUL21/1/3.
- 0.4 The Chairs of the 1992 Fund Assembly and the Supplementary Fund Assembly also sought agreement on the proposal to interpret Rule 33(a) on the definition of 'Members present', as Member States being registered for the sessions using the online registration system, and listed as participants in the remote sessions, using the virtual meeting platform, as proposed in document IOPC/JUL21/1/3.
- 0.5 The Chair of the 1992 Fund Executive Committee noted that the Rules of Procedure of the Executive Committee did not contain a rule on the definition of 'Members present' as contained in Rule 33 of the Rules of Procedure of the 1992 Fund Assembly.

1992 Fund Administrative Council

- 0.6 The Chair of the 1992 Fund Assembly attempted to open the 25th extraordinary session of the Assembly but since the quorum required 60 States to be present and no quorum was achieved, the Chair concluded that, in accordance with Resolution N°7, the items of the Assembly's agenda would be dealt with by the 20th session of the 1992 Fund Administrative Council, acting on behalf of the 25th extraordinary session of the 1992 Fund Assembly^{<1>}.
- 0.7 It was recalled that at its 1st session in May 2003, the 1992 Fund Administrative Council had decided that the Chair of the 1992 Fund Assembly should *ex officio* be the Chair of the Administrative Council (document 92FUND/AC.1/A/ES.7/7).

Supplementary Fund Assembly

- 0.8 The Supplementary Fund Assembly Chair opened the 9th extraordinary session of the Assembly with 22 Member States present.

1992 Fund Executive Committee

- 0.9 The 1992 Fund Executive Committee Chair opened the 76th session of the Executive Committee with 13 Member States present.

<1> From this point forward, references to the '20th session of the 1992 Fund Administrative Council' should be taken to read '20th session of the 1992 Fund Administrative Council, acting on behalf of the 25th extraordinary session of the 1992 Fund Assembly'.

- 0.10 The Member States present at the sessions are listed at the Annex, as are the non-Member States, intergovernmental organisations and international non-governmental organisations which were represented as observers.

1 Procedural matters

1.1	Adoption of the Agenda Document IOPC/JUL21/1/1	92AC	92EC	SA
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The 1992 Fund Administrative Council, 1992 Fund Executive Committee and Supplementary Fund Assembly adopted the agenda as contained in document IOPC/JUL21/1/1.

1.2	Examination of credentials Documents IOPC/JUL21/1/2 and IOPC/JUL21/1/2/1	92AC	92EC	SA
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- 1.2.1 The governing bodies took note of the information contained in document IOPC/JUL21/1/2.
- 1.2.2 The governing bodies recalled that at its March 2005 session, the 1992 Fund Assembly had decided to establish, at each session, a Credentials Committee composed of five members elected by the Assembly on the proposal of the Chair, to examine the credentials of delegations of Member States. It was also recalled that the Credentials Committee established by the 1992 Fund Assembly should also examine the credentials in respect of the 1992 Fund Executive Committee, provided the session of the Executive Committee was held in conjunction with a session of the Assembly.
- 1.2.3 The governing bodies further recalled that, at their October 2008 sessions, the 1992 Fund Assembly and the Supplementary Fund Assembly had decided that the Credentials Committee established by the 1992 Fund Assembly should also examine the credentials of delegations of Member States of the Supplementary Fund (see documents 92FUND/A.13/25 and SUPPFUND/A.4/21).

1992 Fund Administrative Council decision

- 1.2.4 In accordance with Rule 10 of the Rules of Procedure of the 1992 Fund Assembly and the Supplementary Fund Assembly and Rule 9 of the Rules of Procedure of the 1992 Fund Executive Committee, the 1992 Fund Administrative Council appointed the delegations of Germany, Malaysia, the Russian Federation, Turkey and Uruguay as members of the Credentials Committee.

1992 Fund Executive Committee and Supplementary Fund Assembly

- 1.2.5 The 1992 Fund Executive Committee and the Supplementary Fund Assembly took note of the appointment of the Credentials Committee by the 1992 Fund Administrative Council.

Report of the Credentials Committee

- 1.2.6 After having examined the credentials of the delegations of the 1992 Fund Member States, including States which were members of the 1992 Fund Executive Committee and the Supplementary Fund, the Credentials Committee reported in its report (document IOPC/JUL21/1/2/1) that it had examined 65 letters of credentials, all of which were in order. The Credentials Committee also reported that five Member States had participated in the sessions but had not yet submitted credentials; this situation was expected to be rectified shortly after the meeting.
- 1.2.7 The governing bodies expressed their sincere gratitude to the members of the Credentials Committee for their work during the July 2021 meeting.

1.3	Temporary suspension of Rules of Procedure – Facilitating remote sessions Document IOPC/JUL21/1/3	92AC	92EC	SA
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1.3.1 The governing bodies considered the proposals to amend or temporarily suspend Rules of Procedure as contained in document IOPC/JUL21/1/3.

1.3.2 The governing bodies noted that, since certain Rules of Procedure presuppose in-person meetings, such rules would need to be temporarily suspended or amended on an exceptional basis to allow for the July 2021 sessions of the governing bodies to be conducted remotely.

1.3.3 It was also noted that the proposals for amendments to procedures were the same as those approved by the governing bodies at their remote sessions in December 2020 and March 2021 and were closely aligned to the guidance on remote sessions adopted by IMO.

1.3.4 It was further noted that the Director had made every effort to retain established practices of in-person meetings as was reasonably possible. It was also noted that the Director's priority was for the governing bodies to be able to take the decisions required to ensure the organisations could continue to function properly.

Debate

1.3.5 One delegation took the floor to formally express its agreement to the temporary suspension of the Rules of Procedure for these remote sessions.

1992 Fund Administrative Council and Supplementary Fund Assembly decisions

1.3.6 The governing bodies decided to:

- (i) temporarily suspend Rule 3 of the Rules of Procedure in relation to the location of the meeting to allow for remote sessions to be held;
- (ii) endorse the proposal that, in accordance with Rule 27/23^{<2>} and in line with established practice, the Secretariat should prepare a draft Record of Decisions to be presented for adoption by the governing bodies on the last day of the virtual meeting; and agreed that the sessions should then remain open for an additional five working day period from the publication of the draft Record of Decisions, for delegations to comment on that document by correspondence; and
- (iii) continue to adopt decisions by consensus during the remote sessions and that if the need for a vote should arise, an alternative voting procedure would need to be adopted.

1.3.7 The governing bodies also noted that:

- (i) while Rule 9/8^{<3>} provides that delegations can register and submit credentials up to the opening day of the sessions, for practical reasons delegations were requested to submit credentials no later than Friday, 9 July 2021; and

^{<2>} The equivalent rules are provided in Rule 27 of the Rules of Procedure of the Supplementary Fund Assembly and Rule 23 of the Rules of Procedure of the 1992 Fund Executive Committee.

^{<3>} The equivalent rules are provided in Rule 9 of the Rules of Procedure of the Supplementary Fund Assembly and Rule 8 of the Rules of Procedure of the 1992 Fund Executive Committee.

- (ii) for the purposes of the July 2021 meeting, 'present' as defined in Rule 33(a) shall be interpreted as being registered for the sessions using the online registration system, and listed as a participant in the remote sessions, using the virtual meeting platform.

1992 Fund Executive Committee

- 1.3.8 The 1992 Fund Executive Committee noted the decisions made by the 1992 Fund Administrative Council.

2 Overview

2.1	Report of the Director	92AC		SA
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- 2.1.1 The Director welcomed delegations and gave an oral report on the activities of the IOPC Funds since the March 2021 sessions of the governing bodies. He stated that the main objective of this extraordinary meeting would be to decide which ballot procedure to adopt for the appointment of the Director in the event that the November 2021 meeting was held partly or fully remotely. He noted that the appointment of the next Director was a very important decision. The Director added that the Executive Committee would also have to take an important decision concerning the incident in Israel.
- 2.1.2 In terms of membership, the Director reported that the 1992 Civil Liability and Fund Conventions would enter into force for the Republic of San Marino and the Republic of Costa Rica on 19 April and 19 May 2022, respectively, bringing the number of 1992 Fund Member States to 120 on 19 May 2022.
- 2.1.3 With respect to the *Hebei Spirit* incident, the Director reported that the Samsung Heavy Industries Co., Ltd (SHI) Limitation Court had issued a decision on the distribution of the SHI limitation fund and that on 22 June 2021, the Fund had received £2.2 million (KRW 3.4 billion). He also reported that the final reconciliation of joint costs with the Skuld Club was still ongoing.
- 2.1.4 The Director briefly referred to the oil spill that had occurred in Israel in February 2021 and added that it would be discussed later during the meeting.
- 2.1.5 The Director reported that the Sri Lankan authorities had contacted the Secretariat for advice in relation to the *MV X-Press Pearl* incident. He noted that this would be the type of incident to be covered by the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (2010 HNS Protocol).
- 2.1.6 With respect to staff matters, the Director reported that the new Policy Officer, Yuji Okugawa, had joined the Secretariat on 1 July 2021.
- 2.1.7 The Director also reported that three nominations for the position of Director had been received from Colombia (Mrs Liliana Monsalve), France (Mr Thomas Liebert) and Norway (Mr Gaute Sivertsen) before 30 June 2021. He said that the Administrative Council would have to decide on the voting modality for the appointment of the Director.
- 2.1.8 The Director referred briefly to the working arrangements of the Secretariat to be put in place from mid-September. He also gave an update on the online outreach activities undertaken by the Secretariat during the last four months. He reported that the IOPC Funds Short Course 2021, which had been attended by 21 Member States of the 1992 Fund, had been a success. He added that the positive feedback received from participants confirmed that the online format could be developed to possibly run alongside or as an additional option to the London-based course in the future.

3 Incidents involving the IOPC Funds

3.1	Incidents involving the IOPC Funds		92EC	SA
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3.1.1 The 1992 Fund Executive Committee noted that, since its last session in March 2021, there had been developments in respect of the incident in Israel, which required the Executive Committee to be convened in order to take a decision.

3.1.2 The governing bodies further noted that there are currently no incidents involving the Supplementary Fund.

3.2	Incidents involving the IOPC Funds — 1992 Fund: Incident in Israel Documents IOPC/JUL21/3/1 and IOPC/JUL21/3/1/1		92EC	
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3.2.1 The 1992 Fund Executive Committee took note of the information regarding the incident in Israel as set out in documents IOPC/JUL21/3/1 submitted by the Secretariat and IOPC/JUL21/3/1/1 submitted by the Government of Israel.

3.2.2 The Executive Committee recalled that in February 2021, the Government of Israel had contacted the 1992 Fund requesting assistance with oil found along the Israeli coastline believed to be caused by a mystery spill. The Executive Committee recalled that the Israeli Government reported that tar balls had washed up along its entire Mediterranean coastline and that it believed a spill had occurred in the waters of the exclusive economic zone (EEZ) of Israel. It further recalled that the source of the spill had not been identified.

3.2.3 The Executive Committee recalled that clean-up operations had been carried out under the direction of the Marine Environment Protection Division of the Israeli Ministry of Environment, with local authorities organising the response on the beaches.

3.2.4 The Executive Committee also recalled that the analysis of the polluting oil carried out by two laboratories in Israel had indicated that the oil found along the coastline was crude oil. It further recalled that the Israeli authorities believed that the oil was released from a tanker i.e., a ship as defined by the 1992 Civil Liability Convention (1992 CLC).

3.2.5 The Executive Committee recalled that, following the information received from the Israeli authorities, the 1992 Fund had engaged experts specialising in the analysis and fingerprinting of petroleum oil to travel to Israel in order to collect samples of the tar balls from various affected sites for analysis. The experts were asked to examine the nature of the oil and to advise on the possible sources of that oil.

3.2.6 The Executive Committee noted that the result of the analysis carried out by the 1992 Fund's experts had shown that the samples collected were of crude oil which had originated from a single source. It further noted that the experts had explored possible sources for the oil and had concluded that, as there are no crude oil platforms or pipelines in the area, the only possible source was a tanker carrying crude oil.

3.2.7 The Executive Committee further noted that the composition of the sampled oil was consistent with crude oil washing which would, therefore, indicate that the source was a recent illegal dumping from an unknown tanker and not a historical incident.

Claims for compensation

3.2.8 The Executive Committee noted that whilst no claims had been submitted yet, initial estimates of the cost of the response to the oil spill were in the region of ILS 55 million (£12.1 million) and that

additional claims for economic losses were expected.

Applicability of the Conventions

- 3.2.9 The Executive Committee recalled that in October 2002, it had decided that the 1992 Fund Convention also applied to spills of persistent oil even if the ship from which the oil came could not be identified, provided that it was shown to the satisfaction of the 1992 Fund, or in the case of dispute to the satisfaction of a competent court, that the oil originated from a ship as defined in the 1992 CLC.
- 3.2.10 The Executive Committee noted that according to the investigations carried out by the 1992 Fund experts, the pollution was caused by crude oil and it could not have originated from any other source but a passing oil tanker.
- 3.2.11 Therefore, the Executive Committee noted that based on the advice received from the 1992 Fund experts, the Director was of the view that the pollution which had affected the coastline of Israel could be considered as a spill from an unknown source (a so-called 'mystery spill') and that, for this reason, the 1992 Civil Liability and Fund Conventions would apply.

DOCUMENT SUBMITTED BY THE ISRAEL

- 3.2.12 The Executive Committee took note of the information provided by the Government of Israel as presented in document IOPC/JUL21/3/1/1.
- 3.2.13 The Executive Committee noted that on 17 February 2021, the Marine Environment Protection Division of the Ministry of Environmental Protection received reports about a massive tar landing along the entire Mediterranean coastline of Israel. It also noted that clean-up operations were carried out by the central government, local authorities and an NGO who was in charge of deployment of some 12 000 volunteers. It further noted that clean-up operations were concluded by April 2021.
- 3.2.14 The Executive Committee recalled that the analysis of the samples of tar balls on the beaches carried out by two Israeli laboratories, showed that the polluting material was crude oil. It also noted that an investigation by the Israeli Government had ruled out all possible non-ship sources for the coastal oil pollution in Israel.
- 3.2.15 The Executive Committee noted that, taking into account the modelled trajectory of the oil slicks, the Government had concluded that the pollution was caused by a spill from an unidentifiable tanker in a two-to-three-week time frame prior to 17 February 2021.
- 3.2.16 The Executive Committee further noted that the Government of Israel, in the investigation of the vessels potentially responsible for the spill, had identified only one tanker that was likely to be responsible for the spill, the *MT Emerald*. However, it also noted that this conclusion was based only on the circumstantial evidence and that, therefore, there was insufficient proof to establish that it was that specific tanker that caused the pollution of the Israel's coastline.

Intervention by the delegation of Israel

- 3.2.17 The delegation of Israel thanked the Director and the Secretariat for their assistance during the incident. That delegation informed the Executive Committee that, apart from the first month of intensive clean-up operations in accordance to their National Contingency Plan, some clean-up operations are still ongoing in some parts of the coastline, in particular rocky shores. They further informed the Executive Committee that, while the clean-up operations were ongoing, the Government of Israel had also commenced an investigation into the source of the incident. That delegation explained that though they had identified the oil as crude oil and had been able to

eliminate all sources but one tanker carrying oil as cargo, they could not positively identify the actual ship which had caused the spill.

Debate

- 3.2.18 The delegations that took for floor thanked the Director, the Secretariat and the Government of Israel for the detailed documents describing the circumstances of the incident in Israel.
- 3.2.19 All the delegations which took the floor supported the Director's view that the 1992 Civil Liability and Fund Conventions apply to this incident and that, therefore, the Director should be authorised to make compensation payments for admissible claims arising out of this incident.
- 3.2.20 A number of delegations, while agreeing that this incident should fall within the scope of the 1992 Civil Liability and Fund Conventions, asked that the Director, in cooperation with the relevant States, keep searching for the source ship, in order to recover any compensation paid by the 1992 Fund, which should have been paid by the shipowner and its insurer under the 1992 CLC.
- 3.2.21 The Chair of the Executive Committee thanked the Director and the delegation of Israel for their documents. She summarised the debate by noting that there was unanimous support for this incident to be considered as within the scope of the 1992 Civil Liability and Fund Conventions, and for the Director to be authorised to make compensation payments for admissible claims arising out of this incident. She further noted that there were a number of delegations which had requested that the Director continue to try to identify the ship which had caused the pollution, in order to pursue recourse actions against the shipowner and/or insurer for the compensation paid by the 1992 Fund.

1992 Fund Executive Committee decision

- 3.2.22 The 1992 Fund Executive Committee decided that the 1992 CLC and the 1992 Fund Convention applied to this incident and it authorised the Director to pay compensation in respect of claims arising out of the incident in Israel.

4 Compensation matters

4.1	Compensation matters	92AC		SA
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The governing bodies noted that no items were raised under this agenda item.

5 Treaty matters

5.1	Treaty matters	92AC		SA
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The governing bodies noted that no items were raised under this agenda item.

6 Financial policies and procedures

6.1	Financial policies and procedures	92AC		SA
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The governing bodies noted that no items were raised under this agenda item.

7 Secretariat matters

7.1	Appointment of the Director – Procedures Documents IOPC/JUL21/7/1 and IOPC/JUL21/7/1/1	92AC		SA
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- 7.1.1 It was recalled that, at its March 2021 session, the 1992 Fund Assembly had decided that in the event that it were possible to hold an in-person meeting in full in November 2021, the appointment of the next Director should take place in accordance with established practice, as set out in document IOPC/MAR21/7/3.
- 7.1.2 However, it was also recalled that, at their March 2021 sessions, the governing bodies had considered and provided feedback on four possible options for alternative ballot procedures that could be organised in the event that the November 2021 meeting was held remotely due to the ongoing COVID-19 pandemic. Since the IMO building was closed to external visitors at the time, the four options considered were:
- (a) exclusively via an online voting system;
 - (b) exclusively by postal voting;
 - (c) via a hybrid solution that offers both voting in person at the meeting or online voting; or
 - (d) via a hybrid option that offers both voting in person at the meeting or postal voting.
- 7.1.3 It was recalled that while no conclusions were reached in terms of a preferred option in March, it had been clear from the discussions that, if it were not possible to vote in person in November 2021, many delegations were in favour of option (a) under which the appointment of the Director would be carried out exclusively via an online voting tool. It was also recalled, however, that the majority of States were flexible, open to finding pragmatic solutions and happy in principle to adopt a hybrid approach in some format, possibly with the use of an online tool and in-person voting (option (c)), to accommodate those States who had expressed concerns regarding online voting.
- 7.1.4 It was further recalled that the 1992 Fund Assembly had decided to continue its discussions at an extraordinary session in July 2021, which would enable States to take into account the status of the global pandemic at that time and the decisions of IMO both in respect of their own election process and their plans for the format of meetings in the IMO building later in the year.
- 7.1.5 The governing bodies took note of the information contained in document IOPC/JUL21/7/1, which provided an update of the information presented in March 2021, including possible timings for each ballot procedure option.
- 7.1.6 It was noted that, since the March 2021 meeting of the governing bodies, while there had been a gradual improvement to the situation in the United Kingdom and its vaccination programme was at an advanced stage, there remained many uncertainties in respect of how the pandemic would develop in the coming months, both in the UK and in the different Member States.
- 7.1.7 It was also noted that, since the meeting in March, the IMO building had reopened to external visitors by appointment and that IMO had piloted a return of a limited number of delegates to the conference hall.
- 7.1.8 The governing bodies also noted that the IMO Council at its 125th session earlier in July 2021, had considered a document by the IMO Secretariat which proposed that the appointment of members of the Council be carried out by voting in person, by appointment. The Director reported that there was considerable discussion of the document at the meeting but that the IMO Member States had agreed to the proposal. He noted that, if the IMO building remained open to visitors, it could also provide a new option for 1992 Fund Member States to consider (option (e) voting in person, by

appointment) since it was close to the IOPC Funds established practice. Under this option, one representative for each Member State would be allowed to vote in person in a designated room in the IMO building during a specific time slot during the November 2021 meeting week. The governing bodies noted the detailed description of this option, including possible ballot timings, set out in Annex III of document IOPC/JUL21/7/1.

- 7.1.9 The Director pointed out that during the 2005 and 2011 election processes, the 1992 Fund Assembly had invited candidates to make a short oral presentation of approximately 10 minutes' duration in support of their candidature prior to the election. It was recalled that this was held in a private meeting and followed by a question-and-answer session. The Director suggested that in November 2021, presentations could be made on Tuesday, 2 November (i.e. on the day before the first ballot).
- 7.1.10 As instructed by the 1992 Fund Assembly in March 2021, the Director provided background information in document IOPC/JUL21/7/1/1 on the experience of the UN and other international organisations when conducting an election for similar senior official positions. The governing bodies noted, in particular, section 2 of that document, which summarises the voting practices of eight organisations, focusing on the conduct of elections by secret ballot, since the onset of the COVID-19 pandemic. These included different examples of online, postal and in-person voting.
- 7.1.11 Taking into account the information provided, including the developments in respect of the pandemic and within the IMO building, and the examples of voting practices of other organisations, the 1992 Fund Assembly was invited to decide which alternative ballot procedure to adopt for the election of the Director in the event that the November 2021 meeting is held partly or fully remotely, and it is therefore not possible to follow established practice.

Debate

- 7.1.12 The governing bodies thanked the Director and the Secretariat for taking into account the feedback provided by Member States at the March 2021 meeting and for refining the options for alternative ballot procedures accordingly. They also expressed their appreciation for the work undertaken in researching the experience of other organisations when appointing senior officials via a secret ballot during the pandemic and for the information presented in that regard.
- 7.1.13 A number of delegations reiterated the view that a vote in person during a physical meeting, following established practice, remained the preferred method of voting with a view to safeguarding the secrecy of the vote. However, all delegations that spoke, recognised that the development of the pandemic was unpredictable and that consequently it was not possible to confirm the format of the November 2021 meeting at this stage. They agreed that it was essential therefore to prepare for a partly, or fully remote meeting and to agree on an alternative ballot procedure.
- 7.1.14 The majority of delegations which took the floor confirmed their preference for the new option (e), namely voting in person, by appointment. Several delegations referred to the precedents set by other organisations who had used, or had decided to use, that method. In particular, reference was made to the recent decision of the IMO Council to appoint its members by voting in person, by appointment at the IMO building.
- 7.1.15 The majority of delegations that spoke explained that they preferred option (e) because it was the closest to the established practice of the 1992 Fund Assembly and because it was the option which could most easily satisfy the requirements for security and secrecy of the vote. Some delegations considered it to be the only option to satisfy those requirements, whereas other delegations confirmed that they would still be open to using option (a), online voting, or option (c), a hybrid of online and in-person voting. Those Member States had found the online voting system used to appoint members of the Audit Body in December 2020 an efficient and secure process. However,

cognisant of the concerns of others, they agreed that option (e) would satisfy all parties and were therefore happy to adopt that ballot procedure in November.

- 7.1.16 One delegation pointed out that, in the event that the pandemic were to worsen in the United Kingdom and the IMO building were to again close to visitors, preventing a vote by appointment, the Secretariat should have a contingency plan in place. This prompted some States to confirm that if the situation did not allow for in-person voting, that they would be happy with options (a) or (c).
- 7.1.17 One delegation referred to the reference in document IOPC/JUL21/7/1 to the 10 States which did not have official diplomatic representation in London. That delegation took the opportunity to highlight the importance of all Member States retaining their right to vote under any circumstances, and as such, noted the Director's suggestion that any State without official local representation, would be able to appoint another London-based representative of their choosing to vote, provided that person was included on the credentials for the Member State. This point was supported by other delegations.
- 7.1.18 Several delegations expressed their support for the proposed timing of the ballots under option (e). In addition, many States encouraged the Secretariat to include in the timetable for the appointment of the Director sufficient time for 10-minute presentations by the candidates, to be delivered in a private meeting. It was considered that these presentations would be useful and that, if for any reason they could not be accommodated within the regular session or could not be delivered in person, then a separate remote meeting could be organised for that purpose and the candidates could deliver their presentations online.
- 7.1.19 The Chair of the 1992 Fund Administrative Council thanked all delegations for their comments and for reaching a clear agreement on the use of option (e), voting in person, by appointment, in the event that the November 2021 meeting cannot be held in person. He noted the interesting points raised by delegations and also that the Secretariat would now need to look further into the practicalities of organising the vote, in particular for those States which do not have official representation in London.

1992 Fund Administrative Council decision

- 7.1.20 The 1992 Fund Administrative Council decided that, in the event that the November 2021 meeting is held partly or fully remotely, and it is therefore not possible to follow established practice, the ballot procedure for the appointment of the Director should take place in person, by appointment. The Administrative Council instructed the Director to organise the election of the next Director, accordingly, ensuring that all Member States are able to cast a vote.

Supplementary Fund Assembly

- 7.1.21 The Supplementary Fund Assembly took note of the decision of the 1992 Fund Administrative Council.

8 Other matters

8.1	Any other business	92AC	92EC	SA
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No other items were raised under this agenda item.

9 Adoption of the Record of Decisions

1992 Fund Administrative Council, 1992 Fund Executive Committee and Supplementary Fund Assembly decision

- 9.1.1 It was recalled that the governing bodies had approved the proposal relating to the preparation and consideration of the Record of Decisions during remote sessions (paragraph 1.3.6).
- 9.1.2 The draft Record of Decisions for the July 2021 sessions of the IOPC Funds governing bodies as contained in documents IOPC/JUL21/9/WP.1 and IOPC/JUL21/9/WP.1/1 was submitted for consideration by Member States on the last day of the virtual meeting.
- 9.1.3 Following the approval of the draft Record of Decisions by the governing bodies at the end of their virtual meeting, the Director prepared a revised draft report (document IOPC/JUL21/9/WP.2).
- 9.1.4 After the publication of the revised draft report, a correspondence period of five working days began for Member States to submit comments by correspondence.
- 9.1.5 At the end of the correspondence period, the Director prepared an additional document containing the comments received with an accompanying explanation on how they had been addressed in the final Record of Decisions (document IOPC/JUL21/9/1). The final Record of Decisions was then circulated in document IOPC/JUL21/9/2.

Closing remarks

Farewell to longstanding representative of the German delegation, Mr Volker Schöfisch

- 9.1.6 Before closing the sessions, the Director took the opportunity to bid farewell to Mr Volker Schöfisch, who had represented the delegation of Germany at meetings of the IOPC Funds for 20 years, since January 2001.
- 9.1.7 The Director referred to the roles Mr Schöfisch had taken on within the IOPC Funds, including the Chair of the 1992 Fund 6th Intersessional Working Group on the procedures for the assessment of large numbers of claims for relatively small amounts, from 2009–2013. He highlighted that there were lengthy and at times complex debates which he steered with skill and ease, resulting in the long-term amendments to the Funds' claims criteria, now set in the Claims Manual. The Director stated that Mr Schöfisch was instrumental to rebuilding the trust between the IOPC Funds and the International Group of P&I Clubs.
- 9.1.8 The Director thanked Mr Schöfisch for his active contribution to discussions of the governing bodies and his distinct clear and measured interventions, always conducted with the utmost diplomacy and taking all different views into account before raising his flag. The Director expressed that Mr Schöfisch's experience, style and approach would be very much missed by his colleagues, the Chairs of the governing bodies, and friends of the IOPC Funds and IMO. On behalf of the 1992 Fund Administrative Council and all the governing bodies of the IOPC Funds, he wished Mr Schöfisch all the best for the next chapter.
- 9.1.9 Mr Schöfisch thanked the Director for his kind words and confirmed that he started with the Funds in January 2001, when he participated in a session of the Executive Committee in London, and since then has participated in many meetings and working groups of the Executive Committee and Assembly. He expressed that he had always enjoyed taking part in the meetings as there were always interesting topics to discuss and problems to solve, and in solving these problems could help victims of oil pollution, so there was good reason to be effective.

- 9.1.10 Mr Schöfisch stated that it was an honour to participate in meetings as a representative of his State. He thanked all his colleagues at the IOPC Funds for their friendship and expressed that he would miss the social aspects of interacting with delegates from many States.
- 9.1.11 Delegations that took the floor expressed that Mr Schöfisch had made a very meaningful contribution to the work of the IOPC Funds, and that his interventions had always been very clear, to the point and constructive to the debate. Those delegations expressed their sincere gratitude to Mr Schöfisch for his friendship and service over the many years and wished him all the best for the future.
- 9.1.12 The Chair of the 1992 Fund Administrative Council joined in the general appreciation expressed for Mr. Schöfisch's contribution to the Funds. He recalled in particular being part of the Working Group which was chaired by Mr Schöfisch. It was a unique occasion to work side-by-side with such a good Chair and to appreciate chairing skills which remain very relevant to his current position.

Farewell to Vice-Chair of the 1992 Fund Executive Committee, Mr Kanagalingam Selvarasah

- 9.1.13 The Director also took the opportunity to say a few words about Mr Kanagalingam Selvarasah, who, as well as being part of the Malaysian delegation, had various roles within the IOPC Funds, including Vice-Chair of the 1992 Fund Executive Committee and Chair of the Credentials Committee, since December 2020.
- 9.1.14 The Director highlighted Mr Selvarasah's cooperative spirit, which was notable both at governing bodies meetings and behind the scenes in assisting the Secretariat. On behalf of the 1992 Fund Administrative Council and all the governing bodies of the IOPC Funds, he thanked Mr Selvarasah for his contribution and looked forward to working with him in the future in a different role.

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ANNEX

1.1 Member States present at the sessions

		1992 Fund Administrative Council	1992 Fund Executive Committee	Supplementary Fund Assembly
1	Algeria	•		
2	Antigua and Barbuda	•		
3	Argentina	•		
4	Australia	•		•
5	Bahamas	•		
6	Belgium	•		•
7	Brunei Darussalam	•		
8	Bulgaria	•		
9	Cambodia	•		
10	Canada	•	•	•
11	China ^{<1>}	•		
12	Colombia	•		
13	Cook Islands	•		
14	Côte d'Ivoire	•		
15	Croatia	•		•
16	Cyprus	•		
17	Denmark	•		•
18	Ecuador	•	•	
19	Finland	•		•
20	France	•		•
21	Georgia	•		
22	Germany	•	•	•
23	Greece	•		•
24	Guyana	•		
25	India	•	•	
26	Iran (the Islamic Republic of)	•		

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The 1992 Fund Convention applies to the Hong Kong Special Administrative Region only.
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		1992 Fund Administrative Council	1992 Fund Executive Committee	Supplementary Fund Assembly
27	Israel	•		
28	Italy	•	•	•
29	Jamaica	•		
30	Japan	•		•
31	Kenya	•		
32	Liberia	•	•	
33	Luxembourg	•		
34	Madagascar	•		
35	Malaysia	•	•	
36	Maldives	•		
37	Malta	•		
38	Marshall Islands	•	•	
39	Mexico	•		
40	Morocco	•	•	•
41	Mozambique	•		
42	Netherlands	•	•	•
43	New Zealand	•		•
44	Nigeria	•		
45	Norway	•		•
46	Panama	•		
47	Philippines	•	•	
48	Poland	•		•
49	Portugal	•		•
50	Qatar	•		
51	Republic of Korea	•	•	•
52	Russian Federation	•		
53	Saint Kitts and Nevis	•		
54	Singapore	•		
55	South Africa	•		

		1992 Fund Administrative Council	1992 Fund Executive Committee	Supplementary Fund Assembly
56	Spain	•	•	•
57	Sri Lanka	•		
58	Sweden	•		•
59	Thailand	•	•	
60	Trinidad and Tobago	•		
61	Tunisia	•		
62	Turkey	•		•
63	United Arab Emirates	•		
64	United Kingdom	•		•
65	Uruguay	•		
66	Vanuatu	•		
67	Venezuela (Bolivarian Republic of)	•		

1.2 States represented as observers

		1992 Fund	Supplementary Fund
1	Brazil	•	•
2	Guatemala	•	•

1.3 Intergovernmental organisations

		1992 Fund	Supplementary Fund
1	International Maritime Organization (IMO)	•	•

1.4 International non-governmental organisations

		1992 Fund	Supplementary Fund
1	BIMCO	•	•
2	Cedre	•	•
3	Comité Maritime International (CMI)	•	•
4	Iberoamerican Maritime Law Institute (IIDM)	•	•
5	International Association of Classification Societies Ltd (IACS)	•	•
6	International Chamber of Shipping (ICS)	•	•
7	International Group of P&I Associations	•	•
8	International Spill Control Organization (ISCO)	•	•
9	ITOPF	•	•
10	Oil Companies International Marine Forum (OCIMF)	•	•