



International Oil Pollution  
Compensation Funds

<b>Agenda Item 2</b>	IOPC/OCT22/2/1	
<b>Date</b>	13 October 2022	
<b>Original</b>	English	
<b>1992 Fund Assembly</b>	92A27	●
<b>1992 Fund Executive Committee</b>	92EC79	
<b>Supplementary Fund Assembly</b>	SA19	●

## REPORT OF THE DIRECTOR

### Note by the Director

**Summary:**

This October 2022 meeting will be the first time the governing bodies will convene in person since 2019. This much-anticipated return to face-to-face meetings will facilitate the interaction and dialogue among the representatives of Member States both within the meeting and during breaks. Personal interactions are at the heart of international meetings and they are vital when Member States are considering substantive issues which require decision.

In this report, I will briefly update the governing bodies on the work of the Funds since the last meeting of the governing bodies in March 2022 and the challenges that lie ahead in the coming 12 months. I will be focusing on the main activities of the IOPC Funds which merit special mention, including, among others: the latest update on the incidents in which the 1992 Fund is involved; an update on the oil reports and contributions; and the appointment of the External Auditor. Many of these activities will also be dealt with in detail under individual items on the agenda for the October 2022 sessions of the IOPC Funds' governing bodies.

**Action to be taken:**

1992 Fund Assembly and Supplementary Fund Assembly

Information to be noted.

### 1 Introduction

- 1.1 It is a pleasure for me to welcome you all to this October 2022 meeting. It will be the first time the governing bodies will convene in person since 2019. I am sure that this much-anticipated return to face-to-face meetings will facilitate the interaction and dialogue among the representatives of Member States both within the meeting and during breaks. Personal interactions are at the heart of international meetings and they are vital when Member States are considering substantive issues which require decision.
- 1.2 I will take this opportunity to report on the work of the IOPC Funds since the last meeting of the governing bodies in March 2022 and to look ahead to the challenges which lie in store in the coming 12 months. I will focus on some key items on the agenda for the October 2022 sessions of the governing bodies which will require the open debate of Member States, which we look forward to. We will be working on a very tight schedule but will make every effort to ensure that sufficient time is available to cover all essential items for Member States to make important decisions.

- 1.3 In addition, we will now have the opportunity to have a proper farewell gathering in which the representatives of Member States will be able to thank, in person, the former Director, Mr José Maura, for his years of service to the Funds (document IOPC/NOV21/11/2). It will also provide us with an opportunity to bid farewell and thank the former Deputy Director/Head Finance and Administration Department, Mr Ranjit Pillai, who retired in June 2022.

## **2 Membership of the 1992 Fund and Supplementary Fund**

- 2.1 At the opening of the 27th session of the 1992 Fund Assembly in October 2022, 120 States will be Parties to the 1992 Fund Convention. The 1992 Fund Convention entered into force for the Republic of San Marino and the Republic of Costa Rica on 19 April 2022 and 19 May 2022, respectively. The Republic of Guinea-Bissau acceded to the 1992 Fund Convention on 12 May 2022. The Convention will enter into force for this State on 12 May 2023, bringing the number of 1992 Fund Member States to 121 at that time.
- 2.2 At the opening of the 19th session of the Supplementary Fund Assembly in October 2022, 32 States will be Members of the Supplementary Fund (document IOPC/OCT22/8/1).

## **3 Compensation Matters**

### **3.1 Incidents involving the 1992 Fund**

- 3.1.1 The 1992 Fund is currently dealing with 12 incidents and the documents relating to these incidents have been submitted to the 1992 Fund Executive Committee. I will be reporting, in particular, with regard to the following:

*Hebei Spirit* — Republic of Korea, December 2007

- 3.1.2 I am pleased to report that the wash-up meeting held by the 1992 Fund on 15 and 16 June in Seoul with all the parties involved in the handling of the claims arising from the *Hebei Spirit* incident to discuss the case and the lessons to be learned was very positive and constructive.
- 3.1.3 The document on the wash-up meeting held in Seoul includes a review of the specific issues faced by the 1992 Fund, which arose from the handling of several thousands of claims and the lessons learned in respect of the management of the *Hebei Spirit* incident. The document also includes a detailed report on the matters discussed during the wash-up meeting prepared by the former Director of the IOPC Funds (document IOPC/OCT22/4/3).
- 3.1.4 I would like to thank the Government of the Republic of Korea and the Skuld Club for their assistance and cooperation, which were paramount in resolving the *Hebei Spirit* incident. I would also like to thank the *Hebei Spirit* Centre staff, the experts engaged by the Skuld Club and the 1992 Fund, and the Secretariat staff for their excellent work in resolving this incident which involved handling a significantly large and varied number of claims.
- 3.1.5 Since all the outstanding claims arising from this incident have now been settled and all the legal actions have been finalised, this incident can now be considered closed (document IOPC/OCT22/3/4).

*Agia Zoni II* — Greece, September 2017

- 3.1.6 The assessment of the 423 claims filed against the 1992 Fund has continued, of which 415 have been approved and 189 have been paid. Further offers of compensation and advance payments have been made to a number of claimants whose responses are awaited.

- 3.1.7 The results of the investigation into the cause of the incident by the Public Prosecutor remain pending. It is not known when the Public Prosecutor will conclude the investigation, which is awaited to determine the cause of the incident. It is also not known whether the District Attorney will decide to pursue criminal charges against the owner and clean-up contractor.
- 3.1.8 In May this year, I visited Greece with Mark Homan, the Claims Manager responsible for dealing with this incident. We met the Minister of Shipping and Insular Policy, the members of the Hellenic Coast Guard and Ministries dealing with the incident to discuss the Greek State's claim and issues arising from the incident, including the lack of conclusion to the investigation into the cause of the incident (document IOPC/OCT22/3/10).

*Bow Jubail* — The Netherlands, June 2018

- 3.1.9 As I reported last March, this incident has broad implications for the international compensation regime as it involves a chemical tanker capable of carrying both persistent oil and other chemical substances as cargo, so that at different times it could be considered as a ship under the 1992 Civil Liability Convention (CLC) or a ship under the Bunkers Convention 2001. The issue in question in this case is whether the *Bow Jubail*, which was in ballast at the time of the incident, had in its tanks any residues of persistent oil cargoes from previous voyages.
- 3.1.10 The 1992 Fund has a financial interest in this case, since if a final judgment were to decide that the 1992 Civil Liability and Fund Conventions apply, the 1992 Fund would pay compensation as the losses are expected to exceed the shipowner's limit under the 1992 CLC and STOPIA 2006 (as amended 2017) limit. If, however, the shipowner was successful in its appeal to the Supreme Court, the Bunkers Convention 2001 would apply, and the 1992 Fund would not be involved in this case.
- 3.1.11 In a ruling on 24 December 2021, the Supreme Court decided that the Fund could not intervene in the limitation proceedings based on the 1992 Fund Convention. However, the Court considered that the Fund was an interested party in the proceedings that had not appeared in the previous instances through no fault of its own and decided to grant the 1992 Fund's subsidiary application to be admitted as an interested party in the proceedings, based on the civil procedural law of the Netherlands.
- 3.1.12 The Fund submitted a reply to the Court's decision. In its reply, the Fund requested the Supreme Court to reverse its decision that the 1992 Fund Convention is no basis for intervention in limitation proceedings and that the intervention of the Fund should be based on national law instead. Making this request was important because such decision would constitute an international precedent. The Fund has an interest in intervening in the limitation proceedings because, to a large extent, these proceedings determine whether an incident falls within the scope of the Bunkers Convention 2001 or the 1992 CLC, and the applicability of the 1992 CLC to an incident determines the involvement of the Fund. Therefore, the Fund's intervention in the limitation proceedings should not be dependent on national law. The Fund also argued that the Court of Appeal was obliged to summon the Fund as an interested party to the proceedings but had failed to do that in spite of the Court of Appeal having recognised the Fund as an interested party in its considerations.
- 3.1.13 In addition, in the principal appeal in cassation, the Fund joined the complaints of the shipowner with respect to the decision of the Court of Appeal that it is not the Bunker Convention 2001 but the 1992 CLC that applies to the *Bow Jubail* incident. Several claimants submitted a reply in opposition to the appeal submitted by the shipowner and the appeal submitted by the 1992 Fund.

- 3.1.14 The case has now been transferred to the Advocate General for his opinion. After he delivers his opinion, it will take several months before the Supreme Court gives its decision in the case, making it unlikely that there will be a decision before the end of 2022 (document IOPC/OCT22/3/11).

Incident in Israel — February 2021

- 3.1.15 The assessment of claims filed against the 1992 Fund has continued. A total of 33 claims have been submitted for clean-up operations, property damage and economic losses, totalling ILS 13.8 million (£3.3 million). More claims are expected in the near future. I will be reporting on any development with regard to this incident in the next session of the 1992 Fund Executive Committee (document IOPC/OCT22/3/13).

*Trident Star* – Malaysia, August 2016

- 3.1.16 All the outstanding claims relating to the *Trident Star* incident have now been settled and all corresponding legal actions have been withdrawn. This incident is now considered closed. The 1992 Fund is organising a wash-up meeting with the Shipowners' Club to appraise the handling of the incident and draw lessons learned, which will be useful especially for futures cases in which STOPIA 2006 applies.

### 3.2 Incidents involving the Supplementary Fund

The Supplementary Fund has not been involved in any incidents so far and has, therefore, paid no compensation.

## **4 Financial matters**

### 4.1 2021 Financial Statements for the 1992 Fund and the Supplementary Fund

- 4.1.1 The approval of the Financial Statements for the 1992 Fund and the Supplementary Fund for the financial year 2021 is one of the most important decisions to be made by the governing bodies at their regular sessions.

- 4.1.2 The 1992 Fund Assembly and the Supplementary Fund Assembly will be invited to approve the Financial Statements of 2021 for the 1992 Fund and the Supplementary Fund. The 2021 Financial Statements have been audited by the External Auditor, BDO International LLP (BDO), and have been reviewed by the Audit Body at their meeting of July 2022 (documents IOPC/OCT22/5/6/1 and IOPC/OCT22/5/6/2).

### 4.2 Oil reports and contributions

*Oil reports*

- 4.2.1 As at 20 September 2022, 94 States have submitted reports for 2021 to the 1992 Fund, representing some 88% of the expected total contributing oil. Oil reports are outstanding for 31 States with respect to the 1992 Fund, of which 29 States have yet to report for the year 2021.

- 4.2.2 Thirty States have submitted reports for 2021 to the Supplementary Fund, representing some 89% of the expected total contributing oil. One State has not submitted oil reports for the year 2021 and one State has made a partial submission with respect to the Supplementary Fund.

- 4.2.3 I am concerned that there are seven States that have outstanding reports for five or more years and one State that has never submitted reports, despite being members of the 1992 Fund for many years. I am also concerned about the outstanding 2021 oil reports from large contributors in some Member States, which has a significant impact on the total amount of reported contributing oil and affects the Secretariat's ability to calculate an accurate levy per tonne for the 2022 levies.
- 4.2.4 This shows that ongoing work is still required to ensure that all Member States continue to fulfil this important obligation under the 1992 Fund Convention and the Supplementary Fund Protocol. In an effort to further assist Member States to submit their data on oil receipts, the Secretariat has been trialling an online reporting system (ORS) and will identify opportunities to integrate the ORS with the new Enterprise Resource Planning (ERP) system, which currently contains contributions management and financial accounting.
- 4.2.5 I will continue my efforts to engage with those States that have outstanding reports. I encourage those Member States that may have trouble compiling information on oil receipts to contact the Secretariat who is always available to assist. In addition, I will continue to examine the possibility of invoicing contributors on the basis of estimates if no reports are submitted.
- 4.2.6 I am very grateful for the continued cooperation and engagement of Member States with respect to the submission of oil reports and I hope we can continue to work together towards the timely and correct presentation of oil reports as this is crucial for the functioning of the international compensation regime (document IOPC/OCT22/5/1).

*Report on contributions*

- 4.2.7 I am pleased to report that the contributions system functions in a sound manner, considering that as at 20 September 2022, contributions outstanding represent 0.21% of the total contributions levied since the establishment of the 1992 Fund. This reflects the strong support the IOPC Funds have from their Member States and the oil industry in Member States.
- 4.2.8 Throughout 2022, the Secretariat has continued to engage with the authorities in Ghana, Venezuela, the Islamic Republic of Iran, Curaçao and Argentina with respect to the outstanding contributions in those Member States. We will continue to work with them towards correcting this situation. I am relying on the authorities in those Member States to assist the Funds and I am hopeful that payment will be received soon.
- 4.2.9 I have also continued to liaise with the authorities in the Russian Federation. The Secretariat was in contact with the Russian delegation in April 2022 with respect to Circular Letter No.4548 sent on 7 April 2022. The circular refers to the Russian Federation's commitment to fulfilling all obligations arising from previously ratified international instruments. I am hopeful that this will lead to the settlement of the Russian Federation's obligations in respect of the 1992 Fund. I would welcome a further update from authorities at the Russian Federation regarding this matter.
- 4.2.10 As at 20 September 2022, outstanding contributions to the Supplementary Fund relate to the Republic of the Congo and represent 0.05% of contributions levied to date (document IOPC/OCT22/5/2).

4.2.11 In October 2019, the governing bodies instructed the Director to examine other ways to incentivise the submission of oil reports, including the possibility of invoicing contributors based on estimates in the event that no reports were submitted (document IOPC/OCT19/11/1, paragraph 5.1.17). Throughout 2021 and 2022, the Secretariat and the Audit Body examined the possibility of invoicing contributors based on estimates if no reports were submitted, and discussed this matter extensively on the basis of two legal opinions issued by Professor Sarooshi Q.C., the 1992 Fund's legal counsel in public international law. The work undertaken by the Secretariat and the Audit Body on this matter will be presented in a separate document during this meeting. In addition, the governing bodies will be invited to endorse my proposal to draft a resolution enabling me to issue invoices to contributors based on estimates if no oil reports are submitted. If instructed by the governing bodies, I will prepare, in consultation with the Audit Body, the draft resolution and the relevant draft amendments to the Internal Regulations, which I would be presenting at a future meeting of the governing bodies in 2023 (document IOPC/OCT22/6/1).

#### 4.3 Budget for 2023 for the 1992 Fund

4.3.1 The 1992 Fund Assembly will be asked to approve the joint Secretariat budget for 2023 of £5 093 705 and the expenditure on the external audit fee, relating only to the 1992 Fund, which is £54 940. This budget figure is £237 927 (4.9%) more than the 2022 budget figure of £4 855 778.

4.3.2 I will be also proposing that the 1992 Fund maintains the working capital at £15 million in the budget year 2023, as this should be sufficient to cover the initial compensation and expenses of a new spill before establishing a Major Claims Fund (document IOPC/OCT22/9/1/1).

#### 4.4 Budget for 2023 for the Supplementary Fund

4.4.1 The Supplementary Fund Assembly will be asked to approve the budget for 2023 of £54 510 which consists of the management fee paid to the 1992 Fund for the running the joint Secretariat and the administrative expenses (including the cost of the external audit fees).

4.4.2 I am also proposing that the Supplementary Fund maintains the working capital at £1 million and that there should be no levy of 2022 contributions to the General Fund (document IOPC/OCT22/9/1/2).

4.4.3 I have worked hard with the Secretariat to limit the increase to the budget in 2023, which was a particular challenge given the inflationary environment we are currently experiencing. The year-on-year increase of 4.9% is approximately half the prevailing rate of inflation. In addition, nearly 70% of the 2023 budget relates to staff costs and increases to salary scales are outside the control of the Secretariat. Inflation has affected all chapters of the Secretariat's budget, in particular travel costs, resulting in the need to make a transfer within the budget for 2022. This budget line had been £150 000 for the years 2018 to 2020 but was reduced in 2021 and 2022, in response to the COVID-19 pandemic. In order to continue, as much as possible, with an effective programme of outreach and liaison with Member States, the proposed travel budget has increased and returned to £150 000 for 2023.

#### 4.5 Assessment of contributions — General Fund and Major Claims Funds – 1992 Fund

4.5.1 I will be inviting the 1992 Fund Assembly to levy 2022 contributions to the General Fund of £5.5 million for payment by 1 March 2023 (document IOPC/OCT22/9/1/1).

4.5.2 I will also be inviting the 1992 Fund Assembly not to levy 2022 contributions to the Major Claims Funds established for the *Prestige*, *Alfa I*, *Agia Zoni II* and *Nesa R3* incidents. In addition, I will be inviting the 1992 Fund Assembly to levy 2022 contributions of £3 million to the Incident in Israel Major Claims Fund, payable by 1 March 2023. I will further be inviting the 1992 Fund Assembly to reimburse £7.3 million to contributors to the *Hebei Spirit* Major Claims Fund by 1 March 2023 (document IOPC/OCT22/9/2/1).

#### 4.6 Assessment of contributions — Supplementary Fund

4.6.1 I will be inviting the Supplementary Fund Assembly to decide not to levy 2022 contributions to the General Fund (document IOPC/OCT22/9/1/2).

4.6.2 I will also be inviting the Supplementary Fund Assembly to note that there is no need to levy contributions to any Claims Fund as there have been no incidents involving the Supplementary Fund (document IOPC/OCT22/9/2/2).

### 5 Appointment of the External Auditor

5.1 The current term of the External Auditor, BDO, covers the financial years 2020–2023. As a result, their period of office will end following their report on the 2023 Financial Statements at the 2024 regular sessions of the governing bodies.

5.2 The management of the selection process of the External Auditor falls within the mandate of the Audit Body. Therefore, the Audit Body has prepared a document to alert the governing bodies to the various options and related issues regarding the appointment of the External Auditor. The Audit Body is of the view that the External Auditor has to be appointed before the end of 2023, which leaves little time to encourage and find relevant parties for a full tender process. Having considered the exceptional circumstances which exist within the external audit market and the significant changes within the Secretariat, the Audit Body will recommend the straightforward re-appointment of BDO for a two-year term or any period that the governing bodies may deem necessary, on an exceptional basis. Should the governing bodies approve the Audit Body's recommendation, a small amendment will be required to Financial Regulation 14.1. This amendment has also been included in the Note by the Audit Body on this matter (document IOPC/OCT22/6/3).

### 6 Appointment of members of the Investment Advisory Body

6.1 The Investment Advisory Body (IAB) is composed of three members appointed by the 1992 Fund Assembly for three years. At its December 2020 session, the 1992 Fund Assembly reappointed Mr Alan Moore and Ms Beate Grosskurth for a term of three years until the regular sessions of the IOPC Funds governing bodies in 2023. At that same session, the 1992 Fund Assembly also reappointed Mr Brian Turner for the following two years, until the regular sessions of the IOPC Funds governing bodies in 2022, while a suitable replacement was being sought (document IOPC/NOV20/11/2, paragraph 6.2.6).

6.2 Interviews were held in May 2022, and the governing bodies will be invited to appoint Mr Marcel Zimmermann as a member of the IAB from 1 November 2022 up to the next regular sessions of the IOPC Funds governing bodies in 2023, when the 1992 Fund Assembly will appoint the members of the IAB for the following three years.

6.3 I would like to thank Mr Brian Turner, who has worked with the IOPC Funds for the last 20 years for his expertise and advice which have proved an invaluable contribution to the work of the Funds (document IOPC/OCT22/6/2).

**7 Amendment to Financial Regulations to reflect recently approved changes to the Secretariat structure**

7.1 In light of the recently approved changes to the Secretariat structure, the job titles of staff members listed in the current mandate of the joint Investment Advisory Body, which is contained in Annex I of both the 1992 Fund and Supplementary Fund Financial Regulations, are no longer correct. Amendments to the mandate to reflect the changes to the Secretariat and the updated titles are therefore required. The governing bodies will be invited to approve the proposed amendments to Annex I of the Financial Regulations of the 1992 Fund and the Supplementary Fund as set out in document IOPC/OCT22/6/4.

**8 Staff matters**

Changes to the structure of the Secretariat

8.1.1 It has been almost a year since I have joined the Funds and I am pleased to report that I am very happy with the changes to the structure of the Secretariat that have been implemented so far:

- The four functional areas/sections of Finance, Human Resources (HR), Information Technology (IT) and Office Management are for now retained under one department, the Administration Department, that is overseen by Mr Robert Owen as Head, Administration Department at his current D1 level with effect from 1 June 2022.
- Following the retirement of Mr Ranjit Pillai (Sri Lanka), Deputy Director/Head, Finance and Administration Department, in June 2022, Mrs Liliana Monsalve took over the role of Deputy Director as Deputy Director/Head of Claims Department at the D2 level with effect from 1 June 2022.
- One of the Claims Manager posts in the Claims Department had to be reviewed due to the changes in level of duties and responsibilities resulting from the Head of Claims role being combined with the Deputy Director role. The post was reclassified from Professional Services P3/P4 dual grade to P5, and the title was changed to that of Senior Claims Manager. Ms Chiara Della Mea, the incumbent, was promoted to the grade of P5, Senior Claims Manager with effect from 1 June 2022.
- Following the establishment of the post of Chief of Finance, Ms Claire Montgomery was promoted to this post at the Professional Grade of P5 with effect from 1 June 2022.
- Mr Thomas Liebert is working on a reduced capacity for medical reasons. He continues to focus on HNS matters, and Mrs Victoria Turner continues to coordinate the activities carried out by the External Relations and Conference Department.

Departure and appointment of staff members

8.1.2 Miss Nadja Popovic, External Relations and Conference Assistant, resigned from her position with effect from 31 August 2022.

8.1.3 Ms Julia Sukan del Rio, External Relations and Conference Coordinator, resigned from her position with effect from 20 October 2022.

8.1.4 Miss Thamina Begum was appointed to the position of Finance Assistant, Administration Department with effect from 6 June 2022.

- 8.1.5 Mr Asayehegn Woldegebrail was appointed to the position of Finance Manager, Administration Department with effect from 19 September 2022.

Cessation of the Conscious Rewarding Scheme and Introduction of Service Awards

- 8.1.6 After a review of the Conscious Rewarding Scheme, I have decided that both the Manager's and Director's Awards under the scheme would be discontinued with effect from 1 January 2022. Instead, I introduced Service Awards in order to recognise an individual's loyalty and commitment to the IOPC Funds (document IOPC/OCT22/7/1).

Retirement Award

- 8.1.7 I have also decided to introduce a new Retirement Award with effect from 1 January 2022. The Retirement Award is a cash lump sum that is awarded to individual staff members who reach the IOPC Funds retirement age of 65 years and retire from the Secretariat after completing at least 10 years of service (document IOPC/OCT22/7/1).

**9 Impact of the General Data Protection Regulation (GDPR)**

- 9.1 I am pleased to report that the Secretariat has continued to make substantial progress with the tasks required for implementing the principles of the General Data Protection Regulation (GDPR). The most recent developments on the application of the GDPR and the European Directive 2016/680 to the IOPC Funds and the Secretariat's engagement towards the implementation of the IOPC Funds' data protection system in readiness for the full implementation of the system in 2023 are presented in document IOPC/OCT22/7/4.

**10 Information services**

- 10.1 The Secretariat regularly reviews and endeavours to improve the general information services it provides. The IOPC Funds website and its presence in social media have significantly enhanced the Secretariat's efforts to improve communication. Most publications relating to the Funds are available online in all three official languages. In addition, several claims publications have been made available in languages other than the three official languages of the organisation. The Secretariat has also implemented a new customer relationship management (CRM) system, which has significantly improved the way in which communications are delivered to Member States and other key stakeholders. The Secretariat is continually exploring new ways of improving the communication with Member States and increasing awareness of the work of the organisation (document IOPC/OCT22/7/2).

**11 Treaty matters**

11.1 2010 HNS Convention

- 11.1.1 Since March 2022, no State has deposited an instrument of ratification or accession to the 2010 HNS Protocol with the Secretary-General of IMO. There are six Contracting States to the Protocol, namely, Canada, Denmark, Estonia, Norway, South Africa and Turkey. However, a number of States have continued their efforts to implement the HNS Convention into their domestic legislation.

- 11.1.2 The Secretariat has also continued to carry out the tasks necessary to set up the International Hazardous and Noxious Substances Fund (HNS Fund) and prepare for the first session of the HNS Fund Assembly as instructed by the 1992 Fund Assembly. To this end, a more detailed plan has been established that includes a complete list of items to be discussed and agreed upon before, during and after the period of entry into force of the 2010 HNS Convention. I have established an internal steering group, composed of members of staff across the Secretariat with a range of expertise, to oversee the implementation and undertake the various tasks within the plan.
- 11.1.3 Throughout 2022, the Secretariat has continued to use every opportunity to promote the entry into force of the 2010 HNS Convention, engage with interested States and other key stakeholders, and share information with industry representatives through the delivery of various workshops or other training and outreach activities, in close cooperation with the International Maritime Organization (IMO) Secretariat.
- 11.1.4 Now that requests for assistance and information are more regular and complex than in previous years, it is important that a specific programme of assistance on HNS matters is organised. Ensuring correct HNS reporting is a major issue for existing and future Contracting States. The IOPC Funds, in cooperation with IMO, will continue to engage with Contracting States to develop a set of guidelines and support for HNS reporting and contributions as a priority since this is vital for the proper functioning of the HNS Fund.
- 11.1.5 An appropriation of £135 000 has been included in the 2023 budget to cover the costs for the preparations and other administrative tasks in respect of the HNS Fund (document IOPC/OCT22/8/2), of which £100 000 has been included to provide assistance to States in relation to the HNS reporting and contribution system. I will submit a document at the next meeting of the 1992 Fund Assembly proposing that the HNS Fund should pay a flat management/development fee to the 1992 Fund, that will be based on the model used to calculate the fee paid by the Supplementary Fund to the 1992 Fund. All costs incurred by the 1992 Fund for the setting up of the HNS Fund will be reimbursed by the HNS Fund with interest.

## **12 External Relations**

### **12.1 IOPC Funds Short Course**

The annual IOPC Funds Short Course took place from Monday, 27 June to Friday, 1 July at the Funds' headquarters in London. The positive feedback received from participants confirms that the course continues to be a success and proves useful in enabling the Secretariat to connect with delegates to Funds' meetings and government officials who have a responsibility in the areas of oil reporting and oil spill preparedness and response. I would like to thank IMO, the International Group of P&I Clubs (IG), the Standard Club, INTERTANKO, ITOFF and the International Chamber of Shipping (ICS) for supporting this course (circular IOPC/2022/Circ.3).

### **12.2 Induction course for delegates**

The IOPC Funds will run an induction course for representatives of 1992 Fund Member States on the morning of Monday 24 October 2022, at the Funds' headquarters in London. This course has been developed in response to the continued demand from Member States to hold training specifically aimed at providing delegates with an insight into the functioning of the organisations (circular IOPC/2022/Circ.5).

**12.3 Outreach activities**

- 12.3.1 Since March 2022, I have visited, together with other members of the Secretariat: Greece; Japan; the Republic of Korea; India; and Canada. These visits were all very positive and constructive, and provided me with the opportunity to meet with different government and industry representatives to discuss a number of issues relating to the regime and the role of the Funds. The IOPC Funds were invited to participate in Interspill 2022, Oil Spill India, the 2022 RAMOGEPol exercise and the IG Correspondents' Conference. The IOPC Funds also delivered an online briefing session on the 2010 HNS Convention and an online workshop on contributions and the submission of oil reports for Malaysia. The Secretariat has also provided lectures to students from several universities and institutions (Deusto University, World Maritime University, Universidad de Cartagena, and the International Foundation for the Law of the Sea (IFLOS)).
- 12.3.2 The Secretariat will also be participating in more outreach activities until the end of the year, namely: the Sub-regional workshop in Tunisia organised by REMPEC; the HNS workshop organised at the initiative by the State of Canada; the 2022 GI WACAF 9<sup>th</sup> Regional Conference in Ghana; the regional workshop in Singapore organised by the IMO-IPIECA Global Initiative for South-East Asia (GI SEA Project); and the workshop organised by EMSA in Lisbon.
- 12.3.3 Outreach activities are a valuable opportunity for the Secretariat to continue to provide support and training to Member States, non-Member States and other stakeholders. Every effort is made to increase awareness among stakeholders about the work of the organisation and the international liability and compensation regime. Outreach activities are, whenever possible, combined with meetings with government authorities, contributors and other key stakeholders to enhance cooperation, exchange views and clarify questions.
- 12.3.4 In addition, following the experience gained in the previous year and the increased acceptance and demand for remote activities, the Secretariat will continue to develop training courses throughout 2022 which will be open to a wide audience, covering the key areas that form the bases of the IOPC Funds and the work of the organisations (document IOPC/OCT22/7/3).

**13 Format of the meetings**

- 13.1 Due to the COVID-19 pandemic and the refurbishment of the IMO meeting facilities, the IOPC Funds governing bodies held remote meetings during the period December 2020 to March 2022. Despite the significant challenges in adjusting to remote working methods, there was an increase in meeting attendance, both in terms of participants and the number of Member States represented.
- 13.2 While we are aware of the benefits offered by online meetings, we also note the constraints they pose in terms of time, interactions among delegates and quality of the debate in general, all of which are vital when making important decisions. We are, therefore, exploring the possibility of offering a streaming service or holding hybrid meetings in the future.
- 13.3 The IMO conference facilities are back in full use and the IMO building is fully open to visitors. Therefore, the October 2022 meeting of the IOPC Funds governing bodies will be a fully in-person event.
- 13.4 IMO will be conducting hybrid meetings from September 2022 for a trial period of one year and the experience gained from these meetings will be reported in November 2022. I am aware that Member States may wish to consider the format of future IOPC Funds meetings and I consider it prudent to monitor the developments within IMO before taking any decisions in this regard. I will continue to monitor the developments regarding this matter and will report to you again in May 2023 (document IOPC/OCT22/1/4).

**14 Potential impact of sanctions on the international liability and compensation regime**

- 14.1 In March 2022, the Secretariat submitted document IOPC/MAR22/8/1, which included a draft circular of the Legal Committee (IMO document LEG 109/16/1 paragraphs 5.14 and 5.15) containing guidance on the impact of the situation in the Black Sea and the Sea of Azov on insurance or other financial security certificates. The IMO circular also contained information relevant to the IOPC Funds. As matters have progressed, further restrictions against the Russian Federation have been, and will be, implemented.
- 14.2 At present, many vessels are attempting to circumvent sanctions by various methods, which negates many of the IMO safety measures, risking the crews involved and putting coastlines at an increased risk of oil pollution. In addition, as a result of the restriction on insurance of vessels carrying Russian crude oil and products, more shipowners will need to insure with non-IG insurers. There is a risk that some of these insurers may not be so willing to comply with their obligations under the 1992 CLC and that the 1992 Fund may have to pay additional compensation if a shipowner or its insurer fails to establish a limitation fund. The refusal of many banks to have any dealings with money destined for or originating from the Russian Federation means that the 1992 Fund may face difficulties in establishing bank accounts from which to pay compensation. The Secretariat continues to monitor the situation and liaise with Member States, IMO and the IG on this matter and will report to the governing bodies at a future session. I would like to thank the delegations of Canada, Japan and the United Kingdom, and the International Group for the documents they have presented on this issue (documents IOPC/OCT22/4/4, IOPC/OCT22/4/4/1 and IOPC/OCT22/4/4/2).

**15 Decisions to be made**

Listed below are some of the main decisions to be made by the governing bodies during the meeting:

- Elect 15 States to the Executive Committee (document IOPC/OCT22/4/1)
- Approve the 2021 Financial Statements for the 1992 Fund and the Supplementary Fund (documents IOPC/OCT22/5/6/1 and IOPC/OCT22/5/6/2)
- Decide whether to endorse the Director's proposal to prepare a draft resolution in consultation with the Audit Body, to enable him to issue invoices to contributors based on estimates if no oil reports are submitted (document IOPC/OCT22/6/1)
- Decide whether to appoint the new member of the joint Investment Advisory Body (document IOPC/OCT22/6/2)
- Decide whether to endorse the Audit Body's recommendation for a straightforward re-appointment of BDO for a two-year term or any period that the governing bodies may deem necessary, on an exceptional basis (document IOPC/OCT22/6/3)
- Approve the proposed amendments to the 1992 Fund and Supplementary Fund Financial Regulations to take into account changes to the structure of the Secretariat and corresponding job titles of staff members (document IOPC/OCT22/6/4)
- Approve the 2023 budgets for the 1992 Fund and the Supplementary Fund (documents IOPC/OCT22/9/1/1 and IOPC/OCT22/9/1/2)
- Approve the proposal on levies to the General Fund and the Major Claims Funds (documents IOPC/OCT22/9/2/1 and IOPC/OCT22/9/2/2)

**16 Looking ahead**

- 16.1 The 1992 Fund now has 120 Member States and the Supplementary Fund, 32 Member States. While it is comforting to see the continued growth in membership, the Secretariat will continue to work towards promoting the international compensation regime in States which have not yet ratified the 1992 Fund Convention and the Supplementary Fund Protocol and who are, therefore, unprotected from the impact of a potential oil spill.
- 16.2 In order to further enhance the success of the international liability and compensation regime, the Secretariat will work towards ensuring that Member States are protected appropriately and that the Conventions are uniformly and effectively implemented and interpreted in Member States.
- 16.3 Throughout 2023, the Secretariat will continue work actively, in cooperation with IMO, towards the ratification of the 2010 HNS Protocol and the setting up of the HNS Fund. Following a structured plan that takes into account the different aspects involved in the implementation of the 2010 HNS Convention, the Secretariat will promote the tools available to ensure that a solid foundation is set for the uniform and correct application of the HNS Convention once it comes into effect.
- 16.4 As I promised when I was elected Director last November, I will continue to work with my colleagues at the Secretariat to ensure that the Funds continue to serve and protect its Member States, while adapting to their needs in an efficient and effective manner.

**17 Gratitude**

- 17.1 This is my first in-person meeting in my capacity as Director of the IOPC Funds. My first ten months as Director of the Funds have been both challenging and exciting. The departure of several of the Funds' staff who had played a key role in the management of the organisation's most important issues posed a significant challenge. I therefore focused on strengthening the structure of the Secretariat and I am happy to confirm that the Secretariat staff rose to the occasion while striving to work as one team.
- 17.2 In keeping with the promise I made to serve the Member States and victims of oil pollution, to defend the Funds' interests and to adapt to changing needs when I was elected Director in November 2021, I devoted a substantial time of my first year as Director to engaging with the Member States, the members of the Secretariat, industry and other stakeholders, on how best to proceed on the most pressing issues the Funds are facing at present and will have to deal with in the future.
- 17.3 It is a privilege for me to work closely together with the Member States, the oil industry, the P&I Clubs, IMO, fellow international organisations and the international shipping community, and I want to thank you all for your cooperation and readiness to contribute towards the strengthening of the Funds and the proper functioning of the international compensation regime.
- 17.4 I would also like to express my sincere gratitude to the seventh Audit Body members: its Chair, Mrs Birgit Sølling Olsen (Denmark), its Vice-Chair Mr Vatsalya Saxena (India), Captain Thomas F. Heinan (Marshall Islands), Dr Hideo Osuga (Japan), Mr Alfred H.E. Popp (Canada), Mr Arnold Rondeau (France), , and the external expert, Mrs Alison Baker (United Kingdom). Your insight, advice and expertise have proved to be of great value to the work of the Secretariat. I would also like to thank the Investment Advisory Body, the representatives of the External Auditor (BDO), and the lawyers and experts who work for the Funds.
- 17.5 I would like to thank the Secretary-General of IMO, Mr Kitack Lim, and IMO staff for the continued cooperation and support provided to the Secretariat.

- 17.6 I would also like to thank the Chairs and Vice-Chairs of the governing bodies who are called upon on occasion outside of sessions to provide views and assistance to me and the Secretariat on key issues affecting the IOPC Funds.
- 17.7 Finally, I would like to express my gratitude and appreciation to all my colleagues in the Secretariat, for having helped me settle in and get a thorough understanding of the day-to-day work of the Secretariat during my first year working in the Funds, whilst keeping my promise to serve, protect and adapt.

**18 Action to be taken**

1992 Fund Assembly and Supplementary Fund Assembly

The 1992 Fund Assembly and Supplementary Fund Assembly are invited to take note of the information contained in this document.

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