



International Oil Pollution  
Compensation Funds

<b>Agenda Item 9</b>	IOPC/NOV24/9/3	
<b>Date</b>	11 October 2024	
<b>Original</b>	English	
<b>1992 Fund Assembly</b>	92A29	●
<b>1992 Fund Executive Committee</b>	92EC83	
<b>Supplementary Fund Assembly</b>	SA21	

## PROPOSED CHANGE TO WORKING CAPITAL

### Note by the Director

<b>Summary:</b>	The Director proposes that the working capital be increased from £15 million to £22 million over two years (2026 and 2027).
<b>Action to be taken:</b>	<u>1992 Fund Assembly</u>  Decide whether to approve the Director's proposal to increase the working capital to £22 million over the budget years 2026 and 2027 by increasing the levy of contributions to the General Fund.

### 1 Introduction

- 1.1 The Financial Regulations of the 1992 Fund provide that a working capital shall be maintained at such a level as the Assembly may decide from time to time (Financial Regulation 7.1(b)).
- 1.2 Under Financial Regulation 7.1(c), the 1992 Fund shall have a General Fund which shall be used:
  - (i) for the satisfaction of payments referred to in Article 12.1(i)(b) of the 1992 Fund Convention including the first four million SDRs of payments in respect of any one incident where the aggregate amount of the payments of all claims and claims related expenditure exceeds four million SDRs;
  - (ii) to make provisional payments pursuant to Internal Regulation 7.8;
  - (iii) to meet the costs and expenses of the administration of the 1992 Fund and any other expenditure which may be authorised by the Assembly;
  - (iv) to make loans to a Major Claims Fund for the satisfaction of payments referred to in Article 12.1(i)(c) of the 1992 Fund Convention, above the first four million SDRs in respect of any one incident, to the extent that sufficient money is not available in that Major Claims Fund.
- 1.3 Separate Major Claims Funds are established in respect of incidents where the aggregate amount of the payments by the 1992 Fund exceeds SDR 4 million. Such Major Claims Funds are used for the payment of claims arising from the relevant incident. The first SDR 4 million, however, are paid from the General Fund (Financial Regulation 7.2(a) and (d)).

## 2 Evolution of the working capital over the years

- 2.1 The 1992 Fund Assembly or where necessary the 1992 Fund Administrative Council have taken decisions relating to the level of working capital of the 1992 Fund as follows:

Assembly year	Agreed change in working capital		Document	Paragraph
	From	To		
1996		£7 million	<a href="#">92FUND/A/ES.1/22</a>	18
1997	£7 million	£9 million	<a href="#">92FUND/A.2/29</a>	26
1998	£9 million	£12 million	<a href="#">92FUND/A.3/27</a>	24
1999	£12 million	£15 million	<a href="#">92FUND/A.4/32</a>	28
2000	£15 million	£18 million	<a href="#">92FUND/A.5/28</a>	27
2001	£18 million	£20 million	<a href="#">92FUND/A.6/28</a>	25
2004	£20 million	£22 million	<a href="#">92FUND/A.9/31</a>	26
2017	£22 million	£15 million	<a href="#">IOPC/APR17/9/1</a>	6.1.10

- 2.2 At the October 2004 session of the 1992 Fund Assembly, delegations debated whether an increase in the working capital to £25 million was justified in the light of the reduction of the number of incidents involving the 1992 Fund, the increased amount payable by the shipowner under the 1992 Civil Liability Convention (1992 CLC) and the ongoing renewal of the world tanker fleet. However, the governing bodies decided to set the working capital at £22 million which was maintained until 2017.
- 2.3 At its April 2017 session, the 1992 Fund Administrative Council, acting on behalf of the Assembly, noted that a fall in the number of incidents in the preceding years had warranted a reduction in the working capital from £22 million to £15 million. This reduction was implemented incrementally over three years.

## 3 Director's considerations

- 3.1 The Director considers that the prompt payment of compensation is of crucial importance. The 1992 Fund should, in the Director's view, hold sufficient liquid funds to enable it to pay claims without having to wait for the following payment of contributions. In addition, the Director considers that the working capital should be sufficiently large so that bank loans are not required for the prompt payment of settled claims, at least not in normal circumstances.
- 3.2 The estimates that form the basis of the 1992 Fund Assembly's decision to levy contributions contain a considerable element of uncertainty, due in part to the relatively long period between when the estimates are made (July), the Assembly's decision to levy contributions (October/November) and the due date for payment of contributions (1 March of the following year). For example, the 2024 General Fund levy contains estimates of the funding required for the period July 2024 to 1 March 2026.
- 3.3 Not included in the estimates for the General Fund levy for the following 20-month period are payments up to SDR 4 million for new incidents, loans required by Major Claims Funds established for these new incidents, and loans required by existing Major Claims Funds where estimates made were insufficient. These unforeseen events must be funded by the General Fund working capital.
- 3.4 At the time of publishing, 2024 has seen three new incidents: *Gulfstream* in Trinidad and Tobago in February; *Marine Honour* in Singapore in June; and *Terra Nova* in the Philippines in July. This follows the *Princess Empress* incident in the Philippines in February 2023 and the *Bow Jubail* incident in the Netherlands, which happened in 2018 and was confirmed as a 1992 Fund incident in 2023. The risk environment for the 1992 Fund has increased over recent years due to a number of factors including the dangers posed by the transportation of oil by the 'shadow' fleet, and the increase in vessels engaged in maritime trade.

- 3.5 If the 1992 Fund is working with a P&I Club or other insurer, compensation payments up to the limit applicable will be made by the insurer. The limit is set in SDR by the 1992 CLC, based on the tonnage of the ship. The GBP equivalent of SDR values have not changed significantly over recent years. However, the cost of clean-up operations, personnel and equipment hire for oil spill response has increased in line with inflation. This means that the funds available in the General Fund do not extend as far as they once did and fewer incidents can be covered by the General Fund working capital.
- 3.6 In recent years, there has been an increase in the number of incidents involving the 1992 Fund for which there has been no insurer, such as the Incident in Israel in 2020 and *Gulfstream* in 2024. In these two incidents the 1992 Fund needed to be able to make compensation payments from the outset of the incident, meaning not only more cost for the 1992 Fund but also payments of compensation commencing earlier than would be the case if an insurer had been paying the initial claims. In other incidents, the 1992 Fund has faced issues with insurers refusing to pay up to their limit of liability under the 1992 CLC or insurers which have been placed into liquidation. Similar to incidents with no insurer, this may cause the 1992 Fund to pay from the outset in order to ensure that claimants do not suffer unduly.
- 3.7 Taking into account (i) the increased risk of incidents occurring; (ii) the increased costs of compensation; and (iii) the increased risk of tankers being at sea with no or inadequate insurance, the Director considers that a review of the working capital is justified.

#### **4 Director's proposal**

- 4.1 For the reasons set out in paragraphs 3.1 to 3.7, the Director considers that the present level of the working capital of the 1992 Fund should be increased to £22 million.
- 4.2 The Director also proposes that the increase in the working capital be made over the budget years 2026 and 2027, as set out below:

<b>Budget year</b>	<b>Working capital</b>	<b>Increase</b>
2025	£15 million	
2026	£19 million	£4 million
2027	£22 million	£3 million

- 4.3 In addition, the Director proposes that the increase in the working capital be made by increasing future levies of contributions to the General Fund.

#### **5 Action to be taken**

##### 1992 Fund Assembly

Decide whether to approve the Director's proposal to increase the working capital to £22 million over the budget years 2026 and 2027 by increasing the levy of contributions to the General Fund.

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