



International Oil Pollution
Compensation Funds

Agenda Item 4	IOPC/NOV24/4/3/Corr.1	
Date	21 October 2024	
Original	English	
1992 Fund Assembly	92A29	●
1992 Fund Executive Committee	92EC83	
Supplementary Fund Assembly	SA21	●

RISK OF UNINSURED AND UNSAFE SHIPS

Note by the Secretariat

1 **Introduction**

- 1.1 Pages 9 and 10 of Annex I attached to document [IOPC/NOV24/4/3](#), containing comments from the United Arab Emirates have been reissued as, due to an administrative oversight, some comments were published incorrectly.
- 1.2 The corrected version is attached to the present document and has been reissued in all languages.

2 **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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ANNEX

ANNEX I

FEEDBACK RECEIVED ON THE DRAFT RESOLUTIONS SINCE THE APRIL 2024 SESSIONS OF THE GOVERNING BODIES Comments from the United Arab Emirates (original English)

(Proposed deletions are indicated by strikethrough of the text. Proposed new text is underlined.)

Specific proposed amendments to the operative paragraphs of the draft Resolutions:

RECALLING that, under both the 1992 Civil Liability Convention and the 1992 Fund Convention, there are fundamental obligations for a State Party to ensure that a ship trading under its flag or entering or leaving a port in its territory has the required insurance or other financial security,

RECALLING FURTHER ALSO that failure to meet these treaty obligations may result in State liability,

NOTING with regret and great concern the increasing trade of oil now being conducted by unsafe and uninsured or insufficiently insured ships, effectively undermining the safety and environmental standards developed by the International Maritime Organization (IMO) as well as the international liability and compensation regime based on the 1992 Civil Liability Convention, the 1992 Fund Convention and the 2003 Supplementary Fund Protocol,

NOTING FURTHER ALSO that recently there have been oil spill incidents in which the spill sources are ~~unclear~~ unknown, the responsible shipowner is not identified, or the ship is not insured or sufficiently insured,

NOTING WITH CONCERN that under the 1992 Fund Convention, the 1992 Fund may have to pay compensation to victims of oil pollution in the affected ~~Member~~ Contracting State without any contribution from the shipowner or its insurer,

RECOGNISING that the shared liability between the shipping and the oil industries is crucial for the effective and efficient functioning of the international liability and compensation regime,

CONSCIOUS that this situation could continue in the future if no action is taken to prevent it,

NOTING WITH ~~REGRET~~ that, ~~even though~~ this issue has been discussed by the 1992 Fund Assembly and in the IMO Legal Committee on several occasions, ~~and is addressed, to some extent, in IMO Assembly Resolution A.1192(33), some oil trading continues to be conducted using unsafe and uninsured or insufficiently insured ships,~~

RECOGNISING the need to raise awareness of the current situation and for Contracting States and all parties concerned to do their utmost to prevent any future trading of oil by uninsured or insufficiently insured ships or ships that are in serious breach of the safety and environmental standards contained in the relevant IMO Conventions and instruments,

- 1 **URGES** all ~~Member~~ Contracting States to take the necessary steps to enforce the safety and environmental standards contained in the relevant IMO Conventions and to enforce the insurance requirements applicable under the 1992 Civil Liability and the 1992 Fund Conventions to the ships under their flags and those ships entering or leaving a port in their territories,

- 2 ~~3-URGES FURTHER ALSO~~ those States involved in an oil pollution incident caused by an uninsured or insufficiently insured ship or a ship significantly breaching the safety and environmental standards contained in the relevant IMO Conventions to cooperate ~~and assist~~ with each other, consistence with their domestic laws and procedures, in relation to investigations (including criminal investigations) into the causes of such incidents and on the persons involved (including the identity of the shipowner) ~~as well as into the reasons why~~ including ships were operating without sufficient insurance coverage or without complying with safety and environmental standards,
- 3 ~~2-REMINDS~~ each Contracting State affected by a spill that the IOPC Funds may not be liable to pay compensation if the person, including a State, suffering the damage has not taken all reasonable steps to pursue the legal remedies available to them,
- 4 **INSTRUCTS** the Director, in consultation with the Audit Body, to:
 - 1 develop an internal procedure to be followed by the IOPC Funds' Secretariat in order to gather necessary information to determine the applicability of the 1992 Civil Liability Convention, the 1992 Fund Convention and the Supplementary Fund Protocol and the parties involved; and
- ~~5 FURTHER INSTRUCTS~~ the Director, in consultation with the Audit Body, to:
 - 2 to develop guidance for ~~Member-Contracting~~ States for investigating the to deal with circumstances surrounding an oil pollution incident, in order to identify ships and persons involved, including, but not limited to, shipowners and their insurers,
- 5 **ALSO INSTRUCTS** the Director to continue to protect the interests of the IOPC Funds, to promote the use of reliable insurers to ensure that the international liability and compensation regime is able to function as intended and to pursue recourse action in the event of incidents occurring involving the IOPC Funds in which the owner/insurer of the ship does not fulfil its obligations under the 1992 Civil Liability Convention.
- 6 **ALSO REQUESTS** the Director to:
 - 1 inform IMO of the issues discussed and the concern raised, so that, it may also take action for the matters under its remit: and
 - 2 report on the implementation of this Resolution.