



International Oil Pollution
Compensation Funds

Agenda Item 9	IOPC/MAR22/9/2	
Date	30 March 2022	
Original	English	
1992 Fund Administrative Council	92AC21/92AES26	●
1992 Fund Executive Committee	92EC78	●
Supplementary Fund Assembly	SAES10	●

RECORD OF DECISIONS OF THE MARCH 2022 SESSIONS OF THE IOPC FUNDS GOVERNING BODIES

(held from 29 to 30 March 2022) <1>

Governing Body (session)		Chair	Vice-Chairs
1992 Fund	Administrative Council (92AC21/ 92AES26)	Ambassador Antonio Bandini (Italy)	Professor Tomotaka Fujita (Japan) Mr Sipho Mbatha (South Africa)
	Executive Committee (92EC78)	Mr Samuel Soo (Singapore)	Ms Luisa Burgess (Ecuador)
Supplementary Fund	Assembly (SAES10)	Mr Sungbum Kim (Republic of Korea)	Mr Andrew Angel (United Kingdom) Mr Emre Dinçer (Turkey)

<1> Following the virtual meeting of the governing bodies which took place from 29–30 March 2022, the sessions remained open for an additional five working day period from the publication of the draft Record of Decisions (IOPC/MAR22/9/WP.2), for delegations to comment on that document by correspondence. The correspondence period concluded on 12 April 2022.

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Opening of the sessions

- 0.1 Prior to the opening of the sessions, the Director welcomed participants to the fifth remote meeting of the IOPC Funds governing bodies and referred to document IOPC/MAR22/1/4, 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 noted that since the audio-visual facilities of the International Maritime Organization (IMO) main hall and committee rooms were undergoing refurbishment, in line with the recent practice adopted in light of the COVID-19 pandemic, the sessions were being held remotely (IMO circular letter No.4220/Add.13).
- 0.3 The Chair of the 1992 Fund Assembly began the proceedings by referring to the difficult and demanding time the world was facing in respect of the pandemic and, more recently, the armed conflict in Europe. He referred to a tenth-century monks' Latin prayer *Ex peste belloque salva nos Domine* which translates to *Lord, preserve us from plague and war*, and commented how tragic it was to find that the world was currently experiencing both these things. He also referred to another saying, derived from the 1940s Blitz in London, 'Keep Calm and Carry On', to encourage the governing bodies to nevertheless focus on the work of the IOPC Funds during the meeting. The Chair continued that the current political and military situations had been discussed at the United Nations (UN) General Assembly and at an extraordinary IMO Council session. He pointed out that, most importantly, the matter had been discussed at the IMO Legal Committee the previous week, where several decisions had been made which were relevant to the IOPC Funds. This was contained in IMO document LEG 109/WP.6 and replicated in the Annex of document IOPC/MAR22/8/1, which would be discussed under agenda item 8, Other matters. He therefore invited delegations to reserve any comments relating to that item for the appropriate time in the agenda.
- 0.4 During the opening of the sessions, the Chair of the 1992 Fund Assembly welcomed Mr Gaute Sivertsen to his first meeting in his new capacity as the Director of the IOPC Funds. A number of delegations also took the opportunity to congratulate Mr Sivertsen on his election and welcomed him in his new role as Director.
- 0.5 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/MAR22/1/3.
- 0.6 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/MAR22/1/3.
- 0.7 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

- 0.8 The Chair of the 1992 Fund Assembly attempted to open the 26th extraordinary session of the Assembly but since the quorum required 60 States to be present and only 59 were in attendance at the time of the opening, no quorum was achieved. Therefore, the Chair concluded that, in accordance with Resolution N°7, the items of the Assembly's agenda would be dealt with by the 21st session of

the 1992 Fund Administrative Council, acting on behalf of the 26th extraordinary session of the 1992 Fund Assembly^{<2>}.

- 0.9 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

- 0.10 The Supplementary Fund Assembly Chair opened the 10th extraordinary session of the Assembly with 26 Member States present.

1992 Fund Executive Committee

- 0.11 The 1992 Fund Executive Committee Chair opened the 78th session of the Executive Committee with 14 Member States present.
- 0.12 The Member States present at the sessions are listed in Annex I, 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/MAR22/1/1	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/MAR22/1/1.

1.2	Temporary suspension of Rules of Procedure in connection with remote sessions – Facilitating remote sessions Document IOPC/MAR22/1/3	92AC	92EC	SA
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- 1.2.1 The governing bodies considered the proposals to amend or temporarily suspend Rules of Procedure as contained in document IOPC/MAR22/1/3.
- 1.2.2 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 March 2022 sessions of the governing bodies to be conducted remotely.
- 1.2.3 It was also noted that the proposals for amendments to procedures were the same as those approved by the governing bodies at all their previous remote sessions and were closely aligned to the guidance on remote sessions adopted by IMO.
- 1.2.4 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 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.

<2> From this point forward, references to the '21st session of the 1992 Fund Administrative Council' should be taken to read '21st session of the 1992 Fund Administrative Council, acting on behalf of the 26th extraordinary session of the 1992 Fund Assembly'.

1992 Fund Administrative Council and Supplementary Fund Assembly decisions

1.2.5 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^{<3>} 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 revised 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.

1.2.6 The governing bodies also noted that:

- (i) while Rule 9/8^{<4>} 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, 11 March 2022; and
- (ii) for the purposes of the March 2022 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

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

1.3	Examination of credentials Documents IOPC/MAR22/1/2 and IOPC/MAR22/1/2/1	92AC	92EC	SA
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Establishment of the Credentials Committee

1.3.1 The governing bodies took note of the information contained in document IOPC/MAR22/1/2.

1.3.2 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.

1.3.3 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

<3> 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.

<4> 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

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

- 1.3.4 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, 1992 Fund Administrative Council appointed the delegations of Nigeria, Panama, Sweden, Thailand, and Turkey as members of the Credentials Committee.

1992 Fund Executive Committee and Supplementary Fund Assembly

- 1.3.5 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

- 1.3.6 After having examined the credentials of the delegations of the 1992 Fund Member States, including States members of the 1992 Fund Executive Committee and Member States of the Supplementary Fund, the Credentials Committee confirmed in its report (document IOPC/MAR22/1/2/1) that it had examined 63 letters of credentials, which were all in order. The Credentials Committee reported that Dominica and Madagascar had presented credentials but had not participated in the sessions. The Credentials Committee also reported that Cameroon, Montenegro and Tunisia, had registered in the sessions but had not yet submitted credentials.

- 1.3.7 The governing bodies expressed their sincere gratitude to the members of the Credentials Committee for their work during the March 2022 meeting.

Bolivarian Republic of Venezuela (Venezuela)

- 1.3.8 The Chair of the Credentials Committee recalled that during the meetings of the governing bodies in October 2019, December 2020, March 2021 and November 2021, the then Director had received two letters of credentials for two separate delegations claiming to represent the Bolivarian Republic of Venezuela (Venezuela). The Chair also recalled that on those occasions, the then Director had requested the advice of Dr Rosalie Balkin AO, Professor Dan Sarooshi Q.C and Professor Antonios Tzanakopoulos, Associate Professor of Public International Law of the Faculty of Law in the University of Oxford.

- 1.3.9 The Chair further recalled that the Credentials Committee had recommended that the letter of credentials issued by Ambassador Maneiro should be accepted as the official representatives for the October 2019, December 2020, March 2021 and November 2021 sessions of the governing bodies. He added that the recommendations of the Credentials Committee had been accepted in all instances by the 1992 Fund Assembly, and noted by the 1992 Fund Executive Committee and the Supplementary Fund Assembly.

- 1.3.10 The Chair of the Credentials Committee reported that, prior to the March 2022 sessions of the governing bodies, the Director had again received two letters of credentials for Venezuela. The Director had then requested the advice of Professor Antonios Tzanakopoulos, who provided a legal opinion on this matter.

- 1.3.11 The Credentials Committee was unanimous in its view that it was not the function of the IOPC Funds to decide which was the legitimate government of Venezuela since it considered that to be a political question to be decided in another forum, namely the political organs of the United Nations (UN) (i.e. the UN General Assembly and the UN Security Council). The Committee concluded that the role

of the Credentials Committee and the 1992 Fund Administrative Council was simply to decide which of the two representatives should be accredited as the official representative of Venezuela at the March 2022 sessions of the Funds governing bodies and make its recommendation to the 1992 Fund Administrative Council.

- 1.3.12 In considering this matter and the legal advice provided by Professor Tzanakopoulos on 17 March 2022, the Credentials Committee recommended that the *status quo* should continue and that the letter of credentials of the current delegation of Venezuela issued by Ambassador Maneiro, appointed by President Maduro, should be accepted and that the named individuals therein should be deemed the official representatives for the March 2022 sessions of the governing bodies. The Credentials Committee noted, however, that this position was applicable to the March 2022 meeting of the governing bodies only, and it could be susceptible to change in the coming months depending on future developments.

1992 Fund Administrative Council decision

- 1.3.13 The 1992 Fund Administrative Council took note of the Report of the Credentials Committee and, based on its recommendation, the Council decided to accept the credentials of the delegation headed by HE Mrs Rocío Maneiro (Ambassador, Permanent Representative to IMO and other international organisations headquartered in London, appointed by President Nicolas Maduro) as the official representative of Venezuela at the March 2022 sessions of the governing bodies.

1992 Fund Executive Committee and Supplementary Fund Assembly

- 1.3.14 The 1992 Fund Executive Committee and the Supplementary Fund Assembly noted the decision of the 1992 Fund Administrative Council.

1.4	Amendments to Rules of Procedure of 1992 Fund Executive Committee Document IOPC/MAR22/1/5	92AC	92EC	
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- 1.4.1 The 1992 Fund Administrative Council noted the information contained in document IOPC/MAR22/1/5, which set out a proposal to amend Rule 18 of the Rules of Procedure of the 1992 Fund Executive Committee to clarify the process for the election of the Chair and Vice-Chair of the Executive Committee.
- 1.4.2 The Director introduced the document which provided some background information on past and current practices for the election of Chairs and Vice-Chairs. He explained that following some feedback on the document, the proposed amendments to Rule 18 would benefit from changing instances of the singular 'their' to 'his/her' for the sake of clarity.
- 1.4.3 The Director further explained that the document was raising a minor procedural issue and that the proposed amendments would help put in place a clear system on who presides over the election of the Chair and Vice-Chair of the Executive Committee based on different scenarios.
- 1.4.4 The Chair of the 1992 Fund Administrative Council thanked the Director for his introduction to the document. The Chair agreed that the proposed text for Rule 18 might require some further clarification and invited delegations for any comments.

*Debate**Intervention by the delegation of the Russian Federation*

- 1.4.5 The delegation of the Russian Federation requested some clarification on the proposed amendments and made particular reference to Rule 19 of the Rules of Procedure of the Executive Committee. That delegation pointed out that Rule 19 provided for a situation where the Chair was absent or for any reason was unable to carry out his or her functions, and understood that resignation would be one such reason. With that in mind, that delegation suggested that the second part of the proposed amendments could remain, but that the Director should only step in to preside over the election if both the Chair and Vice-Chair resign from their positions. That delegation considered that under this proposal, Rules 18 and 19 could cover all scenarios, as it is clear that the Vice-Chair can act on the Chair's behalf as provided in Rule 19.

Intervention by the delegation of the United Arab Emirates

- 1.4.6 The delegation of the United Arab Emirates (UAE) thanked the Secretariat for the proposed amendments to Rule 18 of the Rules of Procedure of the 1992 Executive Committee in order to clarify the process for the election of the Chair and Vice-Chair of the Executive Committee. That delegation expressed that it was satisfied with the first part of the proposed amendments, however, raised a similar concern to the previous speaker in that the second part of the proposed amendments addressed only two situations out of three situations, which were:

- both Chairs resign before the end of their term;
- the Chair resigns before the end of the term; or
- the Vice-Chair resigns before the end of the term.

- 1.4.7 That delegation therefore proposed a number of further amendments to the text to address all three situations.

- 1.4.8 In response, the Director thanked the delegation of the United Arab Emirates for their proposal and for outlining the three scenarios clearly. The Director suggested that, since this was a drafting matter, that the proposed amendments be circulated for the consideration of the governing bodies and that the discussion be postponed to a later time.

- 1.4.9 The governing bodies noted that the proposed amendments by the United Arab Emirates had been circulated in document IOPC/MAR22/1/5/WP.1.

- 1.4.10 The Chair of the 1992 Fund Assembly suggested that, since this matter was a minor procedural issue and particularly due to the time constraints of the meeting, further discussion on the matter should be postponed to the next sessions of the governing bodies. The Chair noted that this would also give the Secretariat sufficient time to compare the proposed amendments to the Rules of Procedure of the Assembly to ensure consistency throughout the rules of the governing bodies before finalising the text.

- 1.4.11 Both delegations of the United Arab Emirates and the Russian Federation agreed with the Chair's proposal to postpone further discussion of the matter to the next sessions of the governing bodies.

1992 Fund Administrative Council

- 1.4.12 The governing bodies noted document IOPC/MAR22/1/5/WP.1, which contained the proposed amendments made by the United Arab Emirates and decided to postpone the discussions on the matter to the next sessions of the governing bodies.

2 Overview

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| 2.1 | Report of the Director
Document IOPC/MAR22/2/1 | 92AC | | SA |
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- 2.1.1 The Director presented his report contained in IOPC/MAR22/2/1. He noted that the March 2022 meeting would be the fifth time the governing bodies had convened remotely since December 2020. He also noted that given the uncertainty surrounding the pandemic and the refurbishment that was being carried out in the International Maritime Organization (IMO) headquarters, the meeting would be convened fully remotely. He apologised for the inconvenience and expressed his intention that the October 2022 meeting be convened in person. He added that the plan was to hold the Audit Body meeting at the end of April and the IOPC Funds Short Course during the week of 27 June in person.
- 2.1.2 The Director recalled that he had chaired the sessions of the governing bodies in his capacity as Chair of the 1992 Fund Assembly for over 10 years and that this would be the first time that he would be presiding over them in his capacity as Director.
- 2.1.3 The Director also recalled that this would be Mr Ranjit Pillai's (Deputy Director/Head of Finance and Administration) last meeting of the governing bodies before he retired in June 2022. He explained that some time had been set aside on the last day of the meeting to bid him a preliminary farewell and that a more appropriate farewell in person would be organised at the next available opportunity.
- 2.1.4 In relation to the COVID-19 pandemic, the Director stated the IOPC Funds had always followed the guidelines provided by the World Health Organization, the Government of the United Kingdom and IMO. He added that throughout the pandemic, the Secretariat had adapted to the changing circumstances, had carried out its tasks and had operated successfully at all times. He was pleased to report that the staff had been working back at the office since February 2022.
- 2.1.5 In terms of membership, the Director recalled that the Republic of San Marino and the Republic of Costa Rica had acceded to the 1992 Fund Convention in April and May 2021, respectively, which would bring the number of 1992 Fund Member States to 120 in May 2022. The Director further recalled that 32 States were Members of the Supplementary Fund.
- 2.1.6 With respect to compensation matters, the Director reported that the 1992 Fund was involved with 13 incidents. Regarding the *Hebei Spirit* incident, the Director reported that the Fund and all those involved in the handling of the claims arising from the incident would be holding a meeting on 15 and 16 June in Seoul to discuss the case and the lessons to be learned. The Director thanked the Republic of Korea and the Chair of the Supplementary Fund Assembly, in particular, for assisting the Secretariat with the organisation of this meeting.
- 2.1.7 With respect to the *Agia Zoni II* incident, the Director reported that the assessment of claims was continuing and that the investigations into the cause of the incident by the Public Prosecutor continued.
- 2.1.8 In regard to the *Bow Jubail* incident, the Director noted that this case had broad implications for the international compensation regime. He recalled that it was still to be decided whether the incident was covered under the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention 2001) or if the 1992 Civil Liability and Fund Conventions applied. He noted that the 1992 Fund had a financial interest in this case, since if a final judgment were to decide that the 1992 Civil Liability and Fund Conventions applied, the 1992 Fund would pay compensation. However, if the Bunkers Convention 2001 applied, then the Fund would not be involved.
- 2.1.9 The Director reported that in a ruling on 24 December 2021, the Supreme Court had decided to grant the Fund's subsidiary application to be admitted as an interested party in the proceedings, based on

the civil procedural law of the Netherlands. He further reported that the Fund's Dutch lawyers had prepared a reply to the Court's decision, which had been submitted on 14 March 2022.

- 2.1.10 With regard to the incident in Israel, the Director reported that he had travelled to Israel at the beginning of March and had held very positive meetings with the Israeli authorities including the Minister of Environmental Protection, the Fund's focal point in Israel, the Administration of Shipping and Ports, and the Marine Environment Protection Division of the Ministry of Environmental Protection.
- 2.1.11 The Director reported that the *Trident Star* incident could be considered as closed and thanked the Shipowners' Club for the excellent cooperation while working together on this incident. The Director also referred to the *Redferm* incident and said that he would continue to monitor the case closely.
- 2.1.12 The Director also reported that there had been no incidents involving the Supplementary Fund.
- 2.1.13 The Director was also pleased to report that on 15 February 2022, the Secretariat had received a submission from the Dominican Republic providing information on oil receipts in this Member State going back several years. He added that the Secretariat would analyse the data and liaise with the Member State to ensure that the correct quantities of oil were recorded and the corresponding contributions invoiced.
- 2.1.14 The Director reported that on his first months at the Secretariat, he had devoted substantial time to meeting the staff and getting to know them on a professional and personal basis. He referred to the departure of Mr Ranjit Pillai, Deputy Director/Head of Finance and Administration. He explained that he had decided to create a new Administration Department that would comprise the four functional areas of Finance, Human Resources, IT and Office Management. This Department would be overseen by Mr Robert Owen as Head of Administration at his current D1 level.
- 2.1.15 The Director reported that given the importance of the finance function in the organisation, he had decided to establish the post of Chief of Finance to head the Finance Section within the Administration Department, and to be responsible for the finance function of the organisation. He added that the Finance Section would consist of the Chief of Finance, a Finance Manager and three Finance Assistants.
- 2.1.16 The Director further reported that he had decided that Mrs Liliana Monsalve (Colombia) would be taking over the role of Deputy Director upon Mr Pillai's retirement effective 1 June 2022. He explained that Mrs Monsalve would continue in her position as Head of the Claims Department, thus combining the role of Deputy Director/Head of the Claims Department. He recommended to the 1992 Fund Administrative Council that the position of Deputy Director/Head of the Claims Department be graded at the D2 level.
- 2.1.17 The Director reported that Mr Yuji Okugawa had taken over Ms Hayton's responsibilities as Oil Reporting Administrator following her departure, which had been combined with those of his Policy Officer role. He also reported that Mr Thomas Liebert had been on medical leave since November 2021 and working part-time on HNS matters. He thanked Mrs Victoria Turner who had been coordinating the work of the External Relations and Conference Department under very difficult circumstances, and he commended her for her great work. He wished Mr Liebert a speedy recovery.
- 2.1.18 The Director was pleased to announce that on 23 March 2022, the new Headquarters Agreements between the United Kingdom and the 1992 Fund and the Supplementary Fund had been signed at the IOPC Funds Headquarters in London. He explained that the Agreements would provide the necessary privileges and immunities to the IOPC Funds to discharge its responsibilities and functions fully and efficiently, which was particularly important for the Supplementary Fund, as it was the first Headquarters Agreement for the organisation since its Protocol entered into force in 2005. He thanked the Foreign, Commonwealth and Development Office and the Department for Transport of

the United Kingdom for their continued efforts and commitment to finalising the text of the Agreements and facilitating the legislative process through Parliament and continuous support. He also thanked Mr Andrew Angel (UK delegation) for his personal involvement in this matter.

- 2.1.19 The Director referred to the review carried out of international non-governmental organisations having observer status in order to determine whether the continuance of this status was of mutual benefit. He explained that the review was due to be conducted at the November 2021 meeting of the governing bodies but had been postponed to the March 2022 meeting.
- 2.1.20 The Director was pleased to report that in January 2022, Estonia had become the sixth State to accede to the 2010 HNS Protocol, bringing this important treaty one step closer to entering into force. The Director noted that Canada, France and Cefic had submitted documents on their forthcoming work to advance the ratification of the 2010 HNS Convention. He also thanked all Member States for their efforts towards facilitating the entry into force and implementation of the 2010 HNS Convention.
- 2.1.21 The Director reported on the work that the Secretariat would be conducting during 2022 and referred briefly to: (i) the online courses and exercises to assist Member States and to promote the benefits of the international liability and compensation regime; (ii) the work with the Audit Body and IMO to advance the review of the risks arising from incidents involving the IOPC Funds and insurers that are not members of the International Group; (iii) the examination of 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); (iv) the guidance to Members States that are working towards the ratification of the 2010 HNS Convention and the preparations for the first session of the HNS Fund Assembly; and (v) the constant review of the Secretariat's needs and working methods with the aim of adapting them to changing situations and making the best possible use of the resources available.
- 2.1.22 In concluding, the Director said he looked forward to working and engaging with all Member States, the members of the Secretariat, the industry and other stakeholders on how best to face the challenges ahead and to ensure that the international liability and compensation regime was strengthened and continued to serve and protect the victims of oil pollution in the future.

1992 Fund Administrative Council and Supplementary Fund Assembly

- 2.1.23 The Chairs of the governing bodies thanked the Director for his first report. The Chairs noted that Mr Liebert had been on medical leave and on behalf of the governing bodies, wished Mr Liebert a very speedy recovery.
- 2.1.24 The Chair of the Supplementary Fund Assembly was pleased to note that the Headquarters Agreement between the Supplementary Fund and the UK government had been signed on 23 March 2022. He noted that this was the first Headquarters Agreement for the Supplementary Fund that would provide the necessary privileges and immunities to the organisation. He expressed appreciation to the UK Government for their cooperation in concluding this task and also thanked the Secretariat for their efforts in reaching an agreement on the matter. He wished to thank all individuals who made this possible, and he thanked, in particular, Mr Andrew Angel (UK delegation), who played a key role in liaising between the Government and the IOPC Funds.

3 Incidents involving the IOPC Funds

3.1	Incidents involving the IOPC Funds Document IOPC/MAR22/3/1		92EC	SA
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- 3.1.1 The 1992 Fund Executive Committee and Supplementary Fund Assembly took note of document IOPC/MAR22/3/1, which contained information on documents for the March 2022 meeting relating to incidents involving the IOPC Funds.

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: <i>Alfa I</i> Document IOPC/MAR22/3/2		92EC	
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3.2.1 The 1992 Fund Executive Committee took note of document IOPC/MAR22/3/2, which contained information relating to the *Alfa I* incident.

3.2.2 The Executive Committee recalled that since no limitation fund had been established, the insurer was liable for the full amount claimed by the main clean-up contractor, i.e. for EUR 15.8 million. The Executive Committee also recalled that in February 2018, the Bank of Greece had revoked the insurer's license and placed the company into liquidation for failure to maintain the necessary solvency capital requirements under Greek law. The Executive Committee further recalled that in early July 2018, the 1992 Fund had registered its claim with the liquidator.

3.2.3 It was recalled that in June 2019, the insurer had filed an appeal to the Supreme Court against the March 2018 judgment issued by the Piraeus Court of Appeal, which had distinguished the case of carriage of more than 2 000 tonnes of oil (in which case the 1992 Civil Liability Convention (CLC) limit applied), from the case of carriage of fewer than 2 000 tonnes of oil and held that, in either case, there was an obligation to insure and a right of direct action against the insurer. It was also recalled that the 1992 Fund had also filed an appeal to the Supreme Court supporting the obligatory insurance provisions under Article VII of the 1992 CLC and that the appeal was heard in February 2021.

3.2.4 It was further recalled that in July 2021, the Supreme Court issued its judgment, dismissing all of the insurer's grounds of appeal and held that:

1. The issuance by the State authorities of a certificate (based on the blue card of insurance issued by the insurer) signified that there existed in place an insurance cover entered into in accordance with the CLC provisions regarding obligatory insurance;
2. The wording of Article VII(1) of the CLC 'carrying more than 2000 tons of oil in bulk as cargo' should be interpreted to mean capable of carrying more than 2000 tons. The Supreme Court linked the obligation of insurance (or other financial security) to the carrying capacity of a vessel, irrespective of the actual quantity carried on board.

3.2.5 The Executive Committee recalled that the 1992 Fund's lawyers had advised that the obligation of the insurer to pay was now undisputed.

Claims submitted against the insurance liquidator following the insurer's liquidation

3.2.6 The Executive Committee also recalled that the insurer had been placed into liquidation and that, in January 2020, the 1992 Fund's lawyers had reported that the claim submitted by the 1992 Fund against the insurance liquidator had been dismissed without giving any reason.

3.2.7 The Executive Committee further recalled that the 1992 Fund's lawyers had sent the insurance liquidator a declaration protesting the dismissal of the 1992 Fund's claim and requesting a full list of the admissible claims and the justification for the liquidator's refusal to include the 1992 Fund's claim within the list. However, the insurance liquidator refused to provide the list of other claims, citing confidentiality reasons under the General Data Protection Regulation (GDPR) as a reason not to provide the information.

- 3.2.8 It was recalled that the 1992 Fund's lawyers had filed an appeal before the Uni Membered Court of First Instance of Athens, which was due to be heard in May 2020 but was delayed due to the outbreak of the COVID-19 pandemic.
- 3.2.9 It was noted that the 1992 Fund had succeeded with its appeal, but that the insurance liquidator appealed before the Athens Court of Appeal and that a hearing had been set for 20 October 2022. It was also noted that the 1992 Fund's lawyers had served the insurance liquidator with an extrajudicial declaration putting the liquidator on notice not to transfer any of the insurer's property or make any distributions until a judgment is reached by the Athens Court of Appeal.
- 3.2.10 It was recalled that the main clean up contractor (who is working with the 1992 Fund's lawyers in pursuing the balance of its claim from the insurer), did not appeal, but had submitted before the Piraeus Court of First Instance a writ of action against the liquidator for a declaratory judgment which ruled that the procedure followed by the liquidator was irregular. Pleadings were filed in October 2020, and a court hearing took place in July 2021. It was further noted that the main clean-up contractor's application had been successful.
- 3.2.11 The Executive Committee recalled that the 1992 Fund had filed applications for prenotated mortgages against buildings owned by the insurer in an attempt to secure its claim for the return of the 1992 CLC limitation fund amount, but that only the land registry in Thessaloniki had accepted the 1992 Fund's application and granted the registration on two properties owned by the insurer as security for EUR 851 000.
- 3.2.12 It was recalled that after the lengthy legal proceedings relating to the Fund's application for prenotated mortgages, the Greek courts had held that the Fund was entitled to the prenotated mortgages in respect of all of the liquidated insurer's properties in Thessaloniki, Athens and Piraeus.

Legal proceedings against the insurer for potentially defrauding creditors

- 3.2.13 It was recalled that during the litigation regarding the assets of the insurer and the 1992 Fund's attempts to obtain prenotated mortgages over the insurer's properties, it had been discovered that the insurer had sold to third parties a property in Athens for a price of EUR 370 000 when the property had an imputed tax value of EUR 1.03 million and a commercial value of EUR 1.5 million. It was also recalled that the 1992 Fund's lawyers had advised that there were reasonable grounds to have the property transferred on the grounds of defrauding a creditor, which, if successful, could result in a recovery for the 1992 Fund.
- 3.2.14 It was further recalled that the 1992 Fund had been successful in recording prenotated mortgages against the insurer's assets, and that if it could also succeed in reinserting the 1992 Fund's claims back into the liquidator's list of admissible claims, the 1992 Fund's lawyers had advised that they were confident that the 1992 Fund's claim would have a reasonable chance to be given priority over other creditors of the insurance company.

1992 Fund Executive Committee

- 3.2.15 The 1992 Fund Executive Committee noted that the 1992 Fund had succeeded with its appeal before the Uni Membered Court of First Instance of Athens and that the 1992 Fund's claims were to be included within the liquidator's list of claims, but that the insurance liquidator had appealed before the Athens Court of Appeal and a hearing was due to take place in October 2022. The 1992 Fund Executive Committee also noted that the Director would report on further developments in this case to future sessions of the Executive Committee.

3.3	Incidents involving the IOPC Funds — 1992 Fund: <i>Trident Star</i> Document IOPC/MAR22/3/3		92EC	
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3.3.1 The 1992 Fund Executive Committee took note of the information contained in document IOPC/MAR22/3/3 concerning the *Trident Star* incident.

3.3.2 The Committee recalled that on 24 August 2016, the *Trident Star* had spilled an unconfirmed quantity of marine fuel oil into the water at the ATT Tanjung Bin (ATB) oil terminal, Port of Tanjung Pelepas (PTP), during loading operations.

3.3.3 It was recalled that the PTP was situated on the estuary of the Pulai River in Johor, Malaysia, and that the oil spill appeared to have drifted across the mouth of the River to the PTP container terminal. It was also recalled that approximately 3.5 kilometres of the container terminal wharf as well as several cargo vessels and tugs had been oiled following the incident. It was further recalled that some of the container terminal's berths had been closed or experienced disruption of their normal activity for about three weeks.

Claims for compensation

3.3.4 The Committee recalled that, as the liability limit applicable to the *Trident Star* under the 1992 CLC, USD 6.5 million, was reached, the 1992 Fund started making payments to claimants. It was recalled, however, that as the Small Tanker Oil Pollution Indemnification Agreement (STOPIA) 2006 applies to this case, the shipowner's insurer had reimbursed these amounts to the 1992 Fund.

3.3.5 The Executive Committee noted that the last claims that remained outstanding, by five claimants belonging to a group of shipping companies totalling USD 6.6 million, had been assessed by the Shipowners' Club and the 1992 Fund at USD 3.3 million and that these claims had now been settled.

Limitation proceedings

3.3.6 It was recalled that nine actions comprising 19 claimants (the operator of the container terminal and 18 shipping companies) were filed in the limitation proceedings. It was noted, however, that since all the claims had now been settled, the corresponding legal actions had been withdrawn.

3.3.7 The Executive Committee noted that the incident could, therefore, now be considered closed.

Debate

3.3.8 The delegation of Malaysia took the floor to express its appreciation for the handling of the case by the Secretariat and all the other parties involved in this incident, which had led to the settlement of all the claims and the closure of the incident.

Statement by the observer delegation of the International Group of P&I Associations

3.3.9 The observer delegation of the International Group of P&I Associations thanked the Secretariat for the introduction of document IOPC/MAR22/3/3 and made the following statement:

'Now that all outstanding claims have been settled in the *Trident Star* and the case has been closed, on behalf of the International Group of P&I Clubs and the Shipowners' Club, this delegation would wish to express its thanks and appreciation to both the IOPC Funds Secretariat and the Government of Malaysia for the excellent cooperation and engagement on the handling, assessment and settlement of claims throughout the time that this case remained open.

I have spoken with the Shipowners' Club and they are very grateful both for the collaboration with the Fund Secretariat and the Government of Malaysia on this case and the willingness of all parties to resolve any matters that arose in an amicable and efficient manner.

In addition, this case has highlighted the value of STOPIA and how it works to ensure prompt reimbursement of payments to the IOPC Funds in cases involving small tankers.'

1992 Fund Executive Committee

3.3.10 The 1992 Fund Executive Committee noted with satisfaction that, since all the outstanding claims arising from this incident had now been settled and corresponding legal actions had been withdrawn, this incident would now be considered closed and thanked all parties involved for their cooperation.

3.4	Incidents involving the IOPC Funds — 1992 Fund: <i>Agia Zoni II</i> Document IOPC/MAR22/3/4		92EC	
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3.4.1 The 1992 Fund Executive Committee took note of document IOPC/MAR22/3/4 relating to the *Agia Zoni II* incident.

Limitation fund claims evaluation procedure

3.4.2 It was recalled that the limitation fund administrator had concluded the evaluation procedure of the claims filed at the Limitation Court (totalling EUR 94.4 million) by publishing his provisional assessments totalling EUR 45.45 million.

3.4.3 It was also recalled that the 1992 Fund had filed pleadings against the limitation fund in respect of the claims it had paid but which had not been subrogated due to the short period (six months) set under Greek law for filing claims against the limitation fund, which had expired in May 2018.

3.4.4 It was noted that in September 2021, the limitation fund administrator had dismissed the claims due to the time bar and as a result, the 1992 Fund had filed an appeal for a judgment resolving the apparent contradiction between the time allowed by domestic legislation for submission of claims to the limitation fund administrator and the time bar provided by the 1992 CLC.

Investigation into the cause of the incident

3.4.5 The Executive Committee recalled that the National Technical University of Athens had published its report on the cause of the incident and had concluded that the *Agia Zoni II* had sunk after an explosion.

3.4.6 The Executive Committee also recalled that another investigation conducted by the third Marine Accident Investigation Council (ASNA) for the Public Prosecutor had concluded that the *Agia Zoni II* sinking had been caused by the opening of the seawater ballast valves, which could only have been done from onboard the vessel.

3.4.7 The Executive Committee further recalled that the ASNA report considered that the accident was attributed to the deliberate and negligent actions of:

- the shipowner;
- the two crew members on board at the time of the incident;
- the general manager of the shipowning company;
- the Designated Person Ashore (DPA) of the shipowning company; and
- representatives of the salvor/clean-up contracting company.

- 3.4.8 It was recalled that in June 2021, the 1992 Fund's lawyer and a number of other parties were summoned and questioned by the Public Prosecutor investigating the cause of the incident to answer questions dealing with the procedure followed for the payment of claims, with emphasis on the clean-up contractors' claims. It was noted that the results of the investigations were still awaited.
- 3.4.9 It was also recalled that the Greek Mercantile Marine, as the supervisory body overseeing disciplinary matters for seafarers, had initiated a disciplinary tribunal against the crew members mentioned in the ASNA report who were on board the *Agia Zoni II*, at the time of the incident, and the senior representative of the salvor mentioned in the ASNA report.
- 3.4.10 The Executive Committee further recalled that in June 2021, the disciplinary tribunal had published its findings and held that the Master was liable in negligence for the loss of the ship, but the tribunal did not examine the ASNA report's criticism of the salvors for their delayed antipollution response in sealing off and pumping out the wreck.

Impact of the reports on the 1992 Funds payment of compensation

- 3.4.11 The Executive Committee also recalled that the 1992 Fund's Greek lawyers had advised that the last sentence of Article 4(3) of the 1992 Fund Convention was aimed at protecting the environment and safeguarding that clean-up and preventive measures would be payable at all times.
- 3.4.12 The Executive Committee further recalled that the 1992 Fund's Greek lawyers had advised that the exercise of the right to claim clean-up expenses under the 1992 Civil Liability and Fund Conventions by a party in the clean-up business that had intentionally caused the pollution in order to benefit from the right to claim compensation for clean-up services, would be considered an abuse by the Greek courts under the provisions of Greek legislation.
- 3.4.13 It was recalled, however, that the 1992 Fund's lawyers had also advised that the burden of proof rested upon the 1992 Fund to prove before the courts deciding on the issue of compensation that the claimant had intentionally caused the pollution aiming at receiving the compensation for clean-up or to show that the claimant had been condemned by a criminal court to that effect by an unappealable judgment. It was also recalled, therefore, that the mere suspicion of such action would not be sufficient to deny payment.

Recourse actions

- 3.4.14 It was further recalled that if the claimant was eventually condemned by a criminal court by an unappealable judgment to have intentionally caused the pollution, the 1992 Fund could commence a recourse action under Article 9(2) of the 1992 Fund Convention.

Claims for compensation

- 3.4.15 The Executive Committee noted that the 1992 Fund had received 423 claims amounting to EUR 99.89 million and USD 175 000, that it had approved 413 claims and paid 188 claims amounting to EUR 14.93 million in compensation, and that further offers of compensation and advance payments had been made to a number of claimants whose responses were awaited.

Legal proceedings commenced by clean-up contractors

- 3.4.16 The Executive Committee recalled that in July 2019, the 1992 Fund had been served with legal proceedings filed at the Piraeus Court of First Instance by two of the clean-up contractors for the balance of their unpaid claims amounting to EUR 30.26 million and EUR 24.74 million. It also recalled that in December 2019, the third clean-up contractor had also served the 1992 Fund with legal proceedings for its claim of EUR 8.9 million.

3.4.17 The Executive Committee also recalled that in September 2020, the 1992 Fund had been served with further legal proceedings for EUR 998 870 by one of the clean-up contractors and for EUR 1.42 million by three other companies involved in clean-up operations. The Executive Committee further recalled that shortly thereafter, the 1992 Fund had been served with further legal proceedings totalling EUR 2.09 million by three other claimants involved in clean-up operations. In total, the clean-up claims filed against the 1992 Fund amount to EUR 73.01 million.

3.4.18 It was recalled that in September 2021, the 1992 Fund's lawyers had attended court hearings and filed supplementary pleadings relating to the concept of reasonableness as defined under the Conventions in relation to the tariff rates employed by the clean-up contractors, which sought to maximise commercial profit.

Legal proceedings commenced by fisherfolk

3.4.19 It was also recalled that the 1992 Fund had been served with legal proceedings amounting to EUR 3.35 million from claimants in the fisheries sectors.

Legal proceedings commenced by claimants in the tourism sector

3.4.20 It was further recalled that the 1992 Fund had been served with legal proceedings amounting to EUR 4.3 million by claimants in the tourism sector.

3.4.21 It was noted that the hearings of all writs of action against the 1992 Fund were adjourned until February and March 2022.

Legal proceedings commenced by the Greek State

3.4.22 The Executive Committee recalled that in July 2020, the 1992 Fund had been served with legal proceedings by the Greek State to protect its rights to compensation. The Executive Committee also recalled that an advance payment was offered to the Greek State in respect of its claim, and a decision was awaited on whether to accept the offer.

3.4.23 The Executive Committee further recalled that there was a close correlation between the limitation fund administrator's assessments which were published in September 2019, and those of the 1992 Fund. It was recalled that every claimant with a claim against the limitation fund had the right to accept or appeal within 30 days of the provisional assessment, and only eight claimants had appealed.

Statement by the delegation of Greece

3.4.24 The delegation of Greece made the following statement:

'Claims for compensation

This delegation would like once again to note the high appreciation of the Greek State for all payments made so far by the 1992 Fund to the persons who suffered pollution damage from the *Agia Zoni II* incident, as well as for the ongoing endeavours of the 1992 Fund's experts to assess the rest of the claims submitted.

This delegation would also like to express its gratitude for the advance payment offer made by your side with regard to the Greek State's claim. It is noted that the Administration has, in principle, positively reacted to the advance payment offer.

In this context, the terms of the advance payment agreement to be signed are currently under examination by the competent legal services of the Administration, while their legal opinion is expected in due time.

Investigation into the cause of the incident

With regard to the course of the investigation into the cause of the *Agia Zoni II*'s sinking, we would like to state that, to the best of our knowledge, there has been progress in the conduct of the legal procedure run by the Public Prosecutor.

The examining judge who has been instructed by the Public Prosecutor to perform a judicial investigation collecting all the necessary evidence for the case, completed his work in late February 2022, and delivered the file back to the Public Prosecutor.

It is now expected that, in June of this year, the Public Prosecutor, after taking into account all the evidence collected, will submit his proposal before the competent Council of Judges which will decide whether the criminal prosecution should be ceased or whether any particular parties should be brought before Court or not.

Once we are informed of the outcome, our Administration will let you know accordingly without delay.

In any case, as it has been expressed during previous sessions of this Committee, an unappealable penal judgment would be required, if any persons were to be held to have intentionally or negligently caused the pollution damage.

Furthermore, to our understanding, the legal interpretation of Article 4 paragraph 3 of the 1992 Fund Convention leads to the conclusion that, with respect to preventive measures, the 1992 Fund would not be entitled to invoke contributory deliberate act or negligence on the part of the claimant as grounds for the 1992 Fund's exoneration from paying compensation.

As regards the references made to our national legislation in points 6.7 and 6.8 of the working document, it should be taken into account that international conventions prevail over domestic law, as supported by Article 28 of the Greek Constitution.'

1992 Fund Executive Committee

3.4.25 The 1992 Fund Executive Committee noted the information in the document and the statement by Greece and also noted that the Director would continue to monitor this case and would report the latest developments to the 1992 Fund Executive Committee at its next session.

3.5	Incidents involving the IOPC Funds — 1992 Fund: <i>Bow Jubail</i> Document IOPC/MAR22/3/5		92EC	
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3.5.1 The Executive Committee took note of the information contained in document IOPC/MAR22/3/5 relating to the *Bow Jubail* incident.

3.5.2 The Executive Committee recalled that on 23 June 2018, the oil and chemical tanker *Bow Jubail* had collided with a jetty in the Port of Rotterdam, the Kingdom of the Netherlands. It was also recalled that as a consequence of the collision, a leak had occurred in the area of the starboard bunker tank, resulting in a spill of fuel oil into the harbour, with the ensuing pollution affecting vessels in the vicinity, quays and other property, and wildlife.

Applicability of the Conventions

- 3.5.3 It was recalled that Article I(1) of the 1992 CLC defined 'ship' as: 'any sea-going vessel and seaborne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo, provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard'.
- 3.5.4 It was also recalled that, although at the time of the incident the *Bow Jubail* was in ballast, on the voyage prior to the incident the *Bow Jubail* had carried 'oil' as referred to in the 1992 CLC. It was recalled, however, that the shipowner had stated that the tanks were clean of oil cargo residues at the time of the incident. It was further recalled that the burden of proof that there were no residues on board lay with the shipowner and that the relevant test would be the one applied by local law, in this case, the law of the Netherlands.
- 3.5.5 The Executive Committee recalled that if the shipowner could not prove that the *Bow Jubail* had no residues of oil in bulk on board, the 1992 CLC would apply and in that case, since the total pollution damage was likely to exceed the limit that would apply to the ship under the 1992 CLC, the 1992 Fund Convention could apply to this incident. It was noted, however, that it was unlikely that the Supplementary Fund Protocol would apply as the losses are unlikely to exceed the limit of liability under the 1992 Fund Convention.
- 3.5.6 It was recalled that the *Bow Jubail* was insured with Gard P&I (Bermuda) Ltd, and that the limitation amount applicable to the *Bow Jubail* if the 1992 CLC were to apply would be SDR 15 991 676. It was also recalled, however, that the owner of the *Bow Jubail* was a party to STOPIA 2006 (as amended 2017), whereby the shipowner would indemnify, on a voluntary basis, the 1992 Fund up to SDR 20 million.
- 3.5.7 It was further recalled that, if the shipowner were successful in proving that there were no oil cargo residues on board, the incident would fall under the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention 2001) and, therefore, the limitation amount (SDR 14 312 384) under the Convention on Limitation of Liability for Maritime Claims, 1976, as modified by the 1996 Protocol (LLMC 76/96) would apply.

Limitation proceedings

- 3.5.8 It was recalled that in its judgment of 27 October 2020, the Court of Appeal in The Hague had confirmed the decision of the Rotterdam District Court that the shipowner had not sufficiently substantiated that the tanks of the *Bow Jubail* did not contain residues of persistent oil carried in bulk at the time of the incident. It was recalled that, according to that judgment, the Bunkers Convention 2001 did not apply and the limitation of the shipowner's liability would be governed by the 1992 CLC, not the LLMC 76/96.
- 3.5.9 It was recalled that the shipowner had appealed (filed for cassation) against the judgment to the Supreme Court of the Netherlands.

Proceedings before the Supreme Court

- 3.5.10 It was recalled that the 1992 Fund had applied to the Supreme Court requesting the Court to rule, first, that it may intervene as a party, or alternatively that it may be admitted as an interested party in the proceedings, and in the further alternative, that it may intervene as a party on the shipowner's behalf (joinder) in the appeal in cassation.

- 3.5.11 The Executive Committee noted that, in a ruling on 24 December 2021, the Supreme Court had decided that the Fund could not intervene in the limitation proceedings based on the 1992 Fund Convention but that the Court had decided to grant the Fund's subsidiary application to be admitted as an interested party in the proceedings, based on the civil procedural law of the Netherlands. It was also noted that the Supreme Court had also accepted the Fund's request to give the parties an opportunity to present their views in writing in the proceedings.
- 3.5.12 The Executive Committee noted that the Fund had submitted a reply to the Supreme Court's decision in which it supported the shipowner's arguments that it should be the Bunkers Convention 2001 and not the 1992 CLC that should apply to this incident. It was noted that the Fund had also argued that the Court of Appeal in The Hague should have summoned the Fund to intervene in the Court of Appeal's proceedings, given that the Fund would be affected by the outcome of the judgment. It was further noted that Article 7(4) of the 1992 Fund Convention was applicable to this procedure and gave the Fund the right to intervene as a party to any proceedings.

Civil proceedings

- 3.5.13 The Executive Committee recalled that legal actions had been brought by 25 claimants before the District Court in Rotterdam against the shipowner, its insurer and other parties. It was also recalled that the 1992 Fund had been notified or included as a defendant in some of the actions, in case the 1992 Civil Liability and Fund Conventions apply to this incident.
- 3.5.14 It was further recalled that the 1992 Fund was intervening in these proceedings, requesting a stay of the proceedings until such time as the Supreme Court renders its decision on whether the Bunkers Convention 2001 or the 1992 CLC apply to this incident.

Debate

- 3.5.15 The delegation of the Netherlands took the floor and thanked the Secretariat for the information provided. That delegation stated that they had noted the Supreme Court's December 2021 decision on the admission of the 1992 Fund as an interested party in the proceedings and its acceptance of the Fund's request to give parties an opportunity to present their views. That delegation also mentioned that they were in close contact with the Secretariat and that communication would continue in the future.

1992 Fund Executive Committee

- 3.5.16 The 1992 Fund Executive Committee noted that the Director would continue to monitor this incident and would report the latest developments to the 1992 Fund Executive Committee at its next session.

3.6	Incidents involving the IOPC Funds — 1992 Fund: Incident in Israel Document IOPC/MAR22/3/6		92EC	
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- 3.6.1 The 1992 Fund Executive Committee took note of the information regarding the incident in Israel as set out in document IOPC/MAR22/3/6.
- 3.6.2 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 also recalled that the Israeli Government 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.

- 3.6.3 The Executive Committee noted that, although the result of the investigation by the Israeli authorities seemed to indicate that the spill might have originated from the *MT Emerald*, this fact could not be confirmed with a sufficient degree of certainty. It further noted that, during a meeting with the Israeli authorities in February 2022, they had informed the Director that they had tried to further investigate the movements of the *MT Emerald*, but that the evidence obtained was only circumstantial, and it was not possible to prove that the oil originated from this tanker.
- 3.6.4 The Executive Committee recalled 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.
- 3.6.5 The 1992 Fund Executive Committee recalled that, at its July 2021 session, it had decided 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 the 1992 Civil Liability and Fund Conventions would apply. It further recalled that it had authorised the Director to pay compensation in respect of claims arising out of the incident in Israel.
- 3.6.6 The Executive Committee noted that, so far, three claims had been submitted for clean-up operations, sampling and monitoring activities, totalling ILS 6 million. However, further claims for the cost of the response to the oil spill were expected in the near future. The Executive Committee further noted that 24 claims had been submitted for property damage and economic losses, totalling ILS 2.5 million and that additional claims for economic losses were also expected in the fisheries and tourism sectors.
- 3.6.7 The Executive Committee recalled that, for this reason, the Director had engaged a local firm with a long history of assisting P&I Clubs to act as the focal point for this incident in order to help potential claimants and facilitate the submission and processing of claims.

Debate

- 3.6.8 One delegation asked for an update on the investigation into identifying the source of the spill.
- 3.6.9 The Secretariat replied that, while an investigation into the movements of several tankers transiting in the area at the time of the suspected spill had pointed to one tanker, the forensic evidence obtained did not conclusively show that the identified tanker was in fact the one responsible for the spill and, therefore, the 1992 Fund was still treating this case as a mystery spill.
- 3.6.10 The Chair of the Executive Committee noted that the investigation into the source of the spill had not resulted in a clear identification of a ship and requested the Director to inform the Executive Committee should any development on the matter occur.

1992 Fund Executive Committee

- 3.6.11 The 1992 Fund Executive Committee noted that the Director would report any further developments at future sessions of the Executive Committee.

4 Compensation matters

The governing bodies noted that no items were raised under this agenda item.

5 Treaty matters

5.1	2010 HNS Convention Documents IOPC/MAR22/5/1, IOPC/MAR22/5/1/1, IOPC/MAR22/5/1/2 and IOPC/MAR22/5/1/3/Rev.1	92AC		
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DOCUMENT IOPC/MAR22/5/1 – Document submitted by the Secretariat

- 5.1.1 The 1992 Fund Administrative Council noted that the Secretariat had presented a document jointly with IMO for the consideration of the IMO Legal Committee (LEG 109/3/1), setting out the latest developments in relation to the entry into force of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 2010 (2010 HNS Convention), as well as on the work carried out by both the IMO and 1992 Fund Secretariats with regard to the administrative tasks necessary for the setting up of the HNS Fund and the preparations for the first session of the HNS Fund Assembly. That document was provided in the Annex to document IOPC/MAR22/5/1.

Status of the 2010 HNS Protocol

- 5.1.2 It was noted that, since the November 2021 session of the 1992 Fund Assembly, Estonia had deposited an instrument of accession to the 2010 HNS Protocol with the Secretary-General of IMO on 10 January 2022. It was also noted that this brought the number of Contracting States to the Protocol to six, namely, Canada, Denmark, Estonia, Norway, South Africa and Turkey.

Assistance to States and promotion of the entry into force of the 2010 HNS Convention

- 5.1.3 The 1992 Fund Administrative Council noted that since its November 2021 session, the IMO and IOPC Funds Secretariats had continued to highlight the importance of close cooperation between States and industry, and to promote the entry into force of the 2010 HNS Convention through various activities.
- 5.1.4 It was noted that the Secretariats had been in discussions with Canada and had offered their support and assistance to a number of the State's initiatives, including the workshop planned for later in 2022, as described in document IOPC/MAR22/5/1/1.
- 5.1.5 It was also noted that a number of contacts had been made with France to discuss their experience in their first year of HNS reporting (2020) and that, as pointed out in more detail in document IOPC/MAR22/5/1/3/Rev.1, the IOPC Funds Secretariat had been actively supporting the work undertaken by France to prepare and test their HNS reporting guidelines. It had also provided support to France on the development of a Questions & Answers document about HNS contributing cargo.
- 5.1.6 It was further noted that such discussions with existing and future Contracting States had helped the Secretariat compile more technical information and that it intended to produce technical fact sheets related to HNS reporting issues based on the frequently asked questions received. It was noted that these fact sheets would provide clear information on the types of products and their classification, and would also include practical guidelines on how to report certain substances.
- 5.1.7 The 1992 Fund Administrative Council was also reminded that the Secretariat was available to provide support and specific assistance to States in clarifying the reporting requirements for HNS, advising on the practicalities of reporting and verifying the accuracy of reports before they are submitted at the time of depositing an instrument of accession.
- 5.1.8 It was noted that the IOPC Funds had engaged regularly with IMO and other organisations such as the International Group of P&I Associations, the International Chamber of Shipping (ICS), ITOPF and Cedre

on HNS claims matters, and that it had noted with pleasure the position paper published by the European Chemical Industry Council (Cefic) contained in document IOPC/MAR22/5/1/2 confirming its support for the 2010 HNS Convention as well as its commitment to work with States to implement, as far as possible, a uniform approach to reporting.

- 5.1.9 States were encouraged to continue to make use of the IOPC Funds as a helpful resource, particularly when preparing to accede to the Convention.

Administrative tasks for the setting up of the HNS Fund

- 5.1.10 It was recalled that, as it continues to advance its work on preparing for the entry into force of the Convention, the IOPC Funds Secretariat has formed an informal working group, together with the IMO Secretariat and a number of organisations with relevant expertise, to discuss the handling of claims related to HNS incidents and, in particular, the preparation of a draft Claims Manual. The group, which consists of the IOPC Funds, IMO, Cedre, ICS, the International Group of P&I Associations and ITOPF, met on a number of occasions in 2021 and has continued to meet and advance its work in 2022. It was noted that, although no target date for completion of the work had been agreed at this point, the intention was to have a draft HNS Claims Manual ready for consideration by the first HNS Fund Assembly to be convened after the entry into force of the 2010 HNS Protocol.
- 5.1.11 It was noted that the Secretariat is in discussions with an expert in HNS matters and a former member of the IMO Secretariat to organise and deliver training to IOPC Funds staff. The aim of the training, which was expected to commence in 2022, would be to ensure Staff are able to efficiently respond to enquiries, manage the receipt of contributing cargo reports and deal with claims for compensation following an incident involving HNS.

Improvements to the HNS Convention website

- 5.1.12 It was noted that the HNS Convention website (www.hnsconvention.org) continues to be maintained by the IOPC Funds Secretariat and that in January 2022, a document library was added to the site, bringing together all recent HNS Convention-related documents issued for consideration by the IMO Legal Committee and the 1992 Fund Assembly as well as key IMO circulars.

DOCUMENT IOPC/MAR22/5/1/1 – Document submitted by Canada

- 5.1.13 The 1992 Fund Administrative Council took note of the information contained in document IOPC/MAR22/5/1/1, submitted by Canada.
- 5.1.14 Before presenting its document, the delegation of Canada took the opportunity to congratulate Estonia on becoming the sixth State to accede to the 2010 HNS Protocol, noting that this marked the halfway point in terms of the required number of States for entry into force of the Convention. In that regard, Canada encouraged those States that were currently working hard towards implementation of the Convention to continue to do so.
- 5.1.15 In introducing document IOPC/MAR22/5/1/1, the Canadian delegation recalled that several international workshops had been organised in the past to facilitate the implementation and entry into force of the 2010 HNS Convention, most recently in 2018. With this in mind, that delegation informed the 1992 Fund Administrative Council of its plans to organise a virtual workshop in the later months of 2022, with the expectation that providing the option to attend virtually would allow more States and industry representatives to participate.
- 5.1.16 It was noted that the workshop would be open to all Member States, intergovernmental and non-governmental organisations with observer status with the IOPC Funds and IMO and that participation by policy and decision-makers with respect to the ratification of the 2010 HNS Protocol was particularly

encouraged. It was also noted that the Secretariats of the IOPC Funds and IMO would also have active roles in the workshop.

- 5.1.17 The 1992 Fund Administrative Council noted the tentative agenda contained in the Annex to the document and the invitation by Canada for parties wishing to have specific topics covered during the HNS virtual workshop to send an email to Canada at: MarineLiability-ResponsabiliteMaritime@tc.gc.ca. It was noted that a circular would be shared later in 2022 with the details of the workshop, including the agenda.

DOCUMENT IOPC/MAR22/5/1/3/Rev.1 – Document submitted by France

- 5.1.18 The 1992 Fund Administrative Council took note of the information contained in document IOPC/MAR22/5/1/3/Rev.1, relating to recent developments in France concerning the implementation of the 2010 HNS Convention.
- 5.1.19 During its introduction of the document, the delegation of France took the opportunity to highlight the active support it had received from the Secretariat on the interpretation and implementation of the Convention and expressed its appreciation for all the assistance provided. That delegation pointed out that the draft Bill to ratify the Convention was being prepared in France and that the aim was to ratify by the end of 2023. It noted that efforts to coordinate with other States had continued, which it considered very important, and confirmed it would participate in the workshop planned by Canada for 2022, an initiative which it appreciated.
- 5.1.20 It was recalled that in its document IOPC/NOV20/8/2/1, France had indicated that it was preparing for ratification of the 2010 HNS Convention, by introducing a reporting obligation on receivers of HNS and that a website for submitting these reports had been created.
- 5.1.21 It was noted that discussions and several seminars had since been held with the principal companies concerned in France, in particular, the trade organisations. It was noted that the French authorities had endeavoured to answer their questions, with the support of the IOPC Funds Secretariat and that the answers had been consolidated in a regularly updated 'Frequently Asked Questions' page. It was also noted that these discussions had been held as a preamble to the first deadline for the reporting by companies of contributing cargo received in a French port in 2020 and that a first assessment had been conducted concerning the efficiency of the reporting system that had been put in place.
- 5.1.22 The 1992 Fund Administrative Council noted the types of questions raised by the companies affected by reporting in France and the examples given in section 3 of the document. It noted in particular that some questions had related to points of interpretation which could be formally considered by the HNS Fund Assembly following the entry into force of the Convention.
- 5.1.23 It also noted that the companies had experienced particular difficulties in identifying the substances in contributing cargo using the HNS Finder in its present form and had proposed that these substances should be identified by the CAS (Chemical Abstracts Service) number.
- 5.1.24 The Administrative Council noted the example of the online reporting form provided in the Annex to the document and also the analysis of the first exercise in reporting, which had been carried out using the system established by France as set out in section 4 of the document.

DOCUMENT IOPC/MAR22/5/1/2 – Document submitted by Cefic

- 5.1.25 The 1992 Fund Administrative Council took note of the information contained in document IOPC/MAR22/5/1/2, which set out the position of Cefic on the 2010 HNS Convention.

- 5.1.26 Cefic expressed its support for the principles of the 'polluter pays' and effective compensation for damages to persons and properties in connection with carriage of HNS by sea and invited all parties to collaborate for an effective and efficient ratification and implementation of the 2010 HNS Convention.
- 5.1.27 It highlighted that safety in handling and transport of all chemicals was at the heart of Cefic's members transport and logistics activities and explained that Responsible Care[®] was the chemical industry's ethical commitment to improving safe and sustainable production, handling, and use of chemicals across the supply chains. It welcomed the objectives of the HNS Convention but stated that maintaining a level playing field was of the utmost importance and that the potential financial impact of HNS incidents was shared, requiring collaboration and alignment of the ratification process within the same region. Cefic therefore invited all European countries to ratify together only, and proposed that the European Commission should coordinate common implementation in collaboration with Cefic. It also suggested that non-European countries should be actively supported by the European Commission and Member States to ratify the Convention. Cefic requested States to include the Association in their preparations for implementing the Convention.
- 5.1.28 The Administrative Council noted the concerns expressed by Cefic in respect of the decision to compensate packaged HNS damage by contributions from the receivers of bulk solid and liquid chemicals since it would require receivers of bulk HNS to pay for other companies that have not had to take any steps to reduce the risks to their shipments. It also noted that Cefic regretted the provision for financial liability of the funds under the second tier when compensation from the shipowner is inadequate, not available or is exempted from the repayment and requested further follow-up in this area once the Convention had entered into force.
- 5.1.29 The 1992 Fund Administrative Council noted that in Cefic's view implementation was not currently harmonised among States and that the data requested should be aligned and the format of reporting should be standardised. It also noted Cefic's proposal that the search criteria of the HNS Finder should be extended with more product characteristics to ease classification and flagging relevance in companies' product databases.
- 5.1.30 Finally, the Administrative Council noted that Cefic was willing to support communication towards its members and national associations, and to encourage its members to proactively analyse and collect all information needed in compliance with competition law to facilitate fast implementation of the HNS Convention.

Debate

- 5.1.31 All delegations who spoke took the opportunity to wish Mr Thomas Liebert, who had worked on HNS matters on behalf of the IOPC Funds Secretariat for many years and who was currently on medical leave, a speedy recovery.
- 5.1.32 Several delegations congratulated Estonia on becoming a Contracting State to the 2010 HNS Protocol. Many States also expressed their appreciation to Canada for organising the workshop later in 2022.
- 5.1.33 The delegation of Estonia expressed its gratitude to the Secretariat for its continued support and guidance through the accession process. As the sixth Contracting State to the Protocol, that delegation encouraged all States who were yet to accede to the Protocol, to continue their efforts towards becoming State Parties. It highlighted the importance of protecting the marine environment at every opportunity and noted that the HNS Convention was a useful tool towards achieving that goal.
- 5.1.34 The delegation of South Africa, as a Contracting State to the Protocol, thanked the delegation of Canada for organising the planned workshop and encouraged other States to ratify the 2010 HNS Protocol at the earliest opportunity.

- 5.1.35 Another Contracting State to the Protocol, Denmark, took the opportunity to congratulate Estonia and expressed its hope that further States would soon follow. It expressed its appreciation to Canada and the Secretariat for its efforts in promoting the Convention and offered to supplement those efforts by reaffirming its availability to share its experiences on implementation, reporting procedures and other matters.
- 5.1.36 The delegation of the Republic of Korea reported that it had developed a reporting system and had been submitting reports on contributing cargo voluntarily since 2020. Furthermore, that delegation reported that it had held a number of remote workshops with relevant national stakeholders to discuss issues relating to HNS. That delegation looked forward to participating in the workshop planned by Canada and confirmed it would report further progress going forward.
- 5.1.37 The delegation of Belgium expressed its gratitude to the Secretariat for the assistance whilst it made progress towards the implementation of the Convention. It reported that positive steps had been made in that regard and that the relevant law was currently being discussed in the Belgium Federal Parliament, with the expectation that it would be adopted in 2022. It expressed its commitment to the coordinated approach it had adopted with Germany and the Netherlands. Finally, that delegation noted that the 2010 HNS Convention was an important treaty which complemented the existing legal framework and encouraged further States to ratify the Protocol as soon as possible.
- 5.1.38 The delegation of the Netherlands thanked Canada for the initiative to organise a virtual workshop in 2022 and confirmed that it would participate in the event. That delegation reported that it had made good progress towards ratification of the Protocol and referred to the agreement it had reached in 2020 with Belgium and Germany to ratify together. That delegation also reported that informal consultations had taken place with industry representatives in February 2022 and that an exploratory study was underway, which would lead to the establishment of a workable reporting system later in the year. With regard to the implementation of the Convention in the Netherlands, the delegation noted that, if everything goes smoothly, the legislative procedure should take approximately one year.
- 5.1.39 Also in reference to the document submitted by Cefic, the delegation of France supported the idea that the implementation of the Convention should be as harmonised as possible, taking into account all the differences in market structures, legal framework and information technology (IT) structures of different parties. In that regard that delegation noted that the HNS Fund Assembly would be key in developing such ideas further, in particular an IT system for those who have an obligation to report and would also like to see improvements to the HNS Finder tool.
- 5.1.40 The observer delegation of IMO welcomed the accession to the Protocol by Estonia, which it noted had also been reported at the IMO Legal Committee. It also expressed its appreciation for the various documents submitted and in particular thanked Canada for offering to organise, in close cooperation with the IMO and IOPC Funds Secretariats, the workshop in 2022. That delegation reminded delegations that IMO continued to offer as part of its Integrated Technical Cooperation Programme, both regional and national workshops on the relevant liability and compensation Conventions, of which the HNS Convention was an important part. That delegation pointed out that these events were often in collaboration with the IOPC Funds, the International Group of P&I Associations or with industry representatives and that they were aimed at promoting the ratification and implementation of these important treaties.
- 5.1.41 The Chair of the 1992 Fund Administrative Council thanked the Secretariat and the delegations of Canada, France and Cefic for submitting documents on the 2010 HNS Convention and to those delegations who had subsequently intervened. He noted that such active discussions on this subject were encouraging and given the progress being made, he anticipated that the Secretariat would need to intensify its activities in preparing for the entry into force of the Convention and for the actual management of the HNS Fund. He noted in particular, that the HNS Fund Assembly would have a

number of important matters to consider in detail and that there were likely to be a number of practices to be developed and fine-tuned when the time came.

1992 Fund Administrative Council

- 5.1.42 The 1992 Fund Administrative Council noted that the Secretariat would continue to prepare for and undertake the necessary administrative tasks ahead of the entry into force of the 2010 HNS Convention, would remain available to assist Member States in their efforts to accede to, or ratify the Protocol, and will report on developments at the Assembly's next regular session. In the meantime, the 1992 Fund Administrative Council encouraged States that were making progress towards implementation of the Convention at a national level to report such progress to the Secretariat.

5.2	Review of international non-governmental organisations having observer status Document IOPC/MAR22/5/2	92AC		SA
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- 5.2.1 The governing bodies recalled that every three years a review was carried out of international non-governmental organisations having observer status with the IOPC Funds in order to determine whether the continuance of this status was of mutual benefit. It was noted that the last review was due to be conducted at the November 2021 meeting of the governing bodies but given the reduction in working hours resulting from convening a remote meeting and considering Member States had to take several substantial decisions in addition to electing the new Director of the organisation, the observer review was postponed to the March 2022 meeting.
- 5.2.2 The governing bodies noted the information set out in document IOPC/MAR22/5/2, in particular in section 3, which detailed the contacts maintained between the organisations and the Secretariat since the previous review in October 2018, and Annex II regarding the attendance of international non-governmental organisations at the meetings of the IOPC Funds governing bodies during the previous three years.
- 5.2.3 It was also noted that in January 2022, the Secretariat had written to all international non-governmental organisations which had been granted observer status, inviting them to submit their comments on whether, in their view, the continuance of observer status would be of mutual benefit. The governing bodies took further note of the information contained in Annex III to document IOPC/MAR22/5/2, which set out the responses received from the organisations concerned.
- 5.2.4 The governing bodies further noted the Director's recommendation in section 4 of document IOPC/MAR22/5/2 that all international non-governmental organisations which currently held observer status with the IOPC Funds should maintain that status until the next review in 2025.
- 5.2.5 In accordance with previous practice, the 1992 Fund Administrative Council decided to establish a group of five Member States to consider whether the continuance of observer status for each international non-governmental organisation would be of mutual benefit and to report its findings to the governing bodies.
- 5.2.6 It was decided that the composition of the group should be as follows: Algeria, Australia, Colombia, Finland and the United Arab Emirates.

Report of the group established to carry out the review of international non-governmental organisations having observer status

- 5.2.7 The Chair of the group, Ms Annalisse Sly (Australia) reported the outcome of the group's discussions to the governing bodies as set out in paragraphs 5.2.8– 5.2.16 below.

- 5.2.8 The group met on Tuesday, 29 March and considered in detail the information provided in document IOPC/MAR22/5/2.
- 5.2.9 The group considered that among those non-governmental organisations under review, a large number maintain a strong and productive relationship with the IOPC Funds, regularly attending meetings and contributing to the discussions of the governing bodies on key issues through the submission of documents and/or interventions during meetings. In addition, outside of meetings, the group noted that several of those organisations remain in regular contact with the Secretariat, providing assistance and information that is beneficial to the IOPC Funds as well as working together to deliver presentations for workshops and other events.
- 5.2.10 The group noted that during 2020 and 2021, two of the three years covered by the review, usual working practices were affected globally by the pandemic, and that this would have been the case both for the organisations that are subject to this review and for the IOPC Funds, whose meetings were held remotely during that time and with a reduced agenda. Therefore, the group was encouraged by the continued participation of non-governmental organisations during that period since they may well have found it difficult to attend and the reduced agendas may have meant that items of interest were not addressed at all meetings.
- 5.2.11 Having taken all of the information provided in document IOPC/MAR22/5/2 into account, with particular reference to sections 3 and 4 and Annexes II and III of the document, the group considered that it would be of mutual benefit to continue the observer status of all non-governmental organisations included in this review, namely:

BIMCO

Cedre

Comité Maritime International (CMI)

Conference of Peripheral Maritime Regions (CPMR)

European Chemical Industry Council (Cefic)

International Association of Classification Societies Ltd (IACS)

International Chamber of Shipping (ICS)

Iberoamerican Maritime Law Institute (IIDM)

International Group of P&I Associations (International Group)

International Salvage Union (ISU)

International Spill Control Organization (ISCO)

International Union of Marine Insurance (IUMI)

INTERTANKO

ITOPF Limited (ITOPF)

Oil Companies International Marine Forum (OCIMF)

Sea Alarm Foundation (Sea Alarm)

World LPG Association (WLPGA)

- 5.2.12 However, the group also made the following specific observations and recommendations in relation to the Conference of Peripheral Maritime Regions and the International Salvage Union:
- (a) The group was pleased to note the presence of CPMR at the current sessions, after having not attended meetings for a number of years. The group considered that, despite CPMR's limited attendance during the review period, since the recent COVID-19 pandemic had affected usual working practices and since, prior to 2018, the organisation had attended meetings regularly and submitted documents for consideration by the governing bodies, CPMR should continue to hold observer status as per the Director's recommendation. The group recommended, however, that the Director write to CPMR to urge it to attend upcoming sessions and maintain engagement with the IOPC Funds ahead of the next review in 2025.

- (b) The group noted that ISU had again expressed its regret that it had been unable to attend IOPC Funds' meetings consistently and recognised that this was due to the Organisation comprising a Secretariat of only two persons. It also noted that since the last review in 2018, ISU had reiterated its intention to attend meetings of the governing bodies in future if ever an issue of salvage should arise and remained ready to provide assistance on that subject.

5.2.13 In addition, the Group made the following general observations and recommendations:

- (a) The group noted the valuable contribution of non-governmental organisations to the work of the organisation.
- (b) The group considered that it was important that all organisations having observer status with the IOPC Funds attended meetings of the governing bodies regularly and sustained engagement with the IOPC Funds intersessionally.
- (c) The group encouraged all organisations having observer status, therefore, to regularly participate in the meetings, submit documents to assist in deliberations in session, and engage with the IOPC Funds, as appropriate, out of session.

5.2.14 The group also considered that as non-governmental organisations are valuable to both the IOPC Funds and its Member States, access to these organisations would benefit Member States wishing to seek the expertise of these organisations. The group noted that the IOPC Funds website contains a page dedicated to the organisation's 'Observers' which includes the list of non-governmental organisations granted observer status with links to their respective websites. The group also noted that the Secretariat was ready and willing to facilitate any delegations wishing to contact any of the organisations and urged delegations to contact the IOPC Funds Secretariat if they were to need any assistance in that regard.

5.2.15 The group also noted that some organisations had undergone structural changes such as changes of leadership or address, and recommended that organisations inform the Secretariat of these updates when they occur, to ensure that correct information is held by the IOPC Funds.

5.2.16 Finally, the group expressed its gratitude to all of the non-governmental organisations having observer status with the IOPC Funds for the significant contribution they make and the support they provide to the organisation.

1992 Fund Administrative Council decision

5.2.17 The 1992 Fund Administrative Council expressed its appreciation to the review group for their participation and for their clear and thorough report.

5.2.18 The Administrative Council endorsed the review group's recommendation that the Director should write to CPMR to urge them to regularly participate in sessions of the IOPC Funds governing bodies.

5.2.19 The Administrative Council noted the general observations made by the group regarding the importance of the relationship between the international non-governmental organisations and the IOPC Funds, and also noted the group's specific observations with regard to relating to ISU's extenuating circumstances.

5.2.20 The Administrative Council decided that the international non-governmental organisations listed in paragraph 5.2.11 above should maintain that status until the next review in 2025.

Supplementary Fund Assembly decision

- 5.2.21 The Supplementary Fund Assembly took note of the decision of the 1992 Fund Administrative Council and decided that the international non-governmental organisations listed in paragraph 5.2.11 should maintain that status until the next review in 2025.

6 Financial policies and procedures

6.1	Amendments to Internal Regulations Document IOPC/MAR22/6/1	92AC		SA
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This item was considered in conjunction with item 7.1 Secretariat matters, the discussion of which is set out in paragraph 7.1.25.

6.2	Amendments to Financial Regulations Document IOPC/MAR22/6/2	92AC		SA
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This item was considered in conjunction with item 7.1 Secretariat matters, the discussion of which is set out in paragraph 7.1.26.

7 Secretariat matters

7.1	Secretariat matters Document IOPC/MAR22/7/1	92AC		SA
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- 7.1.1 The governing bodies took note of the information contained in document IOPC/MAR22/7/1 regarding the operation of the Secretariat.

Outgoing Director: staff promotions

- 7.1.2 The governing bodies noted that the outgoing Director had made three personal staff promotions effective from 1 January 2022, namely:

- María Basílico, Executive Assistant, from Professional Service Grade 2 to Professional Service Grade 3;
- Elisabeth Galobardes, Finance Assistant, from General Service Grade 7 to Professional Service Grade 2; and
- Paul Davis, IT/Office Administrator, from General Service Grade 7 to Professional Service Grade 2.

New Director

- 7.1.3 The governing bodies noted that following Mr Gaute Sivertsen's appointment as Director from 1 January 2022, he had had the opportunity to meet with all members of the Secretariat on an individual basis and that this had been very valuable in getting to know the staff members on a professional and personal basis, and to obtain a thorough understanding of the day-to-day work of the Secretariat.

- 7.1.4 The governing bodies also noted that the Secretariat staff members had been requested to return to work from the office under the Organisation's Working from Home Policy which currently required staff members to work three days in the office and two days from home.

- 7.1.5 The governing bodies further noted that, to facilitate the new hybrid working arrangements, the Director was convening a new Information Sharing and Coordination (ISAC) Meeting that he chairs weekly. The governing bodies noted that the key points reported at these meetings are circulated among all staff members to keep everybody up to date with the work being carried out by colleagues and that this way, all staff can benefit from the cross-departmental coordination and make the best possible use of information and resources.
- 7.1.6 The governing bodies also noted that the Director continued to hold weekly meetings with his Management Team which consists of the Heads of Departments to discuss more strategic issues.

Changes to the Finance and Administration Department

- 7.1.7 The governing bodies recalled that at its March 2021 sessions, the then Director reported that Information Technology (IT) had become ever more important and essential for the running of the organisations. He also stressed the current and future strategic importance and business critical role of IT. Against this background, the governing bodies also recalled the then Director considered it was important to separate the IT and office management functions from the Finance and Administration Department with effect from 1 April 2021. The governing bodies recalled that this resulted in a separate IT Department, within the structure of the Secretariat, with responsibility for office management. The governing bodies further recalled Mr Robert Owen was appointed Head of the newly created IT Department. The governing bodies recalled that at their November 2021 session, the Assembly approved the then Director's proposal to promote Mr Robert Owen to the D1 level with effect from 1 December 2021.
- 7.1.8 The governing bodies also recalled that at its November 2021 sessions, the governing bodies had noted that Mr Ranjit Pillai would, as Head of the Finance and Administration Department, continue to be Deputy Director and responsible for Finance and Human Resource (HR) functions until he retired on 6 June 2022 (last working day in the office being 31 May 2022) and that the decision on the succession to Mr Pillai was to be undertaken by the next Director.
- 7.1.9 The governing bodies recalled that this change had meant that the Secretariat was divided into four departments and the Director's Office.

New Administration Department

- 7.1.10 The governing bodies noted that in considering Mr Pillai's retirement, the Director intended, for now, to retain the four functional areas/sections of Finance, HR, IT and Office Management under one department, the Administration Department. The governing bodies noted that this Department would be overseen by Mr Robert Owen as Head of Administration at his current D1 level.
- 7.1.11 The governing bodies also noted that in recognising the importance of the Finance function to the organisation, the Director had decided to request the Assembly to approve the establishment of the post of Chief of Finance at the Professional Service Grade P5, who would head the Finance Section within the Administration Department and would be responsible for the finance function of the organisation. The governing bodies noted that, if approved, the Finance Section would consist of the Chief of Finance, a Finance Manager and three Finance Assistants.
- 7.1.12 The governing bodies further noted that until March 2021, Mr Pillai, Head, Finance and Administration Department oversaw four functional areas of Finance, HR, IT and Office Management. The governing bodies noted that Mr Pillai's current post would no longer be an established post following his retirement, given the establishment of the new Administration Department and the proposed creation of the post of Chief of Finance.

Finance Section

- 7.1.13 The governing bodies noted that if the Assembly approved the establishment of the Chief of Finance post at its current session, it would be the Director's intention to promote Ms Claire Montgomery, Finance Manager, to the post of Chief of Finance at the Professional Service Grade P5 with effect from 1 June 2022. The governing bodies noted that Ms Montgomery had been in the post of Finance Manager since 1 June 2017 and that over the last five years, Ms Montgomery had proved to be a very able finance professional and a valuable staff member. The governing bodies further noted that the recruitment for the subsequent vacant post of Finance Manager at the Professional Service Grade of P4 would commence as soon as possible.
- 7.1.14 The governing bodies also noted that following the retirement of Ms Kathleen McBride, Finance Assistant, at the end of September 2021, the Director had promoted Ms Marina Singh as her replacement at the General Service Grade 7 with effect from 1 March 2022. The governing bodies further noted that Ms Singh's post of Finance Assistant at General Service Grade 5/6 was currently under recruitment.

Role of Deputy Director

- 7.1.15 The governing bodies recalled that at its April 2012 sessions they noted the appointment of Mr Pillai as Deputy Director and further noted that, given that the Secretariat was a small body, with overall responsibilities clearly defined as to operate effectively without duplication, the post was not a full-time post and was, therefore, combined with his post of Head of Finance and Administration Department. The governing bodies also recalled that at the same session the Assembly approved the Director's recommendation that the salary should be higher than that of a Head of Department role alone (D1) at the D2 level.
- 7.1.16 The governing bodies noted that the Director is of the view that the arrangement for the role of Deputy Director should continue as a combined role and has decided to appoint Mrs Liliana Monsalve (Colombia), to this position effective 1 June 2022. The governing bodies further noted that the Director also decided that Mrs Monsalve will continue in her position as Head of the Claims Department, thus combining the role of Deputy Director/Head of Claims Department. The governing bodies noted that the Director recommended that the position of Deputy Director/Head of Claims Department should be graded at the D2 level.

Secretariat

- 7.1.17 The governing bodies noted that the changes proposed by the Director, if approved by the Assembly, would not affect the current number of established posts; there would still be 35 posts within the structure of the Secretariat: 20 in the Professional and higher categories and 15 in the General Service category. The governing bodies further noted Annex I and Annex II sets out the Secretariat's structure at 1 March 2022 and as from 1 June 2022. The new Secretariat structure is set out in Annex IV to this document.
- 7.1.18 The governing bodies also noted that in two separate documents (documents IOPC/MAR22/6/1 and IOPC/MAR22/6/2), the Director had set out the necessary changes to the Internal Regulations and Financial Regulations respectively, to include the changes proposed in the document in respect of the posts of Head of Administration Department, Chief of Finance and Deputy Director/Head of Claims Department.

Debate

- 7.1.19 Delegations who took the floor supported all of the Director's proposals made in the document.
- 7.1.20 Several delegations expressed their appreciation to Mr Ranjit Pillai for his commitment and dedication as Deputy Director and Head of the Finance and Administration Department and wished him all the best. Several delegations also congratulated Ms Liliana Monsalve on her appointment to Deputy Director and expressed their support to the IOPC Funds Secretariat setting a good example in gender balance and empowering woman in the maritime field. Delegations also congratulated Ms Claire Montgomery on her promotion to the newly established post of Chief of Finance.
- 7.1.21 The Chair of the 1992 Fund Administrative Council and the Chair of the Supplementary Fund Assembly congratulated the promoted staff and looked forward to continuing to work with them in their new positions.

1992 Fund Administrative Council

- 7.1.22 The 1992 Fund Administrative Council noted:
- (i) the information contained in the document;
 - (ii) the establishment of the Administration Department in place of the IT Department overseeing the four functional areas of Finance, HR, IT and Office Management headed by Mr Robert Owen at his current D1 level; and
 - (iii) the appointment of Mrs Liliana Monsalve, as Deputy Director/Head of Claims Department from 1 June 2022.
- 7.1.23 The 1992 Fund Administrative Council decided to:
- (i) approve the establishment of the post of Chief of Finance and note the Director's intention to promote Ms Claire Montgomery to this post at the Professional Service Grade P5 with effect from 1 June 2022; and
 - (ii) approve the grade of Mrs Liliana Monsalve, as Deputy Director/Head of Claims Department at the D2 level with effect from 1 June 2022.

Supplementary Fund Assembly

- 7.1.24 The Supplementary Fund Assembly noted the decisions of the 1992 Fund Administrative Council and took note of the information contained in the document.

Amendments to Internal Regulations and Financial Regulations

1992 Fund Administrative Council and Supplementary Fund Assembly decision

- 7.1.25 In light of the recently approved changes to the Secretariat structure, the 1992 Fund Administrative Council and Supplementary Fund Assembly decided to amend 1992 Fund Internal Regulation 12 and Supplementary Fund Internal Regulation 12, effective 1 June 2022, relating to the delegation of authority. The amended Regulations are set out at Annex II.
- 7.1.26 The 1992 Fund Administrative Council and Supplementary Fund Assembly also decided to amend 1992 Fund Financial Regulation 9 and Supplementary Fund Financial Regulation 9, effective 1 June 2022, relating to the management of monies. The amended Regulations are set out at Annex III.

8 Other matters

8.1	Guidance on the impact of the situation in the Black Sea and the Sea of Azov on insurance or other financial security certificates Document IOPC/MAR22/8/1	92AC		SA
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8.1.1 The governing bodies took note of document IOPC/MAR22/8/1 and its Annex which contained IMO document LEG 109/WP.6 and the draft Legal Committee circular on the Guidance on the impact of the situation in the Black Sea and the Sea of Azov on insurance or other financial security certificates, relating to the conflict in Ukraine.

8.1.2 The governing bodies noted that this draft LEG circular had been agreed by the IMO Legal Committee the week prior to these sessions, and that it would be issued with a specific circular number in due course. It was also noted that the draft LEG circular listed IMO instruments which would be affected by the conflict in Ukraine, and that this list contained the 1969 and 1992 Civil Liability Conventions. It was further noted in particular that the circular stated:

‘The absence of insurance or other financial security in accordance with the requirements of the conventions may lead to insufficient compensation for States and victims of pollution and other incidents. It may also expose the IOPC Funds and its contributors to the risk of having to pay all of the compensation for oil spills from tankers because there is not sufficient insurance to cover the shipowner's liability.’

8.1.3 The governing bodies noted that the circular also included a number of action points under which they may decide to give the Director instructions as appropriate.

Statements by delegations

8.1.4 The delegation of the United Kingdom gave the following statement:

‘The invasion of Ukraine violates international law and the UN Charter. As the UN Secretary-General has said, such unilateral measures conflict directly with the United Nations Charter – the use of force by one country against another is the repudiation of the principles that every country has committed to uphold.

As a Permanent Member of the UN Security Council, Russia has a particular responsibility to uphold international peace and security. Instead, it is violating the borders of another country and its actions are causing widespread suffering.

The UK stands united with partners in condemning Russia's outrageous attack on Ukraine as a clear breach of international law and the UN Charter.

While Russia continues to violate international law, human rights and multiple commitments to peace and security, we will work with our allies and partners across the multilateral system to condemn Russia's appalling actions and to isolate it on the international stage. With that said, Chair, the UK can fully support the contents of document IOPC/MAR22/8/1.’

8.1.5 The delegation of Canada gave the following statement:

‘As we said at the IMO's Council sessions, Canada strongly condemns Russia's unprovoked attack on Ukraine. This invasion is not just an attack on Ukraine. This is an attack on international law, democracy, freedom and human rights. Russia must be held accountable for its aggression in Ukraine. Canada taken swift action to ban any ship that is Russian registered, owned, operated or

chartered from docking in Canada or passing through our internal waters. And we will not stop there.

The Legal Committee provided guidance related to insurance certificates. It is essential that the polluter pays principle be upheld. Should sanctions against Russia result in the insurance or financial security of a ship no longer satisfy the requirements of the conventions, the issuing or certifying state of the certificate should cancel the certificate in accordance with the conventions. Russia must meet its convention obligations.

The guidance recognises that this may have impacts on the IOPC Funds and its contributors. Russia is not a contributor to the Funds. Thus, Canada is very concerned with the potential that this invasion of Ukraine by Russia may result in collateral damage to merchant ships and oil pollution damage for which the IOPC Funds may be called upon to pay compensation. As an organization, it is paramount that we continue to closely monitor this situation and for the Secretariat to promptly report any incident involving Russian tankers or occurring in Russia so that action can be taken by this organisation.'

8.1.6 The delegation of France gave the following statement (original statement in French):

'France condemns, in the strongest terms, Russia's military aggression against Ukraine, in which Belarus is guilty in its complicity.

Russia's aggression against Ukraine constitutes an extremely serious violation of Ukraine's territorial integrity, sovereignty, and independence, as well as the fundamental principles of the Charter of the United Nations, and violates international peace and security.

France stands alongside the Ukrainian government and people in their efforts to resist the Russian invasion.

We condemn the loss of human life and the suffering caused. We demand that Russia immediately cease its hostilities, remove its troops from the entirety of Ukrainian territory, and respect international humanitarian law.

France welcomes the adoption by the IMO Legal Committee of a draft circular containing recommendations in relation to the impact of the situation in the Black Sea and the Sea of Azov on insurance or other financial security certificates.'

It urges the Member States of the IOPC Funds to pay utmost attention to the document LEG 109/WP.6 circulated in the IOPC Funds document IOPC/MAR22/8/1.'

8.1.7 The delegation of Australia gave the following statement:

'Australia associates itself with the interventions made by the UK, Canada and France. Australia remains a strong and consistent supporter of Ukraine's sovereignty and territorial integrity. Australia condemns Russia's unprovoked, unjustified and unlawful invasion of Ukraine in the strongest possible terms.

Russia's actions present an immediate and ongoing threat to the safety and security of international shipping and Australia fully supports the circular issued by the Legal Committee regarding Russian insurers and security providers.'

8.1.8 The delegation of the Republic of Korea gave the following statement:

'The Republic of Korea aligns itself with the distinguished delegations of UK, Canada, France and Australia. This delegation notes the issue discussed by the IMO Legal Committee regarding the

impact of the recent situation in the Black Sea and the Sea of Azov on insurance and other financial security certificates. This delegation respects the result of the IMO Legal Committee's discussion on this issue, and will share this agreed circular with port authorities, shipowners and contributors in our country to fulfil treaty obligations in accordance with the IMO instruments and guidance set out in the IMO circular.'

1992 Fund Administrative Council

- 8.1.9 The 1992 Fund Administrative Council took note of document IOPC/MAR22/8/1 and its Annex which contained IMO document LEG 109/WP.6 and the draft LEG circular on the Guidance on the impact of the situation in the Black Sea and the Sea of Azov on insurance or other financial security certificates.
- 8.1.10 The 1992 Fund Administrative Council fully endorsed the action points contained in the circular and encouraged Member States to adhere to its recommendations. Furthermore, the Administrative Council instructed the Director to monitor the situation and report back at their next regular session.

Supplementary Fund Assembly

- 8.1.11 The Supplementary Fund Assembly took note of the decisions by the 1992 Fund Administrative Council.

8.2	Any other business	92AC	92EC	SA
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Farewell to Mr Ranjit Pillai, Deputy Head/Head of Finance and Administration

- 8.2.1 The governing bodies noted that Mr Ranjit Pillai, Deputy Head/Head of Finance and Administration would retire on 6 June 2022 after over 25 years of service.
- 8.2.2 The Chair of the 1992 Fund Administrative Council made the following statement:

'I have appreciated the unwavering commitment, the sense of diplomacy and the utmost dedication that Mr Pillai has shown to the IOPC Funds throughout all his service, including the past 10 years as Deputy Director alongside his role as Head of Finance and Administration. One strong point of international organisations is that when they work well, and they do not always work well, but sometimes they do, and we flatter ourselves thinking that this is indeed the case for the IOPC Funds, well then they make the best of merging different cultures and approaches of people coming from different parts of the world. For what I have known of Mr Pillai, his Asian culture was certainly an addition to the proceedings. His softness, not only in his manners but in his way of speaking and approaching problems, never raising the tone of his voice, making few remarks but always terribly to the point and always very operational. Not only the IOPC Funds, but all of us will need an approach like that when we are confronted with different issues. But there are others that have known him better than I have. I will only take a few seconds to remind him that he should look askance at this period of becoming a retired person.'

- 8.2.3 With a thinly veiled reference to his personal occurrence, the Chair then added:

'I have had the experience of one retired person, who thought he was retiring, and found himself five years later chairing the 1992 Fund Assembly. So what life has in store for us, it is difficult to tell. To go with our Arab friends, what you can say at that point is *maktub*, which translated means, it is written.'

8.2.4 The Chair of the Supplementary Fund Assembly made the following statement:

‘On behalf of the Supplementary Fund Assembly, I would like to express my sincere gratitude to Mr Ranjit Pillai for his dedication to the organisation for over 25 years. As all of you will agree, he has played a key role in the management of financial issues in this organisation, in addition to the other administrative matters in the daily operations of the Funds. He dealt with the most complicated financial issues professionally and helped other people who are not familiar with financial matters, someone like myself, and made it easy to understand key points and to make the right decisions. On a personal note, before we had these remote sessions, back when we had meetings in the IMO building, he would be sat next to me on the podium and would provide me with his wisdom and insight on various issues based on his expertise and long-term experience in this organisation. I will miss his kindness and generosity. His departure will be a big loss for this organisation but as everyone knows, we have to accept reality that someone has to leave one day. Once again, on behalf of the Supplementary Fund Assembly, I wish him all the best in his future endeavours and his happy retirement.’

8.2.5 The Director, Mr Gaute Sivertsen, made the following statement:

‘After over 25 years of service, Ranjit Pillai’s contribution to the work and standing of the Secretariat has been truly remarkable. He has now worked with four of the five directors in the history of the Funds. I think Mr Pillai should feel extremely proud of his achievements, and the significant management role he has played in ensuring the sound financial, the human resources and overall administrative management of the Funds spanning more than two decades.

Always calm, diplomatic, analytical and very caring, I hope he will look back on his time at the Funds as one that have been a truly rewarding ‘hands on’ career.

I would also like to thank Mr Pillai, in particular, for the support he has given me throughout all these years, and especially during the last three months. I think I can say on behalf of all my colleagues at the Secretariat that Mr Pillai will be greatly missed at the Secretariat but will remain a friend to all of us at the Funds.

Ranjit, I wish you all the best in this new stage that you will be starting very soon.’

8.2.6 The Deputy Director, Mr Ranjit Pillai, made the following statement:

‘I am humbled by the very kind words said by the Chairs and the Director and for the opportunity to say a few words.

It is never easy to say goodbye and to bring down the curtain on a very privileged time that I have had at the IOPC Funds; but the time has indeed come!

Over the years, I have had the great opportunity to work with now, four Directors, and with many colleagues in the Secretariat, who have been very supportive and who have made the last 25 years a very enriching experience.

My time at the IOPC Funds has also been enriched by those members of the Investment Advisory Body and the Audit Body with whom I have had the privilege to have worked with and from whom I have learnt a lot. The same can also be said of the External Auditors; The National Audit Office of the United Kingdom, and our current Auditor, BDO International. So, an immense thank you to them all.

A special thank you should also go to staff who I have liaised with at the IMO who have always provided sound advice and guidance on matters of Finance, Human Resources and Administration, for which I shall always be grateful.

Reflecting on the last 25 years there have been milestones which I have been proud to be part of; namely the establishment of the Supplementary Fund, the winding up of the 1971 Fund, the adoption of new accounting standards (IPSAS) in 2010, the relocation of the Secretariat out of the IMO building in 2000 and its return in 2016 and the development of a small Secretariat comprising of a team of excellent professionals.

Maintaining a good relationship with the Host Government has been important and I am grateful for those I have dealt with both in the Department of Transport and the Foreign, Commonwealth and Development Office for providing their support over the years.

It would be remiss of me for not saying how much I have enjoyed serving all Member States and working with Contributors and other stake holders. Your support, encouragement, and valuable contributions have made the IOPC Funds a special place to work. It fills me with pride to have been part of the IOPC Funds' Secretariat.

To my many dear colleagues, past and present, thank you again for all your support and hard work which has helped me discharge my responsibilities and most of all for your friendship and special memories and for making the Secretariat a big part of my life.

To all of you, I do hope that our paths shall cross in the future, and that we remain in contact and as friends.

Merci Beaucoup, muchas gracias and thank you!

Intervention by the Chair of the Audit Body

- 8.2.7 The Chair of the Audit Body recalled her work with the Deputy Director first as a delegate and then later as a member of the Audit Body. The Chair noted that Mr Pillai's passion had always been with the accounts and taking care of the Funds' finances rather than sitting on the podium and being in the spotlight. Nonetheless, the Chair continued that the Funds' family could not let him leave without saying goodbye and thanked him for a sterling performance during his years with the Funds. The Chair noted his excellent legacy and how the External Auditors had remarkably very few comments on the handling of the Funds' finances. She stated, that taking into consideration that the Funds are all about money, in collecting contributions and paying claims, that this was a significant legacy to leave behind. The Chair pointed out that the competent handling of these tasks had not been easy and had contributed to the protocol of the international compensation system.
- 8.2.8 The Chair of the Audit Body noted that, as well as Mr Pillai's financial skills, he demonstrated a number of personal qualities such as is good humour, a pleasant personality and calmness, all of which will be missed alongside his professional capacities. She emphasised that the Deputy Director had always been modest but despite this, he revealed bravery and strength in physically defending the Funds when a violent agitator disrupted the meeting of the governing bodies some years ago, and she stated that Mr Pillai had a strong pen as well as a strong arm.
- 8.2.9 The Chair of the Audit Body concluded that Mr Pillai would be greatly missed, and she wished him an enjoyable retirement continuing to do good things for other people, in good health and good spirits with his family.

Interventions by delegations

- 8.2.10 A number of delegations thanked Mr Pillai for his many years of service to the IOPC Funds.
- 8.2.11 One delegation expressed that the organisation had been very fortunate to have benefitted from Mr Pillai's expertise and knowledge and that he had done an extraordinary job in managing the finances of the Funds. That delegation noted in particular his ability to simplify financial matters for delegations to understand. That delegation thanked him for his service as Deputy Director and stated that his good and easy nature, humility and willingness to discuss matters one-on-one would be missed.
- 8.2.12 Another delegation recalled Mr Pillai's beautiful and well-articulated English and that it had always been a pleasure to listen to him, not only for what he had to say but also for the manner in which he said it. That delegation also recalled his friendliness and modesty and how it was always a pleasure to meet with him.

1992 Fund Administrative Council and Supplementary Fund Assembly

- 8.2.13 The governing bodies thanked Mr Ranjit Pillai, Deputy Head/Head of Finance and Administration for his dedicated service to the IOPC Funds and wished him all the best with his retirement. The Chair of the 1992 Fund Administrative Council reminded delegates that there would be an opportunity to bid the Deputy Director farewell in person at the next regular sessions.

Any other business

- 8.2.14 No other items were raised.

9 Adoption of the Record of Decisions

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

It was recalled that the governing bodies had approved the proposal relating to the preparation and consideration of the Record of Decisions during the remote sessions (paragraph 1.2.5).

The draft Record of Decisions for the March 2022 sessions of the IOPC Funds governing bodies as contained in documents IOPC/MAR22/9/WP.1 and IOPC/MAR22/9/WP.1/1 was submitted for consideration by Member States on the last day of the virtual meeting.

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/MAR22/9/WP.2).

After the publication of the revised draft report, a correspondence period of five working days began for Member States to submit comments by correspondence.

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/MAR22/9/1). The final Record of Decisions was then circulated in document IOPC/MAR22/9/2.

ANNEX I

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	Bulgaria	•		
8	Cameroon	•		
9	Canada	•		•
10	China ^{<1>}	•		
11	Colombia	•		
12	Cook Islands	•		
13	Croatia	•		•
14	Cyprus	•		
15	Denmark	•		•
16	Ecuador	•	•	
17	Estonia	•		•
18	Fiji	•		
19	Finland	•		•
20	France	•	•	•
21	Georgia	•		
22	Germany	•	•	•
23	Greece	•		•
24	Guyana	•		
25	India	•	•	
26	Iran (the Islamic Republic of)	•		

^{<1>} 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	Italy	•	•	•
28	Jamaica	•	•	
29	Japan	•	•	•
30	Latvia	•		•
31	Liberia	•	•	
32	Luxembourg	•		
33	Malaysia	•	•	
34	Malta	•		
35	Marshall Islands	•	•	
36	Mexico	•		
37	Monaco	•		
38	Montenegro	•		•
39	Morocco	•	•	•
40	Netherlands	•	•	•
41	New Zealand	•		•
42	Nicaragua	•		
43	Nigeria	•		
44	Norway	•		•
45	Palau	•		
46	Panama	•		
47	Papua New Guinea	•		
48	Philippines	•	•	
49	Poland	•		•
50	Portugal	•		•
51	Republic of Korea	•		•
52	Russian Federation	•		
53	Singapore	•	•	
54	South Africa	•		
55	Spain	•	•	•

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

1.2 States represented as observers

		1992 Fund	Supplementary Fund
1	Brazil	•	•
2	Egypt	•	•
3	Guatemala	•	•
4	Lebanon	•	•
5	Saudi Arabia	•	•

1.3 Intergovernmental organisations

		1992 Fund	Supplementary Fund
1	European Commission	•	•
2	International Maritime Organization (IMO)	•	•

1.4 International non-governmental organisations

		1992 Fund	Supplementary Fund
1	BIMCO	•	•
2	Cedre	•	•
3	Comité Maritime International (CMI)	•	•
4	Conference of Peripheral Maritime Regions (CPMR)	•	•
5	European Chemical Industry Council (Cefic)	•	•
6	Iberoamerican Maritime Law Institute (IIDM)	•	•
7	International Association of Classification Societies Ltd (IACS)	•	•
8	International Chamber of Shipping (ICS)	•	•
9	International Group of P&I Associations (International Group)	•	•
10	International Spill Control Organization (ISCO)	•	•
11	International Union of Marine Insurance (IUMI)	•	•

12	INTERTANKO	•	•
13	IТОPF Limited (IТОPF)	•	•
14	Oil Companies International Marine Forum (OCIMF)	•	•
15	Sea Alarm Foundation	•	•
16	World LPG Association (WLPGA)	•	•

* * *

ANNEX II

EFFECTIVE FROM 1 JUNE 2022

INTERNAL REGULATIONS OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND ESTABLISHED UNDER THE 1992 FUND CONVENTION

(as adopted by the Administrative Council at its 21st session, acting on behalf of the Assembly at its 26th extraordinary session held from 29 to 30 March 2022)

Regulation 12

Delegation of authority in the absence of the Director

The Director may authorise the Deputy Director/Head of Claims Department, the Head of the External Relations and Conference Department, or the Head of the Administration Department, in that order, to act on his behalf in the fulfilment of the functions set out in Article 29 of the 1992 Fund Convention, and to be the legal representative of the 1992 Fund. The conditions and extent of such delegation shall be laid down in Administrative Instructions issued by the Director. Delegation made in accordance with this Regulation overrides any limitation of the authority of the above-mentioned officers contained elsewhere in these Regulations or in the Financial Regulations.

If there is no one of the said senior members of the Secretariat available to assume the function of the Director, the Chair of the 1992 Fund Assembly shall appoint a member of the Secretariat, other than those mentioned in the preceding paragraph, to carry out this function until the next regular or extraordinary session of the Assembly or until any of the said senior members of the Secretariat has been able to resume their responsibilities.

EFFECTIVE FROM 1 JUNE 2022

**INTERNAL REGULATIONS OF THE INTERNATIONAL OIL POLLUTION COMPENSATION SUPPLEMENTARY
FUND ESTABLISHED UNDER THE 2003 SUPPLEMENTARY FUND PROTOCOL**

(as amended by the Supplementary Fund Assembly at its 10th extraordinary session
held from 29 to 30 March 2022)

Regulation 12

Delegation of authority in the absence of the Director

The Director may authorise the Deputy Director/Head of Claims Department, the Head of the External Relations and Conference Department, or the Head of the Administration Department, in that order, to act on his or her behalf in the fulfilment of the functions set out in Article 16 of the Supplementary Fund Protocol in conjunction with Article 29 of the 1992 Fund Convention, and to be the legal representative of the Supplementary Fund. The conditions and extent of such delegation shall be laid down in Administrative Instructions issued by the Director. Delegation made in accordance with this Regulation overrides any limitation of the authority of the abovementioned officers contained elsewhere in these Regulations or in the Financial Regulations.

If there is no one of the said senior members of the Secretariat available to assume the function of the Director, the Chair of the 1992 Fund Assembly shall appoint a member of the Secretariat, other than those mentioned in the preceding paragraph, to carry out this function until the next regular or extraordinary session of the Assembly or until any of the said senior members of the Secretariat has been able to resume their responsibilities.

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ANNEX III

EFFECTIVE FROM 1 JUNE 2022

FINANCIAL REGULATIONS OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND 1992 ESTABLISHED UNDER THE 1992 FUND CONVENTION

(as adopted by the Administrative Council at its 21st session, acting on behalf of the Assembly at its 26th extraordinary session held from 29 to 30 March 2022)

Regulation 9

Management of monies

9.2 The Director may authorise officers to act as signatories on behalf of the 1992 Fund in giving payment instructions. The 1992 Fund's bankers shall be empowered to accept payment instructions on behalf of the 1992 Fund when signed as follows:

- (a) for any sum up to £100 000, by any two officers from category A or B;
- (b) for any sum in excess of £100 000, by one officer from category A plus one officer from category A or B.

For the purposes of this Regulation, the categories are as follows:

Category A Director, Deputy Director/Head of the Claims Department, Head of the External Relations and Conference Department, and the Head of the Administration Department

Category B Chief of Finance and Finance Manager

Further conditions in respect of the delegation of authority under this Regulation shall be laid down by the Director in Administrative Instructions.

EFFECTIVE FROM 1 JUNE 2022

**FINANCIAL REGULATIONS OF THE INTERNATIONAL OIL POLLUTION COMPENSATION SUPPLEMENTARY
FUND ESTABLISHED UNDER THE 2003 SUPPLEMENTARY FUND PROTOCOL**

(as amended by the Supplementary Fund Assembly at its 10th extraordinary session
held from 29 to 30 March 2022)

Regulation 9

Management of monies

9.2 The Director may authorise officers to act as signatories on behalf of the Supplementary Fund in giving payment instructions. The Supplementary Fund's bankers shall be empowered to accept payment instructions on behalf of the Supplementary Fund when signed as follows:

- (a) for any sum up to £100 000, by any two officers from category A or B;
- (b) for any sum in excess of £100 000, by one officer from category A plus one officer from category A or B.

For the purposes of this Regulation, the categories are as follows:

Category A Director, Deputy Director/Head of the Claims Department, Head of the External Relations and Conference Department, and the Head of the Administration Department

Category B Chief of Finance and Finance Manager

Further conditions in respect of the delegation of authority under this Regulation shall be laid down by the Director in Administrative Instructions.

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ANNEX IV

STRUCTURE OF THE IOPC FUNDS SECRETARIAT EFFECTIVE 1 JUNE 2022

