



International Oil Pollution
Compensation Funds

Agenda Item 5	IOPC/NOV23/5/1	
Date	5 October 2023	
Original	English	
1992 Fund Assembly	92A28	●
1992 Fund Executive Committee	92EC81	
Supplementary Fund Assembly	SA20	●

SUBMISSION OF OIL REPORTS

Note by the Secretariat

Summary:	As at 25 September 2023, 88 States have submitted reports for 2022 to the 1992 Fund, representing some 95% of the expected total contributing oil ^{<1>} . Oil reports are outstanding from 38 States with respect to the 1992 Fund, of which 36 States have yet to report for the year 2022.
	All Member States of the Supplementary Fund have submitted reports for the year 2022 and all previous years and have therefore completely fulfilled their treaty obligations to submit reports.
Action to be taken:	<u>1992 Fund Assembly and Supplementary Fund Assembly</u>
	Information to be noted.

1 Introduction

- 1.1 This document sets out the status of the submission of oil reports in respect of the 1992 Fund and the Supplementary Fund. It also provides an update on the development of the online reporting system (ORS) for the submission of oil reports by Member States.
- 1.2 In January 2023, the Director invited 1992 Fund and Supplementary Fund Member States to submit to the Secretariat their reports on contributing oil received in the calendar year 2022 by 30 April 2023. The submission of any outstanding reports from previous years was also requested, as appropriate. The Secretariat maintains a list of contributors for each State. Member States were provided with the list of the contributors in their State along with the contributing oil receipts for the previous years to assist them in submitting the current oil reports.
- 1.3 Electronic reminders were sent out in May, June and August 2023 to Member States with outstanding oil reports. As in previous years, these communications were followed by meetings and phone calls with the competent authorities of States with outstanding reports.
- 1.4 In general, clarification is sought from Member States in the event that oil reports are not submitted for all contributors or when there are inconsistencies with previously reported tonnages. The Secretariat also has access to information on persistent oil received after sea transport, published by Refinitiv Eikon, a subscription service also used by the Secretariat for banking and currency data. This

^{<1>} Eighty-eight reports have been submitted out of 121 1992 Fund Member States, plus three autonomous partners. The Netherlands, Aruba, Curaçao and Sint Maarten are autonomous partners within the Kingdom of the Netherlands, a status which obliges them to submit reports of contributing oil to the 1992 Fund directly. The Supplementary Fund has not been extended to Aruba, Curaçao or Sint Maarten.

information is used, together with web-based open-source research, to assist Member States with reporting and clarifying reasons for large variations in tonnages.

- 1.5 In recent years, competent authorities have been reminded of the governing bodies' concern about States that did not fulfil their treaty obligations to submit reports, as it is crucial for the functioning of the international compensation regime. Reference has been made to 1992 Fund Resolution N°12 – Measures in respect of outstanding oil reports and outstanding contributions and Supplementary Fund Resolution N°3 – Measures in respect of outstanding contributions, which were adopted by the governing bodies at their April 2016 sessions (document IOPC/APR16/9/1, paragraphs 6.1.15 and 6.1.16).
- 1.6 In accordance with 1992 Fund Resolution N°12, the extent to which a State has fulfilled its obligations will be taken into account when making payment of claims for compensation, when the 1992 Fund Assembly elects members of the 1992 Fund Executive Committee and when States nominate candidates for membership of the Audit Body. In accordance with Supplementary Fund Resolution N°3, the extent to which a State has fulfilled its obligations will be taken into account when making payment of claims for compensation.
- 1.7 In August 2023, Member States of the 1992 Fund and Supplementary Fund with oil reports or contributions outstanding for two or more years were notified by a formal letter that Resolution N°12 and Resolution N°3 respectively, were applicable to them. Information on Member States to which 1992 Fund Resolution N°12 and Supplementary Fund Resolution N°3 are currently applicable can be found in document IOPC/NOV23/5/3.
- 1.8 With respect to the Supplementary Fund, States were reminded that failure to submit oil reports could lead to a temporary or permanent denial of compensation.

2 Situation with regards to outstanding reports

2.1 1992 Fund

- 2.1.1 For the year 2022, 121 Member States plus three autonomous partners (i.e. Aruba, Curaçao and Sint Maarten) were liable to submit oil reports. The 88 States that have submitted reports for 2022 are estimated to represent some 95% of the expected total contributing oil. It should be noted that, in September 2022, the 1992 Fund had received reports for 88% of the expected contributing oil for the year 2021.
- 2.1.2 Based on the reports received thus far, the total quantity of oil received in 2022 has increased by some 7% compared to 2021, with the total expected contributing oil in 2022 estimated to be some 1.45 billion tonnes.
- 2.1.3 As at 25 September 2023, 38 States had not completed the submission of reports on contributing oil for 2022 or prior years, as shown at the Annex, of which 18 States recorded outstanding reports for one year only. It is further expected that 'nil' quantities will be reported by 16 of the States yet to submit.
- 2.1.4 Of the 20 States with reports outstanding for more than one year, Syrian Arab Republic has not submitted any reports for 14 years since joining the 1992 Fund. Oil reports are outstanding for Saint Lucia for 12 years (2004–2013, 2021–2022), Albania for 10 years (2013–2022) Djibouti for six years (2017–2022), Argentina for five years (2018–2022), Bahrain for five years (2018–2022), Guinea for five years (2018–2022) and Panama for five years (2018–2022).
- 2.1.5 Dominican Republic, which had not submitted any reports for 24 years since joining the 1992 Fund in 2000, submitted oil reports on 15 February 2022. The Secretariat has analysed the data and has

been trying to liaise with the Member State to ensure that the correct quantities of oil have been recorded. Once confirmed, the corresponding contributions will be invoiced.

- 2.1.6 Submission of oil reports by Argentina and Panama has been incomplete for five years, preventing the Secretariat from invoicing contributions in respect of some contributors in these States. Oil reports have been submitted and processed for the majority of contributors in these States.
- 2.1.7 Aruba, Curaçao and Sint Maarten are autonomous partners within the Kingdom of the Netherlands, a status which obliges them to submit reports of contributing oil to the 1992 Fund directly. Reports for 2020–2022 are outstanding for Curaçao and reports for 2019–2022 are outstanding for Sint Maarten. The Director has been in contact with the authorities and with the main contributor in Curaçao and is hopeful that outstanding obligations will be fulfilled soon.
- 2.1.8 At the October 2022 sessions of the governing bodies, the Director informed the 1992 Fund Administrative Council, acting on behalf of the 1992 Fund Assembly, that reports for two contributors in Bonaire and Sint Eustatius had been outstanding for more than one year. The Director is pleased to confirm that all outstanding oil reports for these two contributors have now been received from the authorities in the Netherlands.

2.2 Supplementary Fund

As at 25 September 2023, all Member States of the Supplementary Fund had submitted reports for 2022 and all previous years.

3 Online reporting system (ORS)

- 3.1 An online reporting system (ORS) has been developed to assist Member States in the submission of their contributing oil data to the Secretariat.
- 3.2 The Secretariat plans to identify opportunities to integrate the ORS with the new Enterprise Resource Planning (ERP) system, which currently contains contributions management and financial accounting.
- 3.3 The Secretariat is also exploring requirements for an online HNS reporting system, incorporating reporting and contributions management. Oil reporting will be one element of an HNS reporting system, so it is planned that further development in this area will be coordinated between the 1992 Fund and the work currently being undertaken on behalf of the future HNS Fund.

4 Measures encouraging the submission of oil reports

- 4.1 At the October 2019 sessions of the governing bodies, the Director was instructed to examine other ways to incentivise the submission of oil reports, including the possibility of invoicing contributions based on estimates in the event that no reports were submitted (document IOPC/OCT19/11/1, paragraph 5.1.17).
- 4.2 At their October 2022 sessions, the governing bodies noted the information contained in document IOPC/OCT22/6/1, which set out the work undertaken by the Secretariat and the Audit Body on this matter throughout 2021 and 2022. They also noted the conclusions drawn by the IOPC Funds' legal adviser in public international law, Professor Dan Sarooshi K.C., on the legal basis under the 1992 Fund Convention for the Director to issue, and the Assembly to authorise the Director to issue, invoices to contributors based on estimated oil receipts; and to do so retrospectively in relation to past periods (document IOPC/OCT22/6/1, paragraphs 1.6 and 1.7).
- 4.3 Furthermore, at that same meeting, the governing bodies instructed the Director to prepare, in consultation with the Audit Body, a draft Resolution in order to enable him to issue invoices to

contributors based on estimates if no oil reports were submitted. They also instructed him to introduce the relevant draft amendments to the Internal Regulations at a future meeting of the governing bodies in 2023 (document IOPC/OCT22/11/1, paragraph 6.1.19).

- 4.4 The draft 1992 Fund Resolution N°13 and draft Supplementary Fund Resolution N°5 authorising the Director to issue invoices based on estimates, and relevant draft amendments to the Internal Regulations are presented in document IOPC/NOV23/6/2.

5 Director's considerations

- 5.1 The Director is grateful for the continued cooperation and engagement of Member States with respect to the submission of oil reports. Work is still required to ensure that all Member States continue to fulfil this important obligation under the 1992 Fund Convention and the Supplementary Fund Protocol.
- 5.2 The Director would like to thank the authorities in the Netherlands who have submitted the outstanding oil reports from contributors in Bonaire and Sint Eustatius.
- 5.3 The Director is pleased to report that all Member States of the Supplementary Fund have completely fulfilled their treaty obligations to submit reports of contributing oil.
- 5.4 The Director, however, notes with concern that nine Member States of the 1992 Fund have outstanding reports for five or more years and that one State has never submitted reports despite being a member of the 1992 Fund for many years.
- 5.5 Ongoing work is required to ensure that all Member States continue to fulfil this important obligation under the 1992 Fund Convention and the Supplementary Fund Protocol. The Director strongly encourages all 1992 Fund and Supplementary Fund Member States to support the Secretariat in this matter.

6 Action to be taken

1992 Fund Assembly and Supplementary Fund Assembly

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

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ANNEX

Non-submission of oil reports by Member States, as at 25 September 2023

	Member State	Number of oil years outstanding	Tonnage given in most recent complete report	Years for which reports are outstanding	
				1992 Fund	Supplementary Fund
1	Dominican Republic <2>	24	No reports completed	1999–2022	
2	Syrian Arab Republic <2>	14	No reports received	2009–2022	
3	Saint Lucia <2>	12	3 213 886	2004-2013, 2021-2022	
4	Albania <2>	10	0	2013–2022	
5	Djibouti <2><3>	6	167 042	2017–2022	
6	Argentina <2><3>	5	12 607 018	2018–2022	
7	Guinea <2><3>	5	173 942	2018–2022	
8	Panama <2><3>	5	10 339 086	2018–2022	
9	Bahrain <2>	5	0	2018–2022	
10	Sint Maarten (Kingdom of the Netherlands) <2>	4	0	2019–2022	
11	Senegal <2>	4	1 474 654	2019–2022	
12	Curaçao (Kingdom of the Netherlands) <2><3>	3	179 719	2020–2022	
13	Dominica <2>	3	0	2020–2022	
14	Cambodia	2	0	2021–2022	
15	Cameroon<2>	2	1 004 132	2020, 2022	
16	Liberia<2>	2	0	2019, 2022	
17	Malaysia<3>	2	20 291 298	2021–2022	
18	Mauritania<2>	2	268 361	2016–2017	
19	Palau	2	0	2021–2022	

	Member State	Number of oil years outstanding	Tonnage given in most recent complete report	Years for which reports are outstanding	
				1992 Fund	Supplementary Fund
20	United Republic of Tanzania ^{<3>}	2	150 224	2021–2022	
21	Algeria	1	357 676	2022	
22	Angola	1	2 001 204	2022	
23	Belize	1	0	2022	
24	Colombia	1	1 206 651	2022	
25	Comoros	1	0	2022	
26	Côte d'Ivoire	1	3 116 407	2022	
27	Ecuador	1	2 181 777	2022	
28	Fiji	1	0	2022	
29	Georgia	1	0	2022	
30	Guinea-Bissau	1	No reports received	2022	
31	Iran (Islamic Republic of) ^{<3>}	1	15 141 322	2022	
32	Kiribati	1	0	2022	
33	Marshall Islands	1	0	2022	
34	Nicaragua	1	902 692	2021	
35	Niue	1	0	2022	
36	Oman	1	0	2022	
37	Serbia	1	0	2022	
38	Tunisia	1	1 797 399	2022	

<2> Resolution 12 is applicable due to oil reports outstanding for two or more years, i.e. reports for the year 2020 and before.

<3> Resolution 12 is applicable due to contributions outstanding for two or more years, as at 25 September 2023.