



International Oil Pollution  
Compensation Funds

<b>Agenda Item 2</b>	IOPC/NOV23/2/1	
<b>Date</b>	25 October 2023	
<b>Original</b>	English	
<b>1992 Fund Assembly</b>	92A28	●
<b>1992 Fund Executive Committee</b>	92EC81	
<b>Supplementary Fund Assembly</b>	SA20	●

## REPORT OF THE DIRECTOR

### Note by the Director

**Summary:**

In this report, I will briefly provide an update on the activities of the IOPC Funds since the October 2022 sessions of the governing bodies. I will be introducing a number of key items on the agenda for the November 2023 sessions which merit special mention, including, among others: the latest update on the incidents in which the 1992 Fund is involved; the proposal to adopt draft Resolutions authorising me to invoice contributors based on estimates when no oil reports are submitted and the consequential amendments to the relevant Internal Regulations; the levy of 2023 contributions to the General Fund of £10 million for payment by 1 March 2024; the levy of £20 million to the *Bow Jubail* Major Claims Fund; the levy of £10 million to the *Princess Empress* Major Claims Fund; the election of the members of the eighth Audit Body; and the appointment of the members of the joint Investment Advisory Body.

These items will be presented in more detail during the sessions. I will also be reporting on the main challenges that the IOPC Funds will be facing in the coming 12 months.

**Action to be taken:**

1992 Fund Assembly and Supplementary Fund Assembly

Information to be noted.

### 1 Introduction

- 1.1 Before I start my report on the activities of the Secretariat since October 2022, I would like to dedicate some words to Captain David Bruce, a long-serving representative of the Marshall Islands, who passed away on 29 September 2023. We had the opportunity to work with Captain Bruce for many years in the context of the meetings of the IOPC Funds' governing bodies and we were always grateful for his interventions that would often facilitate constructive debate between Member States. As Chair of the 1971 Fund Administrative Council, he guided the Secretariat and the delegations through many very difficult discussions that resulted in the successful winding up of the original International Oil Pollution Compensation Fund (the 1971 Fund) in 2014. Together with my colleagues at the Secretariat, I have extended my heartfelt condolences to his family and colleagues.
- 1.2 I take this opportunity to report on the work of the IOPC Funds since the meeting of the governing bodies in October 2022 and to look ahead to the challenges which lie in store in the coming 12 months. I will focus on some key items on the agenda for the November 2023 meeting, which will be presented in more detail during the sessions of the governing bodies.

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

- 2.1 At the opening of the 28th session of the 1992 Fund Assembly in November 2023, 121 States will be Members of the 1992 Fund. The 1992 Fund Convention entered into force for the Republic of Guinea-Bissau on 12 May 2023.
- 2.2 At the opening of the 20th session of the Supplementary Fund Assembly in November 2023, 32 States will be Members of the Supplementary Fund. There have been no further accessions to the Supplementary Fund Protocol since 2018. The United Kingdom of Great Britain and Northern Ireland has extended the application of the Supplementary Fund Protocol to the Falkland Islands (Malvinas)<sup><1></sup>, with effect from 2 November 2023 (document IOPC/NOV23/8/1).

## **3 Compensation Matters**

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

- 3.1.1 The 1992 Fund is currently dealing with 12 incidents. The documents relating to these incidents have been submitted to the 1992 Fund Executive Committee.

*Bow Jubail* — The Netherlands, June 2018

- 3.1.2 In March 2023, the Supreme Court in the Netherlands confirmed the decision of the lower courts that the *Bow Jubail* qualified as a ship under the 1992 Civil Liability Convention (1992 CLC). In June 2023, the owner and insurer of the ship applied to the Rotterdam District Court to limit their liability in accordance with the 1992 CLC. A first hearing of the Rotterdam Limitation Court was held in September 2023, where issues related to the amount of the guarantee to be deposited were discussed. The Court indicated that it would take a decision on the owner's application and the amount of the guarantee by the end of October 2023 (document IOPC/NOV23/3/10).

*Princess Empress* – The Philippines, February 2023

- 3.1.3 Claims for pollution damage have surpassed the 1992 CLC limit applicable to the *Princess Empress*. The 1992 Fund has therefore commenced making payments. The Shipowners' P&I Club reimbursed the 1992 Fund for the compensation payments made by the 1992 Fund until the STOPIA 2006 limit was reached. This is the first incident for which the STOPIA 2006 limit has been reached.
- 3.1.4 The 1992 Fund has commenced making provisional payments to claimants in the fisheries sector on the basis of a provisional assessment of the losses. Since the bulk of these claimants do not have bank accounts, the challenge of finding a way to pay compensation has been significant. The method found to make payments, via remittance centres, is novel to the 1992 Fund and requires the use of substantial resources, especially in the Claims Submission Office in the Philippines and within the IOPC Funds' Secretariat.
- 3.1.5 I am grateful for the help provided by the Philippine Government, in particular the Philippine Coast Guard, for their assistance during the visits by members of the IOPC Funds' Secretariat to the Philippines. I am also grateful to the local authorities in the affected areas for their help, especially regarding the opening of temporary local claims submission offices.

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<1> A dispute exists between the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland concerning sovereignty over the Falkland Islands (Malvinas).

- 3.1.6 I am equally grateful for the excellent cooperation with the Shipowners' Club and their proactive approach to the incident. This incident shows how well the international liability and compensation regime can operate when there is good cooperation between the shipowner's insurer and the IOPC Funds (document IOPC/NOV23/3/13).

*Agia Zoni II* — Greece, September 2017

- 3.1.7 Relatively few claims remain outstanding in respect of this incident; those that remain outstanding are within the Greek court system and we await the natural outcome of those legal proceedings. We do, however, still await a decision from the Public Prosecutor as to the cause of the incident, some six years after the incident occurred (document IOPC/NOV23/3/9).

### 3.2 Incidents involving the Supplementary Fund

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

## 4 Financial matters

### 4.1 2022 Financial Statements for the 1992 Fund and the Supplementary Fund

- 4.1.1 The approval of the Financial Statements for the 1992 Fund and the Supplementary Fund for the financial year 2022 is one of the most important decisions to be made by the governing bodies at their regular sessions.

- 4.1.2 The 1992 Fund Assembly and the Supplementary Fund Assembly will be invited to approve the Financial Statements of 2022 for the 1992 Fund and the Supplementary Fund (documents IOPC/NOV23/5/7/1 and IOPC/NOV23/5/7/2). The 2022 Financial Statements have been audited by the External Auditor, BDO International LLP (BDO), and were reviewed by the Audit Body at their meeting of June 2023 (document IOPC/NOV23/5/6).

### 4.2 Oil reports and contributions

#### *Oil reports*

- 4.2.1 As at 25 September 2023, 88 States had submitted reports for 2022 to the 1992 Fund, representing some 95% of the expected total contributing oil<sup><2></sup>. Oil reports were outstanding from 38 States with respect to the 1992 Fund, of which 36 States had yet to report for the year 2022.
- 4.2.2 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.

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<2> Eighty-eight reports have been submitted out of 121 Member States of the 1992 Fund, 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.

- 4.2.3 I note with concern that nine Member States of the 1992 Fund have outstanding reporting obligations for five or more years, namely Dominican Republic, Syrian Arab Republic, Saint Lucia, Albania, Djibouti, Argentina, Bahrain, Guinea, and Panama. This shows that 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 Secretariat will continue to engage with those States that have outstanding reports. I encourage those Member States to contact the Secretariat who is always available to assist with the submission of oil reports.
- 4.2.4 I am pleased to inform you that reports for two contributors in Bonaire and Sint Eustatius have been received from the authorities in the Netherlands and would like to thank the authorities of the Netherlands for their cooperation in resolving this matter.
- 4.2.5 The Secretariat will also continue to look for ways to encourage the submission of oil reports. In this regard, I will be proposing that the governing bodies adopt a Resolution for each of the Funds to authorise me to invoice contributors on the basis of estimates if no reports are submitted.
- 4.2.6 I am very grateful for the continued cooperation and engagement of Member States with respect to the submission of oil reports. I look forward to continuing to work together towards their timely and correct presentation, as this is vital for the proper functioning of the international compensation regime (document IOPC/NOV23/5/1).

*Report on contributions*

- 4.2.7 I am pleased to report that the contributions system functions in a sound manner, considering that as at 25 September 2023, contributions outstanding represented 0.25% of the total contributions levied since the establishment of the 1992 Fund. This is an excellent record that reflects the strong support the IOPC Funds have from their Member States and the oil industry in Member States.
- 4.2.8 Throughout 2023, the Secretariat has continued to engage with the authorities in Ghana, Venezuela, the Islamic Republic of Iran, Curaçao and Argentina with respect to the outstanding contributions in those Member States. We will continue to work with them towards correcting this situation. I am relying on the authorities in those Member States to assist the IOPC Funds and I am not intending to take legal action in respect of contributions in these States at the present time.
- 4.2.9 I intend to continue to liaise with the authorities in the Russian Federation and I am hopeful that I will receive a positive response soon in relation to the settlement of the Russian Federation's obligations in respect of the 1992 Fund. For the time being, I will not be taking legal action against the two Russian contributors, but I count on the assistance from the Russian authorities to persuade them to pay.
- 4.2.10 As at 25 September 2023, outstanding contributions to the Supplementary Fund related to the Republic of the Congo and represent 0.05% of contributions levied to date. This amount has been outstanding from the Member State since 2018 and I am in correspondence with the relevant authority to have this paid as soon as possible (document IOPC/NOV23/5/2).

*Applicability of 1992 Fund Resolution N°12 and Supplementary Fund Resolution N°3*

- 4.2.11 The 1992 Fund Assembly and the Supplementary Fund Assembly have repeatedly expressed great concern about States which do not fulfil their treaty obligations to submit oil reports and to ensure payment of annual contributions. In an effort to address this ongoing concern, at their April 2016 sessions, the governing bodies adopted 1992 Fund Resolution N°12 and Supplementary Fund Resolution N°3. These Resolutions take into account the extent to which a Member State has fulfilled its obligations when making claims for compensation, electing members of the 1992 Fund Executive Committee or nominating candidates for membership of the Audit Body.

4.2.12 With regard to the current situation, as at 25 September 2023, 1992 Fund Resolution N°12 was applicable to 21 Member States and Supplementary Fund Resolution N°3 is applicable to one Member State. 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.

4.2.13 I remind Member States of their obligation to submit oil reports under Article 15 of the 1992 Fund Convention and Article 13 of the Supplementary Fund Protocol. I also remind Member States of their duty, pursuant to Article 13.2 of the 1992 Fund Convention and Article 12.1 of the Supplementary Fund Protocol, to ensure that any obligation to contribute to the IOPC Funds arising under the Conventions in respect of oil received within their territory is fulfilled, and to this end to take appropriate measures under their national law (document IOPC/NOV23/5/3/Rev.1).

#### 4.3 Budget for 2024 for the 1992 Fund

4.3.1 The 1992 Fund Assembly will be asked to approve the draft joint Secretariat budget for 2024 of £5 382 018 and the expenditure on the external audit fee, relating only to the 1992 Fund, which is £74 290. This budget figure is £288 313 (5.7%) more than the 2023 budget figure of £5 093 705.

4.3.2 I will be also proposing that the 1992 Fund maintains the working capital at £15 million in the budget year 2024, as this should be sufficient to cover claims payments not included in the estimated expenses for minor claims, and to make loans to Major Claims Funds for the satisfaction of claims and claims-related expenses to the extent that sufficient money is not available in the Major Claims Fund in question, pending the levy of contributions to that Major Claims Fund (document IOPC/NOV23/9/1/1).

4.3.3 I have worked hard with the Secretariat to limit increases within the 2024 budget, and I am pleased to report that, even within the continuing climate of high inflation, the only chapter with a proposed increase against 2023 is Chapter I–Personnel. Staff costs are always a challenge to control given the Secretariat’s use of the United Nations common system for salaries, allowances and benefits.

#### 4.4 Budget for 2024 for the Supplementary Fund

4.4.1 The Supplementary Fund Assembly will be asked to approve the draft budget for 2024 of £58 100 which consists of the management fee paid to the 1992 Fund for the running the joint Secretariat and the administrative expenses (including the cost of the external audit fees).

4.4.2 I am also proposing that the Supplementary Fund maintains the working capital at £1 million and that there should be no levy of 2023 contributions to the General Fund (document IOPC/NOV23/9/1/2).

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

4.5.1 I will be inviting the 1992 Fund Assembly to levy 2023 contributions to the General Fund of £10 million for payment by 1 March 2024 (document IOPC/NOV23/9/1/1).

4.5.2 I will also be inviting the 1992 Fund Assembly not to levy 2023 contributions to the Major Claims Funds established for the Incident in Israel, *Prestige*, *Alfa I*, *Agia Zoni II*, and *Nesa R3* incidents. In addition, I will be inviting the 1992 Fund Assembly to levy 2023 contributions of £20 million to the *Bow Jubail* Major Claims Fund, payable by 1 March 2024. I will also be inviting the 1992 Fund Assembly to levy 2023 contributions of £10 million to the *Princess Empress* Major Claims Fund, payable by 1 March 2024 (document IOPC/NOV23/9/2/1).

4.6 Assessment of contributions — Supplementary Fund

- 4.6.1 I will be inviting the Supplementary Fund Assembly to decide not to levy 2023 contributions to the General Fund (document IOPC/NOV23/9/1/2).
- 4.6.2 I will also be inviting the Supplementary Fund Assembly to note that there is no need to levy contributions to any Claims Fund as there have been no incidents involving the Supplementary Fund (document IOPC/NOV23/9/2/2).

**5 Memorandum of Understanding between the IOPC Funds and the Association of Commercial P&I Insurers (ACPII)**

- 5.1 I am pleased to report that on 30 October 2023, the IOPC Funds and the Association of Commercial P&I Insurers (ACPII) will be signing a Memorandum of Understanding (MoU). ACPII was formed in 2022 to support and promote high-quality commercial P&I operators who are not members of the International Group. The IOPC Funds and ACPII will cooperate on claims-handling with the aim of ensuring that compensation is paid as promptly as possible within the legal framework of the 1992 Conventions involving members of ACPII.
- 5.2 The signing of this MoU between the IOPC Funds and ACPII is part of the work being undertaken by the IOPC Funds to address the problems encountered in some oil pollution incidents involving non-IG insurers.

**6 Appointment of the External Auditor**

- 6.1 At their October 2022 sessions, the governing bodies approved the recommendation by the Audit Body to extend the tenure of the External Auditor (BDO) by a further two years due to exceptional circumstances, covering the external audit of the IOPC Funds' financial statements for 2024 and 2025 (document IOPC/OCT22/11/1, paragraph 6.3.23). As a result, BDO's period of office will come to an end following their report on the 2025 Financial Statements to the regular sessions of the governing bodies in 2026.
- 6.2 The management of the selection process of the External Auditor falls within the mandate of the Audit Body. In order to secure a smooth transition of responsibilities, the Audit Body will recommend the appointment of a new External Auditor at the October 2024 sessions of the governing bodies to audit the Financial Statements for the years 2026 to 2029 inclusive.
- 6.3 The Audit Body has prepared a document containing a proposal to the governing bodies on the audit tender evaluation process and timetable, and an invitation to decide on whether to instruct the Director to seek Member State and commercial firm nominees for the position of External Auditor of the IOPC Funds (document IOPC/NOV23/6/4).

**7 Appointment of members of the Investment Advisory Body**

- 7.1 The Investment Advisory Body (IAB) is composed of three members appointed by the 1992 Fund Assembly for three years. As the mandate of the current IAB members expires in November 2023, the governing bodies will be invited to appoint members of the joint IAB for the next three-year period, until the regular sessions of the IOPC Funds governing bodies in 2026.
- 7.2 I will be presenting a document to the 1992 Fund Assembly proposing that the three present members of the IAB, Mr Alan Moore, Ms Beate Grosskurth and Mr Marcel Zimmermann, be reappointed for a full three-year term, until the regular sessions of the IOPC Funds governing bodies in 2026.

7.3 Even though there is no requirement for a prescriptive rotation of the IAB members, I have consulted with the Audit Body in order to develop rotation and succession planning guidelines and I will be presenting a proposal on this matter for consideration by the governing bodies (document IOPC/NOV23/6/3).

## **8 Joint Audit Body**

### **8.1 Election of members of the joint Audit Body**

8.1.1 As the mandate of the current joint Audit Body is expiring at the meeting of the governing bodies in November 2023, a circular was issued on 16 June 2023 calling for nominations by 1992 Fund Member States of candidates for the new Audit Body (circular IOPC/2023/Circ.4). I am pleased to report that eight candidates were nominated by 1992 Fund Member States by the deadline of 15 September 2023 (IOPC/2023/Circ.7).

8.1.2 The eight nominations received from 1992 Fund Member States are as follows:

Mr Alfred H.E. Popp, CM, K.C.	Nominated by Canada (for a second term)
Mr Arnold P.Y. Rondeau	Nominated by France (for a second term)
Mr Volker Schöfisch	Nominated by Germany (for a first term)
Captain Anish Joseph	Nominated by India (for a first term)
Dr Hideo Osuga	Nominated by Japan (for a second term)
Captain Thomas F. Heinan	Nominated by the Marshall Islands (for a second term)
Mr Christoph Mungandjela	Nominated by Namibia (for a first term)
Mr Watchara Chiemankulkit	Nominated by the Thailand (for a first term)

8.1.3 The 1992 Fund Assembly will elect by secret ballot six members of the Audit Body from the eight candidates nominated by Member States and put forward for election. In addition, the Chair and Vice-Chair of the eighth Audit Body will be appointed by the 1992 Fund Assembly from the members elected, on the proposal of the Chair of the 1992 Fund Assembly.

8.1.4 Mrs Alison Baker was appointed as the external expert of the Audit Body for a term of three years from 1 January 2022 to 31 December 2024. The external expert is nominated by the Chair of the 1992 Fund Assembly, and the term of office is three years, twice renewable (document IOPC/NOV23/6/1).

### **8.2 Proposed ballot procedure**

The 1992 Fund Assembly will be invited to elect by secret ballot six members of the Audit Body from the eight candidates nominated by Member States and put forward for election. Only those Member States represented in person and whose credentials are in order at the time of the vote will be able to cast a vote in the election of members for the joint Audit Body. The ballot procedure for the election of members of the Audit Body which is in accordance with the relevant Rules of Procedure and which has become established practice is set out in document IOPC/NOV23/6/1/1.

## **9 Measures encouraging the submission of oil reports**

9.1 The non-submission of oil reports has been a long-standing issue despite the Secretariat's considerable efforts to engage the Member States concerned. At their October 2019 sessions, the governing bodies instructed the Director to examine, in consultation with the Audit Body, ways to incentivise the submission of oil reports, including the possibility of invoicing contributors based on estimates if no reports were submitted (document IOPC/OCT19/11/1, paragraph 5.1.17).

- 9.2 At the October 2022 sessions of the governing bodies, the 1992 Fund Administrative Council, acting on behalf of the 1992 Fund Assembly, and the Supplementary Fund Assembly instructed me to prepare, in consultation with the Audit Body, a draft Resolution authorising me to invoice contributors based on estimates when no oil reports have been submitted, and to prepare the relevant consequential amendments to the Internal Regulations (document IOPC/OCT22/11/1, paragraph 6.1.19).
- 9.3 The draft Resolutions that I will be presenting during these sessions have been prepared with the assistance of the IOPC Funds' legal adviser in matters of public international law, Dr Rosalie Balkin AO, former Assistant Secretary-General and Director of the Legal Affairs and External Relations Division of IMO. The draft Resolutions also take into account the concerns of Member States, the issues discussed by the Secretariat and the Audit Body over several meetings, and the legal advice provided to the 1992 Fund by the IOPC Funds' legal advisor in public international law, Professor Sarooshi K.C..
- 9.4 I will be presenting document IOPC/NOV23/6/2 that explains why it has been necessary to draft the Resolutions for the 1992 Fund and the Supplementary Fund. The document also sets out a number of points to be considered with regards to the content of said Resolutions and to the consequential amendments to the Internal Regulations. I will be inviting the governing bodies to decide whether to adopt the proposed Resolutions and the consequential amendments to the Internal Regulations.

## **10 Secretariat matters**

### **10.1 Changes within the Secretariat**

- 10.1.1 The most important changes to the structure of the Secretariat this year relate to the External Relations and Conference (ERC) Department. Mr Thomas Liebert was transferred to the role of HNS Project Officer within the Office of the Director, with effect from 1 June 2023, taking into account his ongoing medical condition and acknowledging his continued valuable contribution in matters pertaining to the HNS Fund.
- 10.1.2 Further to the transfer of Mr Thomas Liebert, Ms Victoria Turner was appointed External Relations and Conference Manager (P4) in the Administration Department, with effect from 1 June 2023. The Information Officer position vacated by Ms Turner upon her appointment has since been advertised and a recruitment process is currently underway.
- 10.1.3 In the Claims Department, Ms Ana Cuesta was promoted to the to the vacant P3/P4 dual graded Claims Manager with effect from 1 June 2023, and the post that she has vacated will be advertised in due course.

### **10.2 Departure and appointment of staff members**

- 10.2.1 Ms Christine Galvin has been appointed to the position of External Relations and Conference Coordinator, Administration Department, with effect from 1 October 2023.
- 10.2.2 Ms Duřanka řupica was appointed to the position of External Relations and Conference Assistant, Administration Department, with effect from 1 February 2023.

### **10.3 Provident Fund 1 (PF1)**

Inflation rates have recently been exceptionally high and, since August 2021, inflation has been higher than the interest earned on the staff Provident Fund (PF1), a staff savings scheme provided in lieu of a pension. I will be proposing an inflation protection measure to protect mandatory contributions to PF1 from negative real interest rates. This proposal is explained in more detail in document IOPC/NOV23/7/1.



## **11 Information services**

The Secretariat endeavours to ensure the availability of suitable materials and tools to support the organisation's efforts to increase awareness of the international liability and compensation regime. It provides a wide range of accessible information services to support Member States, contributors and, in particular, those affected by oil spill incidents involving the IOPC Funds. It continues to improve the general information services that it provides through the IOPC Funds' website and via the publications made available both online and in printed version, in English, French and Spanish. The Secretariat also continues to improve the way in which communications are delivered to Member States and other key stakeholders by posting news and relevant information on social media, sending notifications, and updating the contact information of Member States to ensure that important information and documents are sent to the appropriate contacts (document IOPC/NOV23/7/2).

## **12 Treaty matters**

### **12.1 2010 HNS Convention**

12.1.1 On 23 October 2023, France deposited an instrument of ratification or accession to the 2010 Hazardous and Noxious Substances Protocol (2010 HNS Protocol) with the Secretary-General of IMO. There are now seven Contracting States to the Protocol, namely, Canada, Denmark, Estonia, France, Norway, South Africa and Türkiye. In addition, a number of States have continued their efforts to implement the 2010 HNS Convention into their domestic legislation and have indicated their intention to become members of the 2010 HNS Convention within the next one or two years.

12.1.2 During 2023, the Secretariat continued to carry out the tasks necessary to set up the International Hazardous and Noxious Substances Fund (HNS Fund) and prepare for the first session of the HNS Fund Assembly as instructed by the 1992 Fund Assembly. It has continued to promote the entry into force of the 2010 HNS Convention and has carried out outreach and technical assistance activities. The Secretariat has also continued to work on the development of the HNS reporting and contributions system and to make progress on the drafting of a Claims Manual. It has also made progress on various other items relating to the entry into force of the 2010 HNS Convention (document IOPC/NOV23/8/2).

12.1.3 An appropriation of £424 000 has been included in the 2024 budget for the 1992 Fund to cover the costs for the preparations and other administrative tasks in respect of the HNS Fund (document IOPC/NOV23/9/1/1). These costs relate mainly to additional staff time required, including having a dedicated HNS Project Manager, and to the establishment and maintenance of operational systems, such as reporting and contributions, the HNS Finder and the website. This increase in the budget is intended to ensure that the work of the Secretariat and the costs incurred towards setting up the HNS Fund are properly reflected and reimbursed to the 1992 Fund with interest. More details on the progress made towards the entry into force of the 2010 HNS Convention will be provided during the meeting (document IOPC/NOV23/8/2/1).

## **13 External Relations**

### **13.1 IOPC Funds' Annual Academy**

The IOPC Funds' Annual Academy (formerly known as the 'Short Course') was held in person in London during the week of 12 June 2023. It was attended by participants from 15 Member States of the 1992 Fund. I would like to thank IMO, the International Group, INTERTANKO, ITOFF and the International Chamber of Shipping (ICS) for having once again supported this course, which provides an excellent opportunity for the Secretariat to deliver important training and to connect with delegates to IOPC Funds' meetings and government officials who have a responsibility in the areas of oil reporting and oil spill preparedness and response (circular IOPC/2023/Circ.3).

### 13.2 Induction course for delegates

The IOPC Funds ran an Induction Course for delegates of 1992 Fund Member States on 24 October 2022 at the IOPC Funds' headquarters in London, which was full to capacity with 20 States represented. The 2023 course is set to take place the day before the opening of the November 2023 sessions of the IOPC Funds' governing bodies on 6 November 2023 (circular IOPC/2023/Circ.8).

### 13.3 Outreach activities

13.3.1 Since November 2022, the Secretariat has continued to actively engage with its Member States, enhancing their preparedness ahead of any major oil pollution incident and increasing awareness among stakeholders of the work of the IOPC Funds and the international liability and compensation regime. Throughout 2023, the Secretariat has continued to organise and contribute to international conferences, exhibitions, national and regional workshops and other training events, including a number of customised training activities at the request of Member States. It has hosted informal lunch meetings for the UK-based representatives of States from the European region and Latin America and the Caribbean region and has welcomed visits from universities and other educational institutions.

13.3.2 The lessons learned from organising remote activities in recent years have been invaluable. Besides contributing to several webinars, the Secretariat has launched a series of short webinars that will cover a wide range of topics, from the basic understanding of the Conventions to the financing of the system, the types of claims arising from tanker incidents and the claims submission process. I encourage Member States to participate and make use of the remote services offered by the IOPC Funds to ensure that a wider audience can benefit from the training provided by the Secretariat.

13.3.3 Throughout 2023, together with other members of the Secretariat, I have visited Thailand, India, Japan and Republic of Korea to meet with key representatives and stakeholders and to discuss any specific issues of common interest. I was also pleased to welcome representatives of Member States, fellow organisations and the industry at the IOPC Funds' offices. I participated in the Regional Meeting of Directors/Heads of Maritime Administrations (DIHMAR) of the Caribbean, organised jointly by IMO and the Government of Antigua and Barbuda. This meeting gave me the opportunity to discuss the rights and obligations of Member States, and follow-up with those Member States who have outstanding oil reports and contributions. I also took the opportunity to highlight the benefits of the international liability and compensation regime for oil pollution damage to non-Member States.

13.3.4 The Secretariat has also provided lectures to students from several universities and institutions (Deusto University, World Maritime University (WMU), Universidad de Cartagena, and the International Foundation for the Law of the Sea (IFLOS)). In July 2023, the Secretary-General of IMO invited the IOPC Funds to nominate a representative to serve on the Board of Governors of the WMU. I sought the view of the Audit Body, and it was concluded that the IOPC Funds' participation in the WMU Board would provide an excellent opportunity to meet the Heads of Maritime Administrations and raise awareness of the work of the IOPC Funds while enhancing the cooperation between WMU and the IOPC Funds. I have accepted the invitation to become a member of the WMU Board of Governors for a three-year term, effective on 1 August 2023 (document IOPC/NOV23/7/3).

## 14 Format of the meetings

14.1 In light of the decision of the IMO Council to extend the trial period for holding meetings in hybrid format, and taking into account that at the May 2023 sessions of the IOPC Funds' governing bodies, a majority of delegations expressed their support for not proceeding with any decision in respect of hybrid meetings before the outcome of that trial period, I am of the view that the IOPC Funds meetings should for now continue to be held in-person, complemented by a passive streaming service.

- 14.2 I will continue to liaise with the IMO Secretariat on a regular basis and will report on any developments at the next sessions of the governing bodies. I look forward to the final outcome of IMO's trial period, which I understand is expected to be decided by mid-2024 (document IOPC/NOV23/1/3).

## 15 Potential impact of sanctions on the international liability and compensation regime

Since the introduction of the international sanctions, several newspaper articles have highlighted that there are a high number of vessels which are attempting to circumvent the sanctions by various methods, thereby negating many of the IMO safety measures and putting coastlines at an increased risk of oil pollution. Recent data shows a 50% increase in the size of the so-called 'ghost' or 'dark' fleet between January and June 2023. There is a higher threat of accidents and oil spills, an increased difficulty in assigning liability when ship-source spills do occur, and a lack of proper insurance or other financial security. Against this background, the IOPC Funds are exposed to an increased risk of having to pay the full compensation for oil spills if no sufficient insurance is available to cover the shipowner's liability or having to assume more financial liability in the absence of being able to implement the polluter-pays principle. The Secretariat therefore continues to monitor the situation and liaise with Member States, IMO and the International Group on the potential impact of sanctions on the international liability and compensation regime. An update on this matter is presented in document IOPC/NOV23/4/3.

## 16 Decisions to be made

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

- (a) Elect 15 States to the Executive Committee (document IOPC/NOV23/4/1/Rev.1).
- (b) Decide whether to approve the 2022 Financial Statements for the 1992 Fund and the Supplementary Fund (documents IOPC/NOV23/5/7/1 and IOPC/NOV23/5/7/2).
- (c) Decide whether to adopt the proposed draft Resolution N°13 for the 1992 Fund and the proposed draft Resolution N°5 for the Supplementary Fund and the consequential amendments to the relevant 1992 Fund Internal Regulations and the Supplementary Fund Internal Regulations (document IOPC/NOV23/6/2).
- (d) Decide whether to appoint the current members of the joint IAB for a term of three years, and approve the rotation and succession planning guidelines developed for the appointment of the members of the joint IAB in the future (document IOPC/NOV23/6/3).
- (e) Decide whether to approve the proposed audit tender evaluation process and timetable proposed by the Audit Body and whether to instruct the Director to seek Member State and commercial firm nominees for the position of External Auditor of the IOPC Funds (document IOPC/NOV23/6/4).
- (f) Elect six members of the joint Audit Body from the eight candidates nominated by Member States and put forward for election; and on the proposal of the Chair of the 1992 Fund Assembly, in consultation with the Chair of the Supplementary Fund Assembly, appoint the Chair and Vice-Chair of the Audit Body from the members elected (document IOPC/NOV23/6/1).
- (g) Decide whether to approve the 2024 budgets for the 1992 Fund and the Supplementary Fund (documents IOPC/NOV23/9/1/1 and IOPC/NOV23/9/1/2).

- (h) Decide whether to approve the proposal on levies to the General Fund and the Major Claims Funds (documents IOPC/NOV23/9/1/1 and IOPC/NOV23/9/2/1).
- (i) Decide whether to approve the proposal to introduce an inflation protection measure to protect mandatory contributions to Provident Fund 1 from negative real interest rates and to amend Staff Rule VIII.5–Provident Fund (document IOPC/NOV23/7/1, Annex VII).
- (j) Decide whether to consider costs associated with the position of HNS Project Officer (P3) as an expense in respect of the preparations for the entry into force of the 2010 HNS Convention, and whether the 1992 Fund should receive a management fee to cover additional administrative expenses incurred in respect of said preparations for the entry into force of the 2010 HNS Convention (document IOPC/NOV23/8/2/1).

## **17 Looking ahead**

- 17.1 Throughout 2024, the Secretariat will continue to actively engage with Member States to ensure that the Conventions are uniformly and effectively implemented and interpreted, which is vital for the functioning of the international liability and compensation regime. The Secretariat will do its best to improve the preparedness of Member States ahead of a potential oil spill. It will also work towards ensuring that Member States have a clear understanding of the assistance that the IOPC Funds can provide during and after an incident. The Secretariat will also continue to increase awareness of the benefits of the international liability and compensation regime in States which have not yet ratified the 1992 Fund Convention and the Supplementary Fund Protocol and who are, therefore, not appropriately protected from the impact of a potential oil spill.
- 17.2 As the entry into force of the 2010 HNS Convention gains momentum, the activities undertaken by the Secretariat to make progress towards the entry into force of the 2010 HNS Convention have increased in volume during 2023 and are expected to continue to increase. Throughout 2024, the Secretariat, in consultation with IMO, will continue assisting States in their work towards ratification of the 2010 HNS Protocol and developing a system for HNS reporting and invoicing of contributions that is solid and efficient. A viable reporting and contributions system is key to bringing the 2010 HNS Convention into force and to ensuring that Member States will be able to report the amounts of received goods and to identify the receivers. This is essential for levying contributions to run the HNS Fund and to pay claimants.
- 17.3 The submission of oil reports and payment of contributions form the basis for levying contributions and financing the IOPC Funds. The non-submission of oil reports and the non-payment of contributions in a timely manner affect the IOPC Funds' ability to implement an equitable system of levying contributions to ensure that victims of oil pollution in Member States are compensated in full for their loss or damage. Throughout 2023, the Secretariat focused on highlighting the importance of the annual submission of oil reports as well as the payment of contributions by the oil receiving entities in Member States. A draft Resolution was prepared to enable the Director to invoice contributors based on estimates when no oil reports are submitted, to encourage the submission of oil reports. In addition, letters regarding the application of the 1992 Fund Resolution N°12 and Supplementary Fund Resolution N°3 have been sent to all concerned Member States in respect of their outstanding contributions. Throughout 2024, the Secretariat will continue to raise awareness of the rights and obligations of Member States and will urge them to fulfil their obligation to submit oil reports and pay contributions.

- 17.4 Each incident presents its own operational and logistic challenges. The Secretariat strives to provide prompt payment of compensation to victims and adapts the way in which it carries out its work to the specific needs of Member States. Throughout 2024 the Secretariat will continue to address the specific needs of claimants in Member States, adapt its claims payment system, and enhance its ability to operate in challenging environments and to process claims effectively and efficiently.
- 17.5 Throughout 2024, the Secretariat will continue to cooperate in every possible way with all initiatives undertaken to address the problems encountered when dealing with non-IG insurers. On 30 October 2023, the IOPC Funds will sign a Memorandum of Understanding with the Association of Commercial P&I Insurers, as part of the work undertaken to address this issue.
- 17.6 As I promised when I was elected Director in 2021, I will continue to work with my colleagues at the Secretariat to ensure that the IOPC Funds continue to serve the Member States and the victims of oil pollution, and to protect the interests of the IOPC Funds, while adapting to their changing needs in an efficient and effective manner.

## **18 Gratitude**

- 18.1 During my second year as Director of the IOPC Funds, I have continued to engage with the Member States, the oil industry, the P&I Clubs, IMO, fellow international organisations and the international shipping community. I have had the privilege to work with them towards the proper functioning of the international compensation regime and the strengthening of the IOPC Funds. I want to thank them all for their continued support and cooperation.
- 18.2 I would also like to express my sincere gratitude to the members of the seventh Audit Body: its Chair, Mrs Birgit Sjølling Olsen (Denmark), its Vice-Chair Mr Vatsalya Saxena (India), Captain Thomas F. Heinan (Marshall Islands), Dr Hideo Osuga (Japan), Mr Alfred H.E. Popp (Canada) and Mr Arnold Rondeau (France), and the external expert, Mrs Alison Baker (United Kingdom). The members of the Audit Body have contributed significantly to the work of the Secretariat during very difficult times. At the beginning of their mandate, with the outbreak of the pandemic, the Audit Body members had to make substantial adjustments in the way they held their meetings. They all adapted very effectively to the virtual ways of working, and were able to efficiently provide oversight, address very difficult issues such as the problems encountered with non-IG insurers, and provide highly valuable input when drafting measures to encourage the submission of oil reports. I would like to thank them for their insight and advice, and their dedication to the IOPC Funds during their mandate. I would also like to thank the Investment Advisory Body and the representatives of the External Auditor (BDO), and the lawyers and experts who work for the IOPC Funds.
- 18.3 Mr Kitack Lim (Republic of Korea) is stepping down as Secretary-General of IMO at the end of 2023, after eight years of service to the organisation. I would like to thank him and his staff for his continued support to the IOPC Funds, especially when the organisation moved back to the IMO building in 2016. It has been a pleasure to share the building with IMO under Mr Lim's leadership throughout all these years. I take this opportunity to wish Mr Lim all the very best for his future endeavours. I also take this opportunity to congratulate Mr Arsenio Dominguez (Panama) who has been appointed to become the next Secretary-General of IMO. I am confident that, under his leadership, the excellent relationship which has always existed between the IOPC Funds and IMO will continue to strengthen for the common benefit of the organisations and the international maritime community.
- 18.4 I would also like to thank the Chairs and Vice-Chairs of the governing bodies who are occasionally called upon outside of sessions of the governing bodies to provide views and assistance to me and the Secretariat on key issues affecting the IOPC Funds.

18.5 Finally, I would like to thank all my colleagues in the Secretariat for their dedication and support, which has been key in my everyday work to serve the Member States and the victims of oil pollution, and to protect the interests of the IOPC Funds, while adapting to their changing needs in an efficient and effective manner.

**19 Action to be taken**

1992 Fund Assembly and Supplementary Fund Assembly

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

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