



International Oil Pollution
Compensation Funds

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Supplementary Fund Assembly	SA21	●

MEASURES ENCOURAGING THE SUBMISSION OF OIL REPORTS

IMPLEMENTATION OF RESOLUTION N°13 AND SUPPLEMENTARY FUND RESOLUTION N°5

Note by the Secretariat

Summary:

At their November 2023 sessions, in response to the longstanding issue of non-submission of oil reports, the governing bodies adopted 1992 Fund Resolution N°13 and Supplementary Fund Resolution N°5.

The Resolutions authorise the Director to issue invoices based on estimates, including retrospectively in relation to past periods, when no oil reports have been submitted.

The Secretariat has engaged with three data providers and evaluated their ability to support the estimation process. Following an assessment of these companies, the Secretariat determined that LSEG Eikon Commodities Trade Flows (Eikon) was the best data source for the estimation of contributing oil.

The Director has prioritised eight 1992 Fund Member States, all with oil reports outstanding for more than five years, for initial consideration in respect of the application of Resolution N°13: the Dominican Republic, Syrian Arab Republic, Albania, Saint Lucia, Djibouti, Bahrain, Guinea and Panama.

Using data provided by Eikon, the Secretariat has identified differences between oil reported to the 1992 Fund, if any, and the estimated volume received in-country. The Director has communicated with several of these Member States, encouraging them to fulfil their reporting obligations.

The Director will prioritise the application of Resolution N°13 in respect of these Member States while also making use of Eikon data to enhance the reliability of oil reporting.

Action to be taken: 1992 Fund Assembly and Supplementary Fund Assembly

Information to be noted.

1 Introduction

- 1.1 The 1992 Fund Convention and Supplementary Fund Protocol require that Member States submit annually to the Secretariat reports on oil receipts in respect of individual contributors (oil reports) under Articles 15.1 and 15.2 of the 1992 Fund Convention and Article 13.1 of the Supplementary Fund Protocol.

1.2 The governing bodies have expressed concern that the non-submission of oil reports has been a long-standing issue. At their October 2019 sessions, the governing bodies instructed the Director to examine 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).

1.3 At their November 2023 sessions, the governing bodies adopted 1992 Fund Resolution N°13 as set out at Annex I to this document, Supplementary Fund Resolution N°5 as set out at Annex II to this document, and the relevant amendments to the Internal Regulations, to enable the Director to issue invoices to contributors based on estimates if no oil reports were submitted.

2 1992 Fund Resolution N°13 and Supplementary Fund Resolution N°5

2.1 As noted by the governing bodies at their November 2023 sessions, any Member State under consideration for the application of 1992 Fund Resolution N°13 or Supplementary Fund Resolution N°5 would be informed and would be invited to join a dialogue with the Director. The application of the Resolutions would include an invitation to the Member State to present an oil report if it found that the Director's estimate was inaccurate (document [IOPC/NOV23/11/1](#), paragraph 6.2.9).

2.2 The governing bodies further noted that invoices would be based on estimates where there was sufficient reliable data available to make an estimate (document [IOPC/NOV23/11/1](#), paragraph 6.2.16).

2.3 The Resolutions state that the Director will report fully at each regular session of the governing bodies on the issuance of any invoices based on estimates, including the basis on which they have been issued. The report will include an account of what actions by way of response, if any, have been taken by those States Parties and/or receivers of contributing oil to whom the invoices have been issued.

3 Data sources for estimating contributing oil

3.1 Upon the adoption of the Resolutions in November 2023, the Secretariat researched data sources for the application of the Resolutions and invited three companies which provide data on ship-borne transportation of crude oil to submit a proposal on how they could support the estimation of contributing oil.

3.2 The Secretariat evaluated these proposals based on the following criteria:

- Ability to provide historical data;
- Alignment between the IOPC Funds' contributing oil reports and the data provided in the proposal; and
- Similarity of figures, including global tonnages and historical trends, with those already reported to the IOPC Funds.

3.3 As a result of the evaluation, the Secretariat determined that LSEG Eikon Commodities Trade Flows (Eikon) provided the best data for use in estimating volumes of contributing oil.

3.4 None of the data providers evaluated were able to provide volumes of oil received on an individual company basis. Therefore, in Member States with more than one oil receiver, the cooperation of the governments concerned will be essential for the estimation of oil received by individual contributors.

4 Member States identified for application of Resolution N°13

4.1 As at 20 September 2024, 28 Member States had not fulfilled the treaty obligation to submit oil reports to the 1992 Fund. The level of consequence varies depending on the years of outstanding reports as set out at the Annex to document [IOPC/NOV24/5/1](#).

- 4.2 It is of particular concern to the Director that, as at 20 September 2024, eight Member States had not submitted oil reports for more than five years, namely, the Dominican Republic, Syrian Arab Republic, Albania, Saint Lucia, Djibouti, Bahrain, Guinea and Panama.
- 4.3 With regard to the Supplementary Fund, one Member State, Spain, has not completely submitted the oil report for 2023. All other Member States of the Supplementary Fund have completed the submission of oil reports.
- 4.4 Considering the oil reporting status above, the Director has initially focused on those eight Member States with more than five years of missing oil reports for the application of Resolution N°13.

5 Basis for estimation of contributing oil

- 5.1 Unreported contributing oil received by the eight identified Member States was estimated using data provided by Eikon and any oil reports already submitted to the 1992 Fund.
- 5.2 Albania and Bahrain
- 5.2.1 Both Member States have previously submitted nil declarations and Eikon data showed that neither Member State has received more than 150 000 tonnes of contributing oil per year.
- 5.2.2 It was estimated that neither Albania nor Bahrain received contributing oil exceeding 150 000 tonnes for any of the years under review. Therefore, the Director has concluded that there is no requirement to issue invoices based on estimates to contributors in these Member States.
- 5.2.3 The Director will continue to engage with the authorities in Albania and Bahrain to resolve the issue of non-submission of oil reports.
- 5.3 Dominican Republic
- 5.3.1 The Dominican Republic has not submitted oil reports since joining the 1992 Fund in 2000, so the Secretariat has estimated contributing oil based only on Eikon data.
- 5.3.2 A five-year average was taken of oil received in 2018, 2019, 2021, 2022 and 2023. The year 2020 was excluded due to the global trend of reduced oil receipts during the COVID-19 global pandemic.
- 5.3.3 As a result, the Director has estimated that 1 298 288 tonnes of contributing oil have been received annually in the Dominican Republic since 1999, which corresponds to contributions of £402 794.
- 5.3.4 The Director has communicated this information to the oil reporting authority in the Dominican Republic and has initiated discussions to address the issue of the outstanding reports.
- 5.4 Syrian Arab Republic
- 5.4.1 The Syrian Arab Republic has not submitted oil reports since joining the 1992 Fund in 2009. An attempt was made to apply the same estimation technique for the Syrian Arab Republic's missing tonnages as that used for the Dominican Republic, i.e. using Eikon data from the past five years, excluding 2020.
- 5.4.2 Eikon did not have a complete set of data for the Syrian Arab Republic in recent years, so the estimate has instead been based on an average of tonnages from the only available years, i.e. 2015, 2016, 2017 and 2019.
- 5.4.3 As a result, the Director has estimated that 1 208 803 tonnes of contributing oil have been received annually in the Syrian Arab Republic since 2009, which corresponds to contributions of £128 703.

5.4.4 Although this information has been communicated to the Syrian Government, there has been no response and discussions have not yet begun. The Secretariat will continue its efforts to contact the Syrian Government and work towards resolving the issue.

5.5 Saint Lucia

5.5.1 Saint Lucia has not submitted reports for the years 2004 to 2013 but has submitted reports for the years 2014 to 2023.

5.5.2 The Secretariat compared the average tonnage of the past five years (excluding 2020) reported by Saint Lucia with the data provided by Eikon and found that the variance between Saint Lucia's average reported tonnage and the Eikon data was within 20%. The larger of the two averages, specifically the average of contributing oil reported by Saint Lucia, has been used as the basis for an estimate.

5.5.3 Consequently, the Director has estimated that 1 907 461 tonnes of contributing oil were received annually in Saint Lucia from 2004 to 2013, which corresponds to contributions of £218 071.

5.5.4 Although this information has been communicated to the oil reporting authority in Saint Lucia, there has been no response and discussions have not yet begun. The Secretariat will continue its efforts to contact Saint Lucia's Government and work towards resolving the issue.

5.6 Djibouti

5.6.1 Djibouti's reporting situation is similar to that of Saint Lucia, with oil reports submitted for 2015 and 2016, but none for the period from 2017 to 2023. It was found that the variance between Djibouti's average reported tonnages and those provided by Eikon for the same period was within 10%. Since there were only two years of reported data, the Secretariat used the average of the past five years of Eikon data (excluding 2020) as the basis for an estimate.

5.6.2 The Director has estimated that 227 198 tonnes of contributing oil have been received annually in Djibouti since 2017, which corresponds to contributions of £11 243.

5.6.3 Although this information has been communicated to Djibouti's Government, there has been no response and discussions have not yet begun. The Secretariat will continue its efforts to contact Djibouti's Government and work towards resolving the issue.

5.7 Guinea

5.7.1 Guinea had submitted nil declarations for the years 2002 to 2016 and reported contributing oil received in 2017, however no reports have been received since. The difference between the reported amount and the Eikon data for 2017 was 40%, which was relatively large. However, this discrepancy was deemed acceptable given that there was only one year of reported data for comparison. An average of the past five years of Eikon data (excluding 2020) was used as the basis for an estimate.

5.7.2 Therefore, the Director has estimated that 271 550 tonnes of contributing oil have been received annually in Guinea since 2018, which corresponds to contributions of £9 037.

5.7.3 Although this information has been communicated to the oil reporting authority in Guinea, there has been no response and discussions have not yet begun. The Secretariat will continue its efforts to contact Guinea's Government and work towards resolving the issue.

5.8 Panama

5.8.1 Panama has several contributors, some of which have submitted oil reports each year. However, the last year for which all reports from Panama were submitted was 2015.

5.8.2 Since the earliest available Eikon data is for the year 2015, a full data comparison could be done only for one year, with a variance of some 20%.

5.8.3 Due to the number of contributors and the partial reporting that has taken place, the Secretariat has taken a different approach to estimating missing tonnages for Panama. Instead of using five-year averages at a country level, the difference between the Eikon data and reported tonnages was calculated. The table below summarises the differences between reported tonnages and Eikon data for each year of incomplete submissions. The differences represent the amounts that are estimated to be missing from contributors in Panama, which corresponds to total contributions of £982 621. The Director considers that, should the authorities in Panama be unable to provide the missing oil reports, these tonnages are ultimately the responsibility of the Government of Panama.

5.8.4 This table shows the volume of contributing oil estimated to be missing from Panama's partial submissions.

Year	Estimated unreported oil, tonnes
2016	7 314 008
2017	9 437 594
2018	9 774 714
2019	17 407 794
2020	19 092 056
2021	19 433 232
2022	19 227 087
2023	26 626 250

5.8.5 The Director has already communicated this information to the oil reporting authority in Panama and has had an in-person meeting with the Administrator of the Maritime Authority of Panama, to address the issue of the outstanding reports.

5.8.6 The Director and the Government of Panama are working towards resolving the issue by seeking missing reports from contributors. They have also discussed the application of Article 14 of the 1992 Fund Convention, which would allow the Government to pay contributions on behalf of contributors by assuming the contributors' obligation to pay contributions.

6 Director's considerations

6.1 The Director plans to use his authority under Resolution N°13 alongside other tools, such as Article 14 of the 1992 Fund Convention, to resolve the outstanding issues in respect of the Dominican Republic, Syrian Arab Republic, Saint Lucia, Djibouti, Guinea and Panama.

6.2 The Director believes that data provided by Eikon can be used to evaluate the reliability of reported contributing oil and nil declarations, thereby supporting Member States in the submission of accurate reports. Any discrepancies between reported tonnages and Eikon data could be notified to Member States for their investigation.

7 Action to be taken

1992 Fund Assembly and Supplementary Fund Assembly

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

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ANNEX I

Resolution N°13 of the 1992 Fund

Adopted on 10 November 2023

Authorisation for the Director to issue invoices to contributors based on estimated oil receipts, including retrospectively, where no reports have been submitted

THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND, 1992 (1992 Fund)

RECALLING that the International Fund for Compensation for Oil Pollution Damage, 1992 (the 1992 Fund) was established by the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (the 1992 Fund Convention) in order to ensure that adequate compensation is available to persons who suffer damage caused by pollution resulting from the escape or discharge of oil from ships,

NOTING the obligation of States Parties pursuant to Article 15 of the 1992 Fund Convention to communicate to the Director of the Fund (the Director), at a time and in the manner provided in the Internal Regulations, the name and address of any person who in respect of those States is liable to contribute to the 1992 Fund pursuant to Article 10 of the 1992 Fund Convention, as well as data on the relevant quantities of contributing oil received by any such person during the preceding calendar year (oil reports),

MINDFUL that the IOPC Funds' governing bodies have expressed significant concern that a number of States Parties have not complied with this specific obligation to submit oil reports and that this has been a long-standing issue despite considerable efforts on the part of the Secretariat to engage the States Parties concerned,

REITERATING the duty of States Parties pursuant to Article 13.2 of the 1992 Fund Convention to ensure that any obligation to contribute to the 1992 Fund arising out of the Convention in respect of oil received within the territory of those States is fulfilled and to this end to take appropriate measures under their law,

CONSIDERING that the failure or omission by some States Parties, as well as by some contributors, to abide by their obligations to submit oil reports places an unfair burden on those States Parties and contributors which do comply with these obligations,

BEARING IN MIND that the 1992 Fund cannot carry out its mandate nor operate effectively unless accurate oil reports and contributions are received in a timely manner,

NOTING FURTHER that, whereas in the past it had been decided that it was not practicable to determine the quantities of oil receipts of individual contributors on the basis of information available to the 1992 Fund but that, since then, the quality and reliability of available information from a variety of sources has improved significantly,

RECALLING FURTHER the governing bodies' instruction to the Director at their October 2019 sessions to examine ways to incentivise the submission of oil reports, including the possibility of invoicing contributors on the basis of estimated oil receipts if no oil reports are submitted,

RECALLING ALSO the governing bodies' instruction to the Director at their October 2022 sessions to prepare, in consultation with the Audit Body, a draft Resolution and the relevant draft amendments to the Internal Regulations to enable him to issue invoices to contributors based on estimates if no oil reports were submitted,

CONSIDERING FURTHER that, while no specific reference exists, nevertheless there is a clear and firm legal basis pursuant to Article 12.2 read with Article 13.3 of the 1992 Fund Convention for the Director to issue, and for the 1992 Fund Assembly to authorise the Director to issue, invoices on the basis of estimated oil receipts if no oil reports are submitted, including retrospectively in relation to past periods,

BEING OF THE VIEW that this Resolution would further strengthen the Director's ability to take action against States Parties which have not complied with their legal obligations under the Convention by issuing invoices on the basis of estimated oil receipts if no oil reports are submitted, including retrospectively in relation to past periods, and would provide support for the Director's action in the event that a legal challenge were to be pursued in a national court,

BELIEVING that this Resolution would constitute an important tool to encourage the prompt and accurate reporting of contributing oil,

BELIEVING MOREOVER that this Resolution would be a clear expression by States Parties of the fundamental importance of the reporting obligation to the entire International Oil Pollution Compensation Funds system,

AFFIRMING that the Secretariat would continue its efforts to assist States Parties to fully implement the Convention including with respect to their reporting obligations,

MINDFUL ALSO of Resolution N°12 of the 1992 Fund—Measures in respect of outstanding oil reports and outstanding contributions (April 2016),

1. **ENDORSES** the current efforts of the Director to follow-up on arrears of oil reports and contributions;
2. **CALLS ON** all receivers of contributing oil to discharge their obligations under the 1992 Fund Convention in a timely manner;
3. **URGES** associations representing receivers of contributing oil to engage proactively in ensuring that industry members meet their obligations; and to report to the Director on the measures taken in this regard;
4. **FURTHER URGES** all States Parties to fulfil their obligations under Articles 13.2, 15.1 and 15.2 of the 1992 Fund Convention, in particular, to provide oil reports in a timely manner and to ensure payment of contributions;
5. **REMINDS** States Parties of the option expressed in Article 14.1 of the 1992 Fund Convention whereby a State Party may at any time declare that it assumes the obligation to make contributions to the 1992 Fund that are otherwise incumbent on persons pursuant to Article 10.1 of the Convention;

6. **REQUESTS** those States Parties which have outstanding oil reports or which have contributors that are in arrears with their payments to report to the Director on any steps they have taken to redress these situations;
7. **AUTHORISES** the Director, in the event that no oil reports are submitted by States Parties in breach of their obligations under Articles 13.2, 15.1 and 15.2 of the 1992 Fund Convention, to issue invoices on the basis of estimated oil receipts to persons who are liable to contribute to the 1992 Fund pursuant to Article 10 of the 1992 Fund Convention, including retrospectively in relation to past periods;
8. **INSTRUCTS** the Director, whenever invoices are issued in accordance with paragraph 7 above, to:
 - (a) inform the relevant State Parties of the fact that and the basis on which such invoices have been issued,
 - (b) report fully at each regular session of the 1992 Fund Assembly on the issue of any such invoices in the previous twelve-month period including the basis on which they have been issued, and
 - (c) include in such reports an account of what actions by way of response, if any, have been taken by those States Parties and/or receivers of contributing oil to whom the invoices have been issued;
9. **FURTHER INSTRUCTS** the Director to prepare the relevant draft amendments to the Internal Regulations to enable the Director to issue invoices on the basis of estimated oil receipts including retrospectively in relation to past periods, in the event that the oil reports referred to in paragraphs 4, 6 and 7 above have not been submitted;
10. **DIRECTS** the Audit Body to:
 - (a) monitor the effectiveness of the above actions in respect of outstanding oil reports and outstanding contributions, and
 - (b) report to the 1992 Fund Assembly on its findings, including recommendations for further measures, as may be warranted.

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ANNEX II

Supplementary Fund Resolution N°5

Adopted on 10 November 2023

Authorisation for the Director to issue invoices to contributors based on estimated oil receipts, including retrospectively, where no reports have been submitted

THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION SUPPLEMENTARY FUND, 2003 (Supplementary Fund)

RECALLING that the International Oil Pollution Compensation Supplementary Fund, 2003 (the Supplementary Fund) was established by the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (the Supplementary Fund Protocol) in order to ensure that victims of oil pollution damage from ships are compensated in full for their loss or damage in cases where there is a risk that the amount of compensation available under the International Convention on the Establishment of an International Fund for Oil Pollution Damage, 1992 (the 1992 Fund Convention) will be insufficient,

NOTING the obligation of States Parties under Article 13.1 of the Supplementary Fund Protocol to communicate to the Director of the Supplementary Fund (the Director) information on oil receipts, provided, however, that communications made to the Director of the 1992 Fund under Article 15.2 of the 1992 Fund Convention (on oil receipts) shall be deemed to have been made also under Article 13.1 of the Supplementary Fund Protocol,

MINDFUL that the IOPC Funds' governing bodies have expressed significant concern that a number of States Parties have not complied with this specific obligation to submit oil reports and that this has been a long-standing issue despite considerable efforts on the part of the Secretariat to engage the States Parties concerned,

REITERATING the duty of States Parties pursuant to Article 12.1 of the Supplementary Fund Protocol to ensure that any obligation to contribute to the Supplementary Fund arising under the Protocol in respect of oil received within the territory of those States is fulfilled and to this end to take appropriate measures under their law,

CONSIDERING that the failure or omission by some States Parties, as well as by some contributors, to abide by their obligations to submit oil reports places an unfair burden on those States Parties and contributors which do comply with these obligations,

BEARING IN MIND that the Supplementary Fund cannot carry out its mandate nor operate effectively unless accurate oil reports and contributions are received in a timely manner,

NOTING FURTHER that, whereas in the past it had been decided that it was not practicable to determine the quantities of oil receipts of individual contributors on the basis of available information but that, since then, the quality and reliability of available information from a variety of sources has improved significantly,

RECALLING FURTHER the governing bodies' instruction to the Director at their October 2019 sessions to examine ways to incentivise the submission of oil reports, including the possibility of invoicing contributors on the basis of estimated oil receipts if no oil reports are submitted,

RECALLING ALSO the governing bodies' instruction to the Director at their October 2022 sessions to prepare, in consultation with the Audit Body, a draft Resolution and the relevant draft amendments to the Internal Regulations to enable the Director to issue invoices to contributors based on estimates if no oil reports were submitted,

CONSIDERING FURTHER that, while no specific reference exists, nevertheless there is a clear and firm legal basis pursuant to Article 12 of the Supplementary Fund Protocol read with Articles 12.2 and 13.3 of the 1992 Fund Convention for the Director to issue, and for the Supplementary Fund Assembly to authorise the Director to issue, invoices on the basis of estimated oil receipts if no oil reports are submitted, including retrospectively in relation to past periods,

BEING OF THE VIEW that this Resolution would further strengthen the Director's ability to take action against States Parties which have not complied with their legal obligations under the Supplementary Fund Protocol, by issuing invoices on the basis of estimated oil receipts if no oil reports are submitted, including retrospectively in relation to past periods, and would provide support for the Director's action in the event that a legal challenge were to be pursued in a national court,

BELIEVING that this Resolution would constitute an important tool to encourage the prompt and accurate reporting of contributing oil,

BELIEVING MOREOVER that this Resolution would be a clear expression by States Parties of the fundamental importance of the reporting obligation to the entire International Oil Pollution Compensation Funds system,

AFFIRMING that the Secretariat would continue its efforts to assist States Parties to fully implement the Protocol including with respect to their reporting obligations,

MINDFUL ALSO of Supplementary Fund Resolution N°3 - Measures in respect of outstanding contributions (April 2016),

1. **ENDORSES** the current efforts of the Director to follow-up on arrears of oil reports and contributions;
2. **CALLS ON** all receivers of contributing oil to discharge their obligations under the Supplementary Fund Protocol in a timely manner;
3. **URGES** associations representing receivers of contributing oil to engage proactively in ensuring that industry members meet their obligations; and to report to the Director on the measures taken in this regard;
4. **FURTHER URGES** all States Parties to fulfil their obligations under Article 13.1 of the Supplementary Fund Protocol, in particular, to provide oil reports in a timely manner and to ensure payment of contributions;
5. **REMINDS** States Parties of the option expressed in Article 12.2 of the Supplementary Fund Protocol whereby a State Party may assume the obligation to pay contributions to the Supplementary Fund that are otherwise incumbent on persons pursuant to Article 10.1 of the Protocol;

6. **REQUESTS** those States Parties which have outstanding oil reports or which have contributors that are in arrears with their payments to report to the Director on any steps they have taken to redress these situations;
 7. **AUTHORISES** the Director, in the event that no oil reports are submitted by States Parties in breach of their obligations under Article 13.1 of the Supplementary Fund Protocol, to issue invoices on the basis of estimated oil receipts to persons who are liable to contribute to the Supplementary Fund pursuant to Article 10 of the Supplementary Fund Protocol, including retrospectively in relation to past periods;
 8. **INSTRUCTS** the Director, whenever invoices are issued in accordance with paragraph 7 above, to:
 - (a) inform the relevant State Parties of the fact that and the basis on which such invoices have been issued;
 - (b) report fully at each regular session of the Supplementary Fund Assembly on the issue of any such invoices in the previous twelve-month period including the basis on which they have been issued; and
 - (c) include in such reports an account of what actions by way of response, if any, have been taken by those States Parties and/or receivers of contributing oil to whom the invoices have been issued;
 9. **FURTHER INSTRUCTS** the Director to prepare the relevant draft amendments to the Internal Regulations to enable the Director to issue invoices on the basis of estimated oil receipts including retrospectively in relation to past periods, in the event that the oil reports referred to in paragraphs 4, 6 and 7 above have not been submitted;
 10. **DIRECTS** the Audit Body to:
 - (a) monitor the effectiveness of the above actions in respect of outstanding oil reports and outstanding contributions, and
 - (b) report to the Supplementary Fund Assembly on its findings, including recommendations for further measures as may be warranted.
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