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IMPLEMENTATION OF THE 1992 CIVIL LIABILITY AND FUND CONVENTIONS INTO NATIONAL LAW

Note by the Director

Summary:	The document contains an up-date on the results of the Director's enquiries as to whether the 1992 Conventions have been fully implemented into the national law of Member States.
Action to be taken:	Information to be noted.

1 The issue

- 1.1 The 1992 Fund Assembly has repeatedly stated that correct implementation of the 1992 Civil Liability and Fund Conventions was essential for the proper functioning of the international compensation regime established by these Conventions and that unless the Conventions were implemented correctly into national law, the regime could not function in a proper, uniform and equitable manner.
- 1.2 In October 2004 the Assembly instructed the Director to write to all Member States to enquire whether the 1992 Conventions had been fully implemented into their national law (document 92FUND/A.9/31, paragraph 33.4.2).

2 Responses by States

- 2.1 In April 2005 the Director wrote to Governments of the 87 States which were Members of the 1992 Fund at that time requesting them to indicate by 30 June 2005 whether the 1992 Conventions had been fully implemented into national law. In the light of the limited number of responses to this letter, the Director sent a reminder letter in September 2005 to those Member States which had not responded as well as a letter to other States for which the 1992 Fund Convention had entered into force since April 2005 or for which the Convention would enter into force shortly. At the Assembly's October 2005 session the Director presented a report on the replies that had been received from 1992 Fund Member States in response to his letters (documents 92FUND/A.10/5 and 92FUND/A.10/5/Add.1). The Assembly was informed that at that time only 37 replies had been received.
- 2.2 At the October 2005 session the Assembly instructed the Director to make further efforts to obtain responses to the enquiries from all 1992 Fund Member States which had not already responded (document 92FUND/A.10/37, paragraph 6).
- 2.3 The Director submitted a further document updating the Assembly on the responses to his enquiries at its February/March 2006 session (documents 92FUND/A/ES.10/4 and

92FUND/A/ES.10/4/Add.1). The Assembly was informed that at that time only 60 replies had been received.

- 2.4 The Assembly instructed the Director, at its February/March 2006 session, to make further efforts to obtain responses to the enquiries from all 1992 Fund Member States which had not already responded. The Director was also instructed to contact those States within which the 1992 Conventions had not been implemented into national law as well as States ratifying the 1992 Fund Convention and offer assistance in the preparation of the necessary legislation (document 92FUND/A/ES.18, paragraphs 4.4 and 4.5).
- 2.5 Throughout 2006 the Secretariat has continued its efforts to obtain a response to the enquiries, explaining that the Director would be presenting a further report on this issue to the 1992 Fund Assembly at its October 2006 session.
- 2.6 As at 12 October 2006, the Director had contacted all 98 States which have ratified the 1992 Fund Convention, of which 54 have confirmed that the Conventions had been fully implemented whereas 14 have stated that the Conventions had not been implemented into national legislation. A table showing the results of the Director's enquiries is contained in the Annex.
- 2.7 The Director has written to those States which had not implemented the Conventions into their national legislation and offered assistance in the preparation of the necessary legislation.

3 Further action

- 3.1 The Director is disappointed that, despite contacting them repeatedly both in writing and by telephone since April 2005, 30 of the 98 States he has contacted have still not stated whether or not the 1992 Conventions have been fully implemented into their national law. Regrettably, he is of the opinion that further efforts to obtain such statements are unlikely to be very successful. Unless the Assembly instructs him otherwise, he does not intend to continue seeking responses from these States.
- 3.2 However, the Director does intend to continue to offer assistance in the preparation of the necessary legislation to any States which inform the Secretariat that the 1992 Conventions have not been fully implemented into their national law.
- 3.3 The Director also intends to continue to draw the attention of States which ratify the 1992 Fund Convention to the importance of the implementation of the 1992 Conventions into national law and to offer assistance preparing the necessary legislation.

4 Action to be taken by Assembly

The Assembly is invited:

- (a) to take note of the results of the Director's enquiries; and
- (b) to take note of the Director's intentions as regards further action in this matter as set out in paragraph 3.

ANNEX

Response to Director's letters regarding the implementation of
the 1992 Civil Liability and Fund Conventions
(as at 12 October 2006)

<u>Member State</u>	<u>Implemented</u>	<u>Not implemented</u>	<u>No reply</u>	<u>Acknowledgement of Director's letter</u>
Albania ^{<1>}			x	
Algeria	x			
Angola		x		
Antigua and Barbuda	x			
Argentina	x			
Australia	x			
Bahamas	x			
Bahrain			x	
Barbados	x			
Belgium	x			
Belize			x	
Brunei Darussalam		x		
Bulgaria ^{<2>}			x	
Cambodia			x	
Cameroon			x	
Canada	x			
Cape Verde		x		
China (Hong Kong SAR)	x			
Colombia	x			
Comoros			x	
Congo			x	
Croatia	x			
Cyprus	x			
Denmark	x			
Djibouti			x	
Dominica			x	
Dominican Republic			x	
Estonia	x			
Fiji		x		
Finland	x			
France	x			
Gabon			x	
Georgia		x		
Germany	x			
Ghana		x		
Greece	x			
Grenada	x			
Guinea				x
Iceland ^{<3>}	x			
India	x			
Ireland	x			
Israel	x			
Italy	x			
Jamaica		x		

<u>Member State</u>	<u>Implemented</u>	<u>Not implemented</u>	<u>No reply</u>	<u>Acknowledgement of Director's letter</u>
Japan	x			
Kenya		x		
Latvia	x			
Liberia				x
Lithuania	x			
Luxembourg ^{<2>}			x	
Madagascar		x		
Malaysia	x			
Maldives ^{<1>}	x			
Malta	x			
Marshall Islands	x			
Mauritius		x		
Mexico	x			
Monaco			x	
Morocco ^{<3>}	x			
Mozambique			x	
Namibia ^{<3>}		x		
Netherlands	x			
New Zealand	x			
Nigeria		x		
Norway	x			
Oman			x	
Panama			x	
Papua New Guinea				x
Philippines		x		
Poland	x			
Portugal	x			
Qatar ^{<1>}	x			
Republic of Korea	x			
Russian Federation	x			
Saint Kitts and Nevis ^{<1>}			x	
Saint Lucia ^{<1>}			x	
Saint Vincent and the Grenadines				x
Samoa			x	
Seychelles			x	
Sierra Leone		x		
Singapore	x			
Slovenia ^{<3>}	x			
South Africa ^{<1>}				x
Spain	x			
Sri Lanka				x
Sweden	x			
Switzerland ^{<2>}	x			
Tonga	x			
Trinidad and Tobago				x
Tunisia	x			
Turkey	x			
Tuvalu ^{<1>}			x	
United Arab Emirates	x			
United Kingdom	x			

<u>Member State</u>	<u>Implemented</u>	<u>Not implemented</u>	<u>No reply</u>	<u>Acknowledgement of Director's letter</u>
United Republic of Tanzania			x	
Uruguay	x			
Vanuatu	x			
Venezuela	x			

- <1> The 1992 Conventions entered into force for Albania, Maldives, Saint Kitts and Nevis, Saint Lucia, South Africa and Tuvalu after the Director's original letter of 11 April 2005 but the Director has subsequently written to these States.
- <2> The Director has written to the following States, for which the 1992 Conventions will enter into force by the end of 2006: Bulgaria (18 November 2006), Luxembourg (21 November 2006), and Switzerland (10 October 2006).
- <3> The Director has sought further clarification from Iceland, Morocco, Namibia and Slovenia since the responses received from these States raised some questions.
