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Agenda item 4

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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:	<ul style="list-style-type: none">(a) to consider whether further efforts should be made to obtain responses from Member States; and(b) to consider whether the Director should contact those States within which the 1992 Conventions have not been implemented into national law and offer assistance in the preparation of the necessary legislation.

1 Introduction

- 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 At the Assembly's October 2004 session, the United Kingdom delegation drew attention to the possibility that the failure of some States to submit oil reports or of contributors in some States to pay contributions might, in some cases, be due to a lack of legislation implementing the Conventions into their national law. That delegation made the point that such failures to implement the Conventions could have other serious repercussions in the future, particularly in view of the increase in the financial limit of the 1992 Fund Convention (document 92FUND/A.9/31, paragraph 33.4.1).
- 1.3 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).
- 1.4 On 11 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 on 19 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.

- 1.5 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 letter of 11 April 2005, and to his reminder letter of 19 September 2005 (documents 92FUND/A.10/5 and 92FUND/A.10/5/Add.1). The Assembly noted that at the time of the session only 37 replies had been received.
- 1.6 At that 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).
- 1.7 During January 2006 the Secretariat contacted an appropriate person from each Member State which had not responded to the Director's enquiries to discuss the matter further and request assistance in obtaining a response to the enquiries as soon as possible, explaining that the Director would be presenting a further report on this issue to the 1992 Fund Assembly at its February 2006 session.
- 1.8 As at 10 February 2006, replies had been received from 51 of the 1992 Fund Member States. The majority of the replies indicated that the Conventions had been implemented into national law. A table showing the results of the Director's enquiries is at the Annex.
- 1.9 Given the importance which the Assembly attaches to this issue, the Director is of the view that efforts should continue to be made to obtain responses to this request from all 1992 Fund Member States.
- 1.10 In light of the number of States which in their response to the enquiries have informed the Director that the 1992 Conventions have not been fully implemented into their national law, the Director suggests that he should contact these States and offer assistance in the preparation of the necessary legislation.
- 1.11 The Director intends 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.

2 Action to be taken by Assembly

The Assembly is invited:

- (a) to take note of the results of the Director's enquiries;
- (b) to consider whether further efforts should be made to obtain responses from Member States;
- (c) to consider whether the Director should contact those States within which the 1992 Conventions have not been implemented into national law and offer assistance in the preparation of the necessary legislation; and
- (d) to give the Director such instructions in respect of this issue as it may deem appropriate.

ANNEX

Response to Director's letters regarding the implementation of the 1992 Civil Liability and Fund Conventions (as of 10 February 2006)

<u>Member State</u>	<u>Implemented</u>	<u>Not implemented</u>	<u>No reply</u>	<u>Acknowledgement of Director's letter</u>
-				
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	
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 ^{<1>}	x			
India	x			
Ireland	x			
Israel	x			

<1> The Director has recently sought further clarification from Iceland, Morocco, Namibia and Qatar since the responses received from these States raised some questions.

<u>Member State</u> -	<u>Implemented</u>	<u>Not implemented</u>	<u>No reply</u>	<u>Acknowledgement of Director's letter</u>
Italy	x			
Jamaica			x	
Japan	x			
Kenya		x		
Latvia	x			
Liberia			x	
Lithuania	x			
Madagascar		x		
Malaysia	x			
Malta	x			
Marshall Islands	x			
Mauritius			x	
Mexico	x			
Monaco			x	
Morocco ^{<1>}				x
Mozambique			x	
Namibia ^{<1>}		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 Lucia ^{<2>}			x	
Saint Vincent and the Grenadines				x
Samoa			x	
Seychelles			x	
Sierra Leone		x		
Singapore	x			
Slovenia			x	
South Africa ^{<2>}				x
Spain	x			
Sri Lanka			x	
Sweden	x			
Tonga	x		x	
Trinidad and Tobago				x
Tunisia	x			

<2>

The 1992 Conventions entered into force for Saint Lucia, South Africa and Tuvalu after the Director's original letter of 11 April 2005. The Director therefore wrote to these States at a later date than to other States.

<u>Member State</u> -	<u>Implemented</u>	<u>Not implemented</u>	<u>No reply</u>	<u>Acknowledgement of Director's letter</u>
Turkey			x	
Tuvalu ^{<2>}			x	
United Arab Emirates	x			
United Kingdom	x			
United Republic of Tanzania			x	
Uruguay	x			
Vanuatu	x			
Venezuela	x			

Please note that the Director has recently written to the following States, for which the Conventions will enter into force in the coming ten months: Albania, Bulgaria, Luxembourg, Maldives, Saint Kitts and Nevis and Switzerland.
