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## PROCEDURES FOR RECRUITMENT OF FUTURE DIRECTORS

### Note by Italy and Spain

<b>Summary:</b>	It is proposed that the 1992 Fund Assembly adopt a resolution setting a limit of four years for the term of office of the Director, renewable once.
<b>Action to be taken:</b>	See Paragraph 5 and Annex I.

#### 1 Aim

This document is submitted with a view to establishing a term limit of four years, renewable once, for appointments of future Directors of the IOPC Funds.

#### 2 Present Rules

##### 2.1 Article 18.4 of the 1992 Fund Convention provides:

*"The functions of the Assembly shall be: (4.) to appoint the Director and make provisions for the appointment of such other personnel as may be necessary and determine the terms and conditions of service of the Director and other personnel;"*

##### 2.2 The 1992 Fund Rules of Procedure do not contain any provision regarding the terms and conditions of service of the Director. Rather Rule 55 of the Rules of Procedure provides:

*"For the appointment of the Director, the Assembly shall vote by secret ballot in a private meeting".*

##### 2.3 In Staff Regulation 17 of the 1992 Fund it is stated:

*"The salaries, allowances and grant, and the conditions of entitlement thereto, for all members of the Secreteriat shall, except as may otherwise be provided in these Regulations, conform whenever appropriate with the United Nations common system, as applied by the International Maritime Organization (IMO under its Staff Regulations and Staff Rules)".*

2.4 In addition, Staff Regulation 18 of the 1992 Fund states:

*"The terms and conditions of service of the Director shall be determined by the Assembly with reference to the provisions of Regulation 17 and shall be specified in a contract between the Director and the 1992 Fund represented by the Chairman of the Assembly".*

### **3 Practice of the United Nations, its specialized Agencies and other Inter-Governmental Organizations**

Regarding the setting of term limits for chief executives (ie the principal executive officer of the organization or specialized agency), at least nine precedents can be found within the United Nations system, including the one of the International Maritime Organization (IMO). Although not all the term limits for chief executives adopted are homogeneous in their details, a clear regulation about limiting the term of office has been established in many UN and other Inter-Governmental Organizations. In the case of the IOPC Funds, it seems natural to follow the pattern of the IMO.

#### *3.1 UN Specialized Agency Models*

3.1.1. The following UN organizations have adopted term limits for chief executives by amending their Conventions: The United Nations Educational, Scientific and Cultural organization (UNESCO), the International Telecommunications Union (ITU), the International Fund for Agricultural Development, Organization and Management (IFAD) and the World Intellectual Property Organization (WIPO).

3.1.2. The World Health Organization (WHO) and all of WHO's subsidiary organizations, the UN Industrial Development Organization (UNIDO) and the Universal Postal Union (UPU) have implemented term limits via rules changes.

3.1.3. The World Meteorological Organization (WMO) adopted a term limit by means of an Assembly resolution.

3.1.4. In the cases mentioned above, the chief executive is elected for terms ranging from four to six years, renewable once.

3.1.5. Finally, the Council of IMO decided by Resolution C.74(86) to adopt a term limit of four years, renewable once, for the Organization's Secretary-General.

#### *3.2. IMO Precedents*

3.2.1. The past practice of the IMO has been to set the Secretary General's term of office by Council Resolution or decision. The IMO Secretary General's terms and conditions of service have been modified along the years in the light of experience, until the presently applicable Resolution C.74(86) was adopted on 22 June 2001.

3.2.2. At its 1st session, the IMO Council determined the terms and conditions of service of the Secretary General and, regarding the term of service, provided the following: *"The appointment shall be for three years and may be renewed for such further periods as may be determined by the Council with the approval of the Assembly"*. It was noted that these terms and conditions were *"subject to revision in the light of experience"*.

3.2.3. At the IMO Council's 6th session, it was suggested by the IMO Secretariat to extend the duration of the Secretary General's term of office from three to five years, following usual practices in such posts. At its 30th session, the Council took the decision to *"offer the new Secretary General an initial appointment of four years with the possibility of renewal"*. Since then, the appointments were renewed for such periods as determined by the Council with the approval of the Assembly.

- 3.2.4. This was the pattern that was observed by the IMO Council for subsequent contracts, until in 2001, during the 86th session of the Council, a number of IMO Member States that also are IOPC Fund Members, proposed a new Resolution in order, not only to set the length of the term of office of the Secretary General of IMO at four years, but also to limit the renewal of the contract to one additional term of four years.
- 3.2.5. Finally, the IMO Council adopted Resolution C.74(86) to fix a term limit of four years, renewable once, for the Organization's Secretary-General.

#### **4 IOPC Funds practice**

- 4.1 Although the IOPC Funds are independent from the IMO they were established under Conventions adopted under the auspices of that Organization. Furthermore, despite the fact that the IOPC Funds are neither United Nations (UN) agencies nor part of the UN system, they follow similar procedures to those of the UN, especially those of the IMO.
- 4.2 Given the fact that the IOPC Funds have traditionally conformed to the United Nations common system, as applied by the IMO, in a general manner, and more specifically in connection with Staff Regulations 17 and 18, the sponsoring States believe that the same pattern should be followed for the appointment of future IOPC Funds' Directors.
- 4.3 Article 18 of the 1992 Fund Convention sets down the exclusive role of the Assembly to establish the term of office of the Director. Following UN and, more specifically, IMO precedents, limits on the term of office of the Director could be attained in any of four ways: by amendment of the 1992 Fund Convention, by amendment of the Assembly's Rules of Procedure, by Assembly Resolution or by Assembly decision. Any of the above-mentioned procedures would be applicable to fix limits on the term of office of the Director, and none would prevent re-appointing the current Director for an additional term. However, the sponsoring States believe that an Assembly Resolution would be the most appropriate way to do it.

#### **5 Action to be taken by the governing bodies**

The sponsoring States propose that the Assembly limit the term of office of future Directors to four years, with the possibility of reappointment for one additional term of up to four years. A proposed resolution to that effect is contained in the Annex.

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**ANNEX**

**Draft Resolution N° \_\_\_\_**

**Appointment of the IOPC Funds' Director**

**Term of service**

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

RECALLING Article 18 of the 1992 Fund Convention,

NOTING that the Assembly has appointed Directors for five-year terms with provision for renewal for such further periods as may be determined by the Assembly.

CONSIDERING the desirability of establishing a more specific term of office for future Directors,

CONSIDERING ALSO the normal practice within the United Nations agencies and subsidiary bodies, and especially the International Maritime Organization precedents.

CONSIDERING FURTHER Section IV, Regulations 17 and 18, of the 1992 Fund's Staff Regulations,

DECIDES that:

- 1 Future IOPC Fund Directors shall be appointed for an initial term of four years [from 1st January of the year following] the Assembly decision.
- 2 The appointment may be renewed by the Assembly for one additional term of up to four years.
- 3 This resolution shall be referenced by footnote to Rule 55 of the Rules of Procedure of the Assembly.