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APPOINTMENT OF DIRECTOR

PROCEDURES FOR RECRUITMENT

Note by the Audit Body

Summary:	The Audit Body has prepared a job description and competence requirements for the post of Director. Proposals are made for the timetable for the appointment of the next Director and for the transitional arrangements. The Audit Body also discusses whether the candidates should make presentations to the Assembly.
Action to be taken:	1992 Fund Assembly: To decide on the recruitment procedure and timetable. 1971 Fund Administrative Council: Information to be noted.

1 Introduction

- 1.1 At its 9th session, held in October 2004, the Assembly considered a document (document 92FUND/A.9/15) in which the Audit Body had, at the Assembly's request, set out the Body's guidance to the 1992 Fund Assembly and the 1971 Fund Administrative Council on procedures to be followed in the recruitment of future Directors.
- 1.2 After a detailed discussion of the issues involved, the Chairman noted in his summing up that delegations had agreed that whatever selection procedure was finally adopted, it must serve the best interests of the Funds. He also noted that all delegates had agreed that candidates should be selected on the basis of competence in the widest possible sense when considered against objective criteria.
- 1.3 The Chairman noted that most delegations had considered that the work carried out by the Audit Body had been a good starting point as regards ensuring the competency of candidates but that opinion was divided on the selection process. He noted that the establishment of a selection committee was seen by some as a good way forward but had certain drawbacks and could be expensive, whilst others favoured the development of a robust and transparent selection tool based on job description and required qualifications that would help the Assembly to select the best candidate.
- 1.4 Finally, the Chairman noted that all delegations agreed that the timing of the selection process was critical and that it seemed logical that the new Director should be chosen at the October 2005 session of the Assembly. To that end the Chairman proposed that the Audit Body should be asked to draw up a detailed job description and the competences required for consideration by the Assembly at its extraordinary session planned for early 2005 in connection with the first Assembly of the Supplementary Fund. He proposed that once this exercise was completed a

timetable should be set for the nomination of candidates and intersessional consultations with a view to completing the selection process in October 2005.

- 1.5 The Assembly decided that the Audit Body should be requested to prepare a detailed job description and competency requirements for the post of Director and to propose a timetable for the various stages of the selection process. The Audit Body was authorised to seek expert advice if considered useful to do so (document 92FUND/A.9/31, paragraph 17.13).
- 1.6 The Audit Body has interpreted the discussion in the Assembly that the Assembly does not wish to set up a selection committee and that it would be for Member States to nominate candidates for the position of Director.

2 Job description and competence requirements

- 2.1 As requested, the Audit Body has prepared, with the assistance of an external consultant^{<1>}, a detailed job description and competence requirements for the post of Director for consideration by the Assembly.
- 2.2 It is suggested that the text adopted by the Assembly should be attached to a note to be sent by the Director to Member States informing them of the vacancy and inviting them to nominate candidates (cf document 92FUND/A/ES.9/21/1).

3 Proposed timetable for appointment of Director

- 3.1 It appears that the Assembly has opted in principle for the appointment of a new Director to be made at its October 2005 session (document 92FUND/A.9/31, paragraph 17.12). If this interpretation of the Assembly's position is correct, it appears that the following timetable could apply:
 - (a) The Assembly will decide on the details of the selection procedure and determine the competences, skills and experience required of the Director at its extraordinary session in March 2005.
 - (b) Shortly after that session, the Director will circulate a Note to Member States inviting them to submit candidatures by 30 June 2005.
 - (c) In early July 2005 the Director will circulate to Member States the candidatures received by the deadline of 30 June 2005.

- 3.2 The Audit Body takes the view that only candidatures presented by the date decided by the Assembly should be considered and that the Director should not circulate candidatures received after that date.

4 Presentations by candidates

It is customary in some other international organizations (eg the International Maritime Organization) for candidates for positions of high authority to make an oral presentation to Member States. Given the importance which the Assembly lends to the competences of the new Director, the Assembly may wish to consider whether it would be advantageous to request candidates for the position of Director to make a short oral presentation of approximately 10 minutes' duration in support of his/her candidature to the Assembly at the session at which the appointment is made. This presentation, which would be made in the absence of other candidates,

<1> Korn/Ferry International

could be followed by a short question and answer session with delegations. The presentation would be made in one or more of the three official languages of the 1992 Fund.

5 Transition from the present Director to his successor

- 5.1 The present Director's contract expires at 31 December 2006, including a period for a smooth transition to his successor.
- 5.2 In order to ensure a smooth transition the new Director will need a certain period to familiarise himself with the operation of the IOPC Funds.
- 5.3 The Audit Body believes that the present Director should have full responsibility for the October 2006 session of the Assembly. It believes therefore that the new Director should take up his/her functions and take over responsibility for the Organisations on 1 November 2006, with the present Director continuing to be available up to 31 December 2006.
- 5.4 The Audit Body is of the view that the new Director should not join the Secretariat on a permanent basis before 1 September 2006. A period of not more than two months before his taking over responsibility coupled with the present Director being available up to the end of the year would in the Audit Body's view ensure a smooth transition. However the Audit Body considers that the present Director and his successor should be given a certain flexibility to agree on which steps should be taken to achieve such a transition and the time needed. For example, it appears that it would be useful for the new Director to follow the preparation of the administrative budget for 2007, although the present Director would have full responsibility for the draft budget.
- 5.5 It is in any event crucial that the Assembly decides the exact date on which the function of Director passes from the outgoing to the incoming Director.

6 Action to be taken by the governing bodies

- 6.1 The 1992 Fund Assembly is invited:
 - (a) to take note of the information contained in this document;
 - (b) to consider the draft job description and competence requirements for the post of Director set out in the Annex;
 - (c) to consider the proposed timetable for appointment of the Director;
 - (d) to decide whether candidatures received after the date for presenting candidatures fixed by the Assembly should be considered;
 - (e) to consider whether candidates should make oral presentations to the 1992 Fund Assembly;
 - (f) to decide on the transitional arrangements; and
 - (g) to take any other decisions as to the procedure for the appointment of the Director as it may deem appropriate
- 6.2 The 1971 Fund Administrative Council is invited to take note of the information contained in this document.

ANNEX

JOB SPECIFICATION FOR POST OF DIRECTOR

[Annex to note to be circulated to Member States inviting candidatures for the post of Director].

OVERVIEW

There are three Fund Organisations, the International Oil Pollution Compensation Fund 1971 established under the 1971 Fund Convention, the International Oil Pollution Compensation Fund 1992 established under the 1992 Fund Convention and the International Oil Pollution Compensation Supplementary Fund established under a Protocol adopted in 2003.

The International Oil Pollution Compensation Funds (IOPC Funds) are world-wide inter-governmental organisations, i.e. set up by States, providing compensation to victims of oil pollution damage resulting from spills of persistent oil from tankers. The Funds are financed by levies on certain types of oil carried by sea. The levies are paid by entities which receive oil after sea transport, normally not by States. The Funds are administered by a joint Secretariat located in London with 27 staff members. The Secretariat is headed by a Director appointed by Member States. This compensation regime may evolve over the coming years.

It is possible that the IOPC Funds' Secretariat will, in a few years time, also administer the Fund to be established under the Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention).

ROLE OF THE DIRECTOR

The role of the Director is defined in Article 29 of the 1992 Fund Convention and corresponding provisions apply in respect of the 1971 Fund and the Supplementary Fund. Article 29 states:

1. The Director shall be the chief administrative officer of the Fund. Subject to the instructions given to him by the Assembly, he shall perform those functions which are assigned to him by this Convention, the Internal Regulations of the Fund and the Assembly.
2. The Director shall in particular:
 - (a) appoint the personnel required for the administration of the Fund;
 - (b) take all appropriate measures with a view to the proper administration of the Fund's assets;
 - (c) collect the contributions due under this Convention while observing in particular the provisions of Article 13, paragraph 3;
 - (d) to the extent necessary to deal with claims against the Fund and carry out the other functions of the Fund, employ the services of legal, financial and other experts;
 - (e) take all appropriate measures for dealing with claims against the Fund within the limits and on conditions to be laid down in the Internal Regulations, including the final settlement of claims without the prior approval of the Assembly where these Regulations so provide;
 - (f) prepare and submit to the Assembly the financial statements and budget estimates for each calendar year;

- (g) prepare, in consultation with the Chairman of the Assembly, and publish a report of the activities of the Fund during the previous calendar year;
- (h) prepare, collect and circulate the papers, documents, agenda, minutes and information that may be required for the work of the Assembly and subsidiary bodies.

RESPONSIBILITIES

The Director is the legal representative of the IOPC Funds and has overall responsibility for all aspects of the IOPC Funds' activities and for the operation of the Secretariat, pursuant to Article 29 above. He/she has the primary responsibility to ensure that the joint Secretariat of the three Funds carries out its functions in accordance with the Fund Conventions, the Internal and Financial Regulations and the decisions of the governing bodies.

The Director's responsibilities can be grouped into four broad categories:

- Settlement of compensation claims;
- Management of the Secretariat;
- Management of the IOPC Funds' assets, including levying of contributions;
- Preparation of the sessions and decisions of the Assembly and the Executive Committee as well as the implementation of these decisions.

These responsibilities can be described in more detail as follows:

a. Strategy and policy

Within the parameters laid down by the governing bodies, the Director deals with matters of strategic importance, policy issues, long-term planning and high-level contacts with governments, non-governmental organisations and private entities as well as deciding the position to be taken by the Funds on important legal, financial and technical matters. He/she endeavours to provide consistency in the interpretation of the Civil Liability and Fund Conventions and transposes the decisions of the governing bodies into Fund policies.

b. Leadership/general management

In view of the small size of the Secretariat (at present 27 staff members) and the characteristics of the three Funds, the Director is personally involved in all significant substantive aspects of the operations of the Secretariat.

The Director ensures that the Secretariat is organised and managed in accordance with best practices in similar organisations so as to enable it to function effectively and efficiently and to ensure that staff members are well-motivated and committed. He/she takes the necessary steps to develop the Secretariat function so as to enable the Secretariat to adapt to developments. He/she is also responsible for the operations of local offices set up in Member States where major oil pollution incidents have occurred and for the management of a considerable number of experts engaged by the Organisations to deal with various aspects of incidents and compensation claims.

c. Claims handling

The Director ensures that the claims handling procedure is efficient and of high quality, and that claims are dealt with in accordance with the Conventions, the Internal Regulations and the policy laid down by the governing bodies. He/she considers issues relating to the admissibility of claims which give rise to questions of principle or are of a sensitive nature and decides whether claims should be submitted to the governing bodies for consideration. He/she conducts ministerial or other high-level negotiations in Member States where important incidents have occurred.

d. Financial matters

The Director considers and approves the draft financial statements for submission to the External Auditor and the draft budget for submission to the governing bodies. He/she ensures that there are adequate financial controls. Within the mandate given by the governing bodies, he/she decides on the levying of contributions, on what measures should be taken when States fail to submit oil reports and on what steps should be taken against contributors in arrears. The IOPC Funds handle significant amounts of money and hold considerable assets. Within the parameters laid down by the governing bodies, he/she is responsible for the management of the IOPC Funds' assets and decides on the investment of these assets. The Director attends the meetings of the Funds' Audit Body and their Investment Advisory Body.

e. Meetings and documentation

The Director convenes sessions of the governing bodies and ensures that the appropriate documents are prepared for these sessions.

f. Representation

The Director represents the Funds at the policy level at meetings with Governments of Member and non-Member States as well as at meetings of other intergovernmental organisations. He/she represents the Funds at conferences, seminars and workshops, giving speeches and presentations. He/she also represents the Funds in relation to the media.

CANDIDATE PROFILE

The successful candidate will have extensive administrative and management experience at senior level, demonstrated leadership experience and a strong track record in dealing with public and private sector organisations at top level. He/she needs to be a highly effective communicator, with demonstrable skills in negotiation and diplomacy, and the ability to deal credibly and authoritatively with governments and other parties in the shipping, insurance and oil industries as well as with victims of oil pollution.

1. Knowledge/Professional experience

Specifically, [the 1992 Fund Assembly has expressed the view that] the successful candidate would **ideally** have the following knowledge and professional experience:

- expert knowledge of the Civil Liability and Fund Conventions;
- experience in handling complex legal issues (in particular in the field of maritime law, law of torts and treaty law) and ability to understand various legal systems;
- experience of claim-handling matters;
- ability to assess and take decisions on expert advice in legal and other matters;
- experience in financial matters, general management and handling of staff matters;

- experience of the public sector and grasp of decision processes and reasoning of governments;
- familiarity with high-level negotiations;
- experience of working with governments at all levels as well as with public and private bodies;
- experience of international conferences and in chairing intergovernmental meetings;
- experience in dealing with the media;
- ability to make clear oral presentations;
- excellent drafting skills.

2. Personal attributes

In addition, [the 1992 Fund Assembly has indicated that] the successful candidate would be expected to have the following personal attributes:

- objectivity and integrity;
- fairness and diplomacy;
- excellent decision-making skills;
- flexibility and openness to change;
- excellent inter-personal skills;
- organisational and management skills;
- ability to prioritise, to delegate and to motivate staff and others who work on behalf of the Funds;
- attention to detail;
- fluency in English and a good working knowledge of at least one of the other two official languages of the IOPC Funds (French and Spanish).

SALARY AND BENEFITS

The terms and conditions of service of the Director are determined by the Assembly. As for salaries and other benefits, the IOPC Funds follow the United Nations common system as applied by the International Maritime Organization.
