



**INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1992**

ASSEMBLY  
9th extraordinary session  
Agenda item 28

92FUND/A/ES.9/28/3  
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## **RECORD OF DECISIONS OF THE NINTH EXTRAORDINARY SESSION OF THE ASSEMBLY**

### **INTERNAL REGULATIONS**

At its 9th extraordinary session held in March 2005, the Assembly adopted amendments to the Internal Regulations of the 1992 Fund. It also instructed the Director to make the necessary adjustments so as to render the text gender neutral. The Internal Regulations as amended (including these adjustments) are contained in the Annex.

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## ANNEX

### INTERNAL REGULATIONS OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND ESTABLISHED UNDER THE 1992 FUND CONVENTION

(as amended by the Assembly at its 9th extraordinary session held during the period 15 –22 March 2005)

#### Regulation 1

##### *Definitions*

- 1.1 The "1992 Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992.
- 1.2 The "1992 Civil Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1992.
- 1.3 The "1992 Fund" means the International Oil Pollution Compensation Fund, 1992, established pursuant to Article 2.1 of the 1992 Fund Convention.
- 1.4 The "1971 Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971.
- 1.5 The "1971 Fund" means the International Oil Pollution Compensation Fund, established pursuant to Article 2.1 of the 1971 Fund Convention.
- 1.6 The "Supplementary Fund Protocol" means the Protocol of 2003 to the 1992 Fund Convention.
- 1.7 The "Supplementary Fund" means the International Oil Pollution Compensation Supplementary Fund, 2003, established pursuant to Article 2.1 of the Supplementary Fund Protocol.
- 1.8 "Member State" means a State for which the 1992 Fund Convention is in force.
- 1.9 "Ship", "Person", "Owner", "Oil", "Pollution Damage", "Preventive Measures", "Incident", "Contributing Oil", "Guarantor" and "Terminal Installation" have the same meaning as in Article 1 of the 1992 Fund Convention.
- 1.10 "Tonne" in relation to oil means a metric ton.
- 1.11 "Assembly" means the Assembly referred to in Article 17 of the 1992 Fund Convention or, where appropriate, a subsidiary body established by the Assembly in accordance with Article 18.9 of the 1992 Fund Convention.
- 1.12 "Director" means the Director referred to in Article 16 of the 1992 Fund Convention.
- 1.13 "Claim" means any application for compensation for pollution damage made to or against an owner, his or her guarantor or the 1992 Fund.
- 1.14 "Claimant" means any person making a claim.
- 1.15 "SDR" means the Special Drawing Right as defined by the International Monetary Fund.

Regulation 2

*Conversion of SDRs*

Where an amount is expressed in SDRs in these Internal Regulations, such an amount shall be converted into Pounds Sterling in accordance with the method of valuation applied by the International Monetary Fund in effect for its operations and transactions at the date applicable under these Internal Regulations.

Regulation 3

*Contributions*

3.1 The fixed sum on the basis of which annual contributions shall be calculated under Article 12.2 of the 1992 Fund Convention shall be determined in Pounds Sterling.

3.2 Annual contributions shall be payable in Pounds Sterling. However, the Director may require a contributor to pay his or her annual contribution or a portion thereof in the national currency of the State within whose territory the relevant quantities of contributing oil were received. In the latter case, conversion from Pounds Sterling to the currency in which payment is to be made shall be at the mid-market rate of exchange applied by the Bank of England on the first day of the month of the invoice.

3.3 For the purposes of calculating the annual contributions, the relevant date for conversion of the figure of 4 million SDRs laid down in Article 12.1(i)(b) and (c) of the 1992 Fund Convention shall be the date of the incident in question.

3.4 In respect of any State for which the 1992 Fund Convention is not in force for the whole of a particular calendar year, the annual contribution to be paid to the General Fund by each person in that State for that year, in accordance with Article 12.2(a) of the 1992 Fund Convention, shall be calculated pro rata for that part of the calendar year for which the Convention is in force for that State.

3.5 The Director shall promptly issue to every person liable to pay contributions under Articles 10, 12 and 14 of the 1992 Fund Convention an invoice in respect of the sums for which he or she is liable. A copy of each invoice shall also be sent to the State within whose territory the relevant quantities of contributing oil were received. An invoice shall state:

- (a) the amount of the contribution due and the currency in which payment shall be made;
- (b) the data on the basis of which the amount of contribution has been calculated;
- (c) the date by which payment is due;
- (d) the bank account to which payment shall be made;
- (e) that interest is payable in respect of overdue annual contributions;
- (f) any other relevant information.

If the payment due is less than 30 SDRs, the amount shall be waived and no invoice shall be issued in respect of the person in question.

3.6 Payment of annual contributions shall be due on 1 March of the year following that in which the Assembly decides on the levy of annual contributions, unless the Assembly decides otherwise.

3.7 If a contributor is in arrears with the payment of an annual contribution, the Director shall notify the State within whose territory the relevant quantities of contributing oil were received and request advice on the action to be taken to ensure that the obligations of that contributor are fulfilled.

3.8 Interest shall be charged on unpaid annual contributions from the date on which payment is due at an annual rate which for each period of twelve months from 1 March shall be 2% higher than the lowest London clearing bank base rate prevailing on 1 March.

3.9 Any credit balance on a contributor's account with the 1992 Fund shall bear interest at the rate of the lowest London clearing bank base rate, taking into account any changes in the London clearing bank base rates.

3.10 Any bank charges which arise in connection with the payment of contributions or of interest on overdue contributions shall be borne by the contributor.

#### Regulation 4

##### *Reports on Contributing Oil Receipts*

4.1 Each Member State shall forward annually to the Director reports on contributing oil receipts, using the form annexed to these Internal Regulations. The reports shall reach the Director not later than 30 April each year. They shall specify the names and addresses of all persons who, in the preceding calendar year, received within the territory of the Member State concerned oil in respect of which contributions are liable to be paid in accordance with Article 10 of the 1992 Fund Convention, together with details of the quantities of contributing oil received by all such persons during that year.

4.2 The reports shall be completed by the contributors concerned, taking into account the explanatory notes attached to the form referred to in Internal Regulation 4.1. The reports shall be signed by a competent officer of the entity which received the oil and by a Government official.

4.3 Each State in respect of which the Convention enters into force after 30 April of any year shall, on or before the date of entry into force of the 1992 Fund Convention for that State, submit a report in the terms stipulated in this Internal Regulation in respect of contributing oil received within its territory during the preceding calendar year.

4.4 If no person in a Member State has received contributing oil in sufficient quantities for a report to be submitted, the State shall notify the Director accordingly.

4.5 The Director shall, not later than 15 January of each year, invite Member States to submit the reports referred to in Internal Regulation 4.1. The Director shall send these States an appropriate number of the forms mentioned in that Regulation.

4.6 The Director shall provide Member States with a list of the States in respect of which the 1992 Fund Convention was in force on 1 January of that year, with an indication of the date on which the 1992 Fund Convention entered into force for any State during the course of the previous year. The Director shall also notify Member States of the date on which the 1992 Fund Convention ceased to be in force for any State during the course of that year.

4.7 The Director shall ascertain whether, as a result of the coming into force of the 1992 Fund Convention for a State during the course of any given year, some quantities of contributing oil have been reported to the 1992 Fund under Internal Regulation 4.1 by more than one State. Where any such double reporting is found, the Director shall amend the reports submitted by the Member States concerned accordingly and inform these States.

4.8 Where amendments are made to the quantities of contributing oil reported in accordance with Internal Regulation 4.1, whether or not as a consequence of action on the part of the Director under Internal Regulation 4.7, the Director shall recalculate the annual contributions for the contributors whose reported quantities have been amended in accordance with Article 12 of the 1992 Fund Convention utilising the amended quantities. If invoices have already been sent to the contributors concerned, corrected invoices shall be issued. Where the contributions have been paid on the basis of the original invoices, any differences between the contributions paid or invoiced and the recalculated contributions shall be taken into account in preparing the invoices for the persons concerned for the next year in respect of which annual contributions are raised. If no contributions are due from that person in the following year, the Director shall inform the contributor of his or her right to reimbursement of the balance on his or her account.

4.9 Where, pursuant to Article 14 of the 1992 Fund Convention, a Member State assumes itself the obligations of any person who is liable to contribute to the 1992 Fund in respect of oil received within the territory of that State, such a State shall, when submitting its reports on contributing oil received, specify therein the names and addresses of the persons in respect of which the State assumes such obligation and the quantities of contributing oil received by such persons.

#### Regulation 5

##### *Filing of Claims*

5.1 A claim presented to the 1992 Fund shall be made in writing, containing the following particulars:

- (a) the name and address of the claimant and of any representative;
- (b) the identity of the ship involved in the incident;
- (c) the date, place and specific details of the incident;
- (d) the type of pollution damage sustained;
- (e) the amount of the compensation claimed.

5.2 The Director shall request any claimant to provide such further information and such documents as he or she deems necessary to determine the admissibility of the claim.

5.3 The Director shall periodically publish a Claims Manual containing information on claims presentation.

#### Regulation 6

##### *Intervention in Legal Proceedings*

6.1 Where the Director considers that the 1992 Fund may be liable to meet claims arising out of a particular incident, he or she shall arrange to have the 1992 Fund intervene as a party in any legal proceedings against the owner or his or her guarantor, if the Director considers that such intervention is required to safeguard the interests of the 1992 Fund. If the Director is satisfied that the interests of the 1992 Fund and those of the owner and/or his or her guarantor are not in conflict, the Director may arrange for the 1992 Fund to join the owner and/or his or her guarantor in any legal proceedings or arbitration.

6.2 The provisions of Internal Regulation 6.1 shall apply to any arbitration concerning claims arising out of an incident, provided that the applicable national law permits intervention by the 1992 Fund.

6.3 Where the 1992 Fund has joined the owner and/or his or her guarantor, the 1992 Fund may share the costs incurred in such proceedings or procedures on a basis agreed between the Director and the owner and/or his or her guarantor, unless a court or arbitration tribunal decides otherwise. In case of dispute, the Director may agree with the other parties concerned to submit to arbitration the question of how the costs should be shared.

6.4 The provisions of Internal Regulations 6.1-6.3 shall also apply *mutatis mutandis* to joint intervention by the 1992 Fund and the Supplementary Fund.

#### Regulation 7

##### *Settlement of Claims*

7.1 The Director shall promptly take all appropriate and necessary measures for dealing with claims.

7.2 The Director shall promptly satisfy any claims for pollution damage under Article 4 of the 1992 Fund Convention which have been established by judgement against the 1992 Fund enforceable under Article 8 of the 1992 Fund Convention.

7.3 The Director may agree with any claimant to submit a claim to binding arbitration. Claims established by such arbitration shall be promptly satisfied by the Director.

7.4 Where the Director is satisfied that the 1992 Fund is liable under the 1992 Fund Convention to pay compensation for pollution damage, he or she may, without the prior approval of the Assembly, make final settlement of any claim, if he or she estimates that the total cost to the 1992 Fund of satisfying all claims arising out of the relevant incident is not likely to exceed 2.5 million SDRs. The Director may in any case make final settlement of claims from individuals and small businesses up to an aggregate amount of 1 million SDRs in respect of any one incident. The relevant date for conversion shall be the date of the incident in question.

7.5 The Assembly may authorise the Director to settle claims in respect of a particular incident beyond the limit established in Regulation 7.4.

7.6 As a condition for making a final settlement of any claim under Internal Regulation 7.4 or 7.5, the Director shall obtain a full and final release in favour of the 1992 Fund from the claimant in respect of the claims in question.

7.7 Subject to Internal Regulation 7.4, where a claim has been submitted to the 1992 Fund and agreement has been reached between the 1992 Fund and the claimant as to the value of the majority of items of the claim, but further investigation is considered necessary with respect to the remaining items, the Director may make payment in respect of the agreed items. Internal Regulation 7.6 applies correspondingly.

7.8 All agreements to submit claims to arbitration under Internal Regulation 7.3 and all claims settled under Internal Regulation 7.4 or 7.5 shall be reported by the Director at the next session of the Assembly.

7.9 Where the Director is satisfied in respect of an incident that the 1992 Fund will be liable under the 1992 Fund Convention to pay compensation to victims of pollution damage arising from the incident, the Director may make provisional payments to such victims. Provisional payments, which shall be at the discretion of the Director, may be made if this is necessary in the Director's view to mitigate undue financial hardship to them. The Director shall endeavour to ensure that no person receiving such payment receives more than 80% of the amount which he or she is likely to receive from the 1992 Fund in the event of claims being abated pro rata. Total payments under this paragraph shall not exceed 6 million SDRs in respect of any one incident. The relevant date for conversion shall be the date of the incident in question.

7.10 Where, in respect of a particular incident, the Director considers the level of provisional payments permitted under Internal Regulation 7.9 is insufficient to mitigate undue financial hardships to victims, the Director may bring the matter to the attention of the Assembly. The Assembly may decide, in respect of such incident, that provisional payments may be made beyond the limit of 6 million SDRs laid down in Internal Regulation 7.9.

7.11 As a condition of making a provisional payment in respect of a claim, the Director shall obtain from the claimant concerned a transfer to the 1992 Fund of any right that such a claimant may enjoy under the 1992 Civil Liability Convention against the owner or his or her guarantor, up to the amount of the provisional payment to be made by the 1992 Fund to that claimant.

7.12 Where a person who is in arrears in respect of any payment due to the 1992 Fund is entitled to receive payment from the 1992 Fund for the satisfaction of a claim, the Director shall, unless this is not permitted under the applicable national law, deduct the amount of the arrears from the amount of the payment to be made to such person by the 1992 Fund.

7.13 The Director may authorise another officer or other officers to make final or partial settlement of claims or to make provisional payments. Such authority shall:

(a) in respect of the Deputy Director and the Head of the Claims Department, be limited to approvals not exceeding £500 000 for a particular claim; and

(b) in respect of other officers:

(i) be given only in respect of claims arising out of a specific incident and only to an officer who is responsible for dealing with claims arising out of that incident; and

(ii) be limited to approvals not exceeding £75 000 for a particular claim.

The conditions and extent of such delegation shall be laid down in Administrative Instructions issued by the Director.

7.14 Any settlements made under Internal Regulation 7.13(a) shall be reported to the Director and those made under Regulation 7.13(b) to the Head of the Claims Department.

### Regulation 8

#### *Assistance to States in Emergency Situations*

8.1 At the request of a Member State the Director shall, to the extent that he or she deems it practicable and reasonable, endeavour to assist that State in obtaining the materials, equipment, services or personnel required for preventing or mitigating pollution damage if the Director is satisfied that the 1992 Fund may be called upon to pay compensation under the 1992 Fund Convention in respect of pollution damage arising from the incident in question.

8.2 The Director shall, as appropriate, assist such a Member State to identify specialist organisations and to enlist their services for these purposes.

### Regulation 9

#### *Extension of Credit Facilities in Respect of Preventive Measures*

9.1 On the application of a Member State which is in imminent danger of substantial pollution damage arising from a particular incident, the Director may, if he or she estimates that the 1992 Fund will be called upon to pay compensation under the 1992 Fund Convention in respect of that incident, provide that State with reasonable credit facilities to enable it to initiate or continue with the taking of adequate preventive measures.

9.2 Subject to conditions specified by the Assembly regarding, *inter alia*, the data and supporting justifications to be provided by a State requesting credit facilities, the Director shall determine whether in the light of all the circumstances of the case the provision of credit facilities by the 1992 Fund in respect of a particular incident is justified.

9.3 An application for credit facilities under this Regulation shall include:

- (a) full particulars of the incident;
- (b) the nature and extent of pollution damage which has already occurred, including preventive measure already taken;
- (c) the preventive measures envisaged as well as the estimated cost thereof.

Particulars in respect of preventive measures taken or envisaged shall be presented in a manner which will enable the Director to determine the measures which can be taken with personnel, material and equipment available locally and which measures should, in the interest of speed and efficiency, involve personnel, material or equipment to be procured from elsewhere.

9.4 Credit facilities provided by the 1992 Fund to a State may be given in the form of:

- (a) a guarantee by the 1992 Fund in respect of an advance to that State from a specified person, whose principal place of business is outside such a State; or
- (b) a guarantee by the 1992 Fund to make payment of the cost of preventive measures in respect of which the State concerned has entered into a contract with a specified person whose principal place of business is outside such a State.

9.5 Credit facilities provided by the 1992 Fund with respect to any one incident may not exceed 60% of the total amount which the Director estimates the 1992 Fund will ultimately be liable to pay in respect of the cost of preventive measures under the Fund Convention in respect of such incident, or 3 million SDRs, whichever is the less. The relevant date for conversion shall be the date of the incident in question.

9.6 All expenses incurred by the 1992 Fund as a consequence of providing credit facilities to a State shall be reimbursable to the 1992 Fund by such a State. The Director shall, in consultation with the State concerned, stipulate the manner in and the time within which such reimbursement shall be made.

9.7 Before providing credit facilities to any State under Article 4.8 of the 1992 Fund Convention, the Director shall require such a State to agree in writing that the expenses incurred by the 1992 Fund in providing such credit facilities, including any amount which the 1992 Fund has paid in consequence of a guarantee referred to in Internal Regulation 9.4, may be deducted from any sums which that State may be entitled to receive from the 1992 Fund for the satisfaction of claims under the 1992 Fund Convention.

#### Regulation 10

##### *Right to Direct Correspondence*

The Director and other members of the Secretariat acting under the Director's instructions may correspond or otherwise communicate directly with any person in the performance of their functions.



Regulation 11

*Designation of Competent Authority*

Any Member State may designate an authority to act on behalf of that State with regard to a particular aspect of the 1992 Fund's activities. Any Member State having made such designation shall notify the Director of that designation.

Regulation 12

*Delegation of authority in the absence of the Director*

The Director may authorise the Deputy Director, the Legal Counsel or the Head of the Claims Department to act on his or her behalf in the fulfilment of the functions set out in Article 29 of the 1992 Fund Convention, and to be the legal representative of the 1992 Fund. The conditions and extent of such delegation shall be laid down in Administrative Instructions issued by the Director. Delegation made in accordance with this Regulation overrides any limitation of the authority of the above-mentioned officers contained elsewhere in these Regulations or in the Financial Regulations.

Regulation 13

The Director may authorise other officers to make commitments on behalf of the 1992 Fund in connection with the procurement of goods and services. The conditions and extent of such delegation, which shall not exceed £50 000, shall be laid down in Administrative Instructions issued by the Director.

Regulation 14

*Amendments*

14.1 These Internal Regulations may be amended by the Assembly.

14.2 Any amendment adopted in accordance with Internal Regulation 14.1 shall enter into force one month after its adoption, unless the Assembly decides, in a particular case, that it shall enter into force immediately or after a period of time other than the aforementioned period.

14.3 Amendments adopted in accordance with Internal Regulation 14.1 shall be communicated by the Director to all Member States.