



## AMENDMENTS TO STAFF REGULATIONS

### Note by the Director

<b>Summary:</b>	If it were decided that the 1992 Fund, the 1971 Fund and the Supplementary Fund should have a joint Secretariat, the Staff Regulations would have to be amended in order to allow the staff of the 1992 Fund Secretariat to act also for the Supplementary Fund.
<b>Action to be taken:</b>	To adopt proposed amendments to the Staff Regulations.

### 1 The issue

- 1.1 At its first session in March 2005, the Supplementary Fund Assembly will be invited to consider a proposal that the Director and Secretariat of the 1992 Fund should also serve as Director and Secretariat of the Supplementary Fund. If the Supplementary Fund Assembly were to adopt this proposal, it would be expected to make a request to this effect to the 1992 Fund Assembly and the 1971 Fund Administrative Council. Should the 1992 Fund Assembly agree to that request, amendments would have to be made to the 1992 Fund's Staff Regulations and Staff Rules to allow the Director and other staff members to act also for the Supplementary Fund.
- 1.2 The Director submits for consideration by the Assembly a proposal for amendments to Staff Regulations 1-7, 9, 12-13, 20, 21, 26 and 27. The text of the Staff Regulations with the proposed amendments highlighted is set out in the Appendix to this document.
- 1.3 The Statute of the Appeals Board, which is set out in Annex II to the Staff Regulations, contains references to the 1971 Fund. The Appeals Board has the authority to settle disputes between staff members or former staff members and the Director concerning certain employment related matters. Since the staff of the Secretariat are employees of the 1992 Fund only, there is, from a formal point of view, no employer-employee relationship between the 1971 Fund and the staff. The references to the 1971 Fund are therefore redundant and it is proposed that they be deleted.
- 1.4 If the Assembly were to adopt these amendments, the Director will issue, under Staff Regulation 31, the necessary amendments to the 1992 Fund Staff Rules, which will be reported to the Assembly at its October 2005 session.

### 2 Action to be taken by the Assembly

The Assembly is invited to consider the amendments to the Staff Regulations of the 1992 Fund proposed by the Director.

## APPENDIX

### Proposed amendments to Staff Regulations of the International Oil Pollution Compensation Fund established under the 1992 Fund Convention

(amendments highlighted)

#### 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 Fund" means the International Oil Pollution Compensation Fund, established pursuant to Article 2.1 of the 1992 Fund Convention.
- 1.3 The "Supplementary Fund Protocol" means the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992.
- 1.4 The "Supplementary Fund" means the International Oil Pollution Compensation Supplementary Fund established under the Protocol of 2003 to the 1992 Fund Convention established pursuant to Article 2.1 of the Supplementary Fund Protocol.
- 1.5 The "1971 Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971<sup><1></sup>.
- 1.6 The "1971 Fund" means the International Oil Pollution Compensation Fund, established pursuant to Article 2.1 of the 1971 Fund Convention.
- 1.7 "Director" means the Director referred to in Article 16 of the 1992 Fund Convention.
- 1.8 "Secretariat" means the Secretariat referred to in Article 16 of the 1992 Fund Convention.
- 1.9 "Assembly" means the Assembly referred to in Article 16 of the 1992 Fund Convention or, where appropriate, the Administrative Council established by the Assembly at its 7th session by 1992 Fund Resolution N°7 or the Executive Committee established by the Assembly at its 2nd session by 1992 Fund Resolution N°5, when the Council or Committee performs functions delegated to it by the Assembly.

#### Regulation 2

##### *Scope and Purpose*

The Staff Regulations embody the fundamental conditions of service and the basic rights, duties and obligations of the Director and other members of the Secretariat of the 1992 Fund. They represent the broad principles of human resources<sup><2></sup> policy for the staffing and administration of the Secretariat.

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<1> Present Regulations 1.3-1.7 renumbered Regulations 1.5-1.9

<2> The expression "human resources" has been substituted for the word "personnel".

## SECTION I

### *Duties and Obligations*

#### Regulation 3

The Director and other members of the Secretariat are international civil servants. Their responsibilities are not national but exclusively international. By accepting appointment, they pledge themselves to discharge their functions and to regulate their conduct with the interests of the 1992 Fund, the Supplementary Fund and the 1971 Fund (hereinafter referred to as "the Funds"), only in view, except as provided for in Regulation 4. In the performance of their duties they shall neither seek nor accept instructions from any government or from any authority external to the Funds, except as provided for in Regulation 4. All members of the Secretariat are subject to the authority of the Director and are responsible to him or her in the exercise of their functions.

#### Regulation 4

The Director and other members of the Secretariat shall act also as Director and Secretariat of the Supplementary Fund and the 1971 Fund and perform duties under the Supplementary Fund Protocol and the 1971 Fund Convention.

#### Regulation 5

Every member of the Secretariat, on taking up his or her duties, shall make and sign the following oath or declaration:

"I solemnly swear (undertake, affirm, promise) to exercise in all loyalty, discretion and conscience the functions entrusted to me as an international civil servant of the 1992 Fund, to discharge those functions and regulate my conduct with the interests of the 1992 Fund, the Supplementary Fund and the 1971 Fund only in view and not to seek or accept instructions in regard to the performance of my duties from any government or other authority external to the 1992 Fund, the Supplementary Fund and the 1971 Fund."

#### Regulation 6

Any privileges and immunities accorded to the 1992 Fund, the Supplementary Fund or the 1971 Fund are conferred in the interests of the respective Funds. No such privileges and immunities shall excuse members of the Secretariat from the performance of their private obligations or from the observance of laws and regulations otherwise applicable to them. Any incident giving rise to controversy on the applicability of any privilege or immunity shall immediately be reported by the member of the Secretariat concerned to the Director, with whom alone it rests to decide whether such privilege or immunity shall be waived. In the case of the Director, the Assembly shall decide whether the privileges and immunities shall be waived.

#### Regulation 7

Members of the Secretariat shall exercise the utmost discretion in regard to all matters of official business. They shall not communicate to any person any information known to them by reason of their official position which has not been made public, except so far as is necessary for their duties or by authorisation of the Director. Nor shall they at any time use such information to private advantage. These obligations do not cease upon separation from the Secretariat<sup><3></sup>.

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<3> The words "of the 1992 Fund" have been deleted; cf Regulation 1.8

### Regulation 8

Members of the Secretariat are not expected to give up their national sentiments or their political or religious convictions, and they may exercise their right to vote. However, they shall avoid any action, and in particular any kind of public pronouncement or political activity, which may adversely reflect on their position as international civil servants, at all times bearing in mind the reserve and tact incumbent upon them by reason of their international status.

### Regulation 9

The whole time of members of the Secretariat shall be at the disposal of the Director and they shall not accept or hold any office or engage in any occupation or activity incompatible with the proper discharge of their duties. In particular, they shall not participate in any manner or have any financial interest in an enterprise whose aims or activities are closely related to those of **the Funds**.

### Regulation 10

No member of the Secretariat shall accept any honour, decoration, favour or gift or remuneration from any government or other source without the Director's prior agreement. Agreement shall be granted only in exceptional cases and provided acceptance is not incompatible with the individual's status as an international civil servant.

## **SECTION II**

### *Appointment, Renewal and Promotion*

### Regulation 11

Within the budgetary and other limits established by the Assembly, the Director shall appoint the members of the Secretariat and such other additional personnel for short-term duties and assignments as may be found necessary. Each member of the Secretariat shall receive a letter of appointment in accordance with the provisions of Annex I to these Regulations, signed by the Director or his or her duly authorised representative.

### Regulation 12

The paramount consideration in the appointment of members of the Secretariat<sup><4></sup> shall be to secure the highest standards of efficiency, competence and integrity. Subject to this requirement, all persons shall be equally eligible for all posts in the Secretariat without distinction as to sex, race, creed or religion.

### Regulation 13

Selection shall normally be made on a competitive basis. Subject to this, recruitment shall be on as wide a geographical basis as possible and with a view to ensuring equitable representation in the Secretariat of nationals of the Member States of the 1992 Fund<sup><5></sup>.

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<4> The words "of the 1992 Fund" have been deleted; cf Regulation 1.8

<5> The words "or of the 1971 Fund" have been deleted, since the 1971 Fund Convention is no longer in force and the 1971 Fund therefore no longer has any Member States.

#### Regulation 14

Members of the Secretariat shall normally be appointed on a fixed-term basis for service of a prescribed duration. Appointments may be renewed but shall not carry any legal entitlements, express or implied, to such renewal. The maximum period of a fixed-term appointment shall be five years.

#### Regulation 15

The Director shall establish appropriate medical standards which persons shall be required to meet before appointment.

### **SECTION III**

#### *Classification of Posts*

#### Regulation 16

Subject to the budgetary provisions made by the Assembly, the Director shall determine appropriate categories and grades for established posts, on the basis of the classification standards approved by the Assembly.

### **SECTION IV**

#### *Salaries and Related Allowances*

#### Regulation 17

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

#### Regulation 18

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.

### **SECTION V**

#### *Leave*

#### Regulation 19

Members of the Secretariat shall be allowed annual leave, sick leave, maternity leave and home leave, and may be allowed special leave with or without pay under the conditions specified in the Staff Rules.

## **SECTION VI**

### *Separation*

#### Regulation 20

The normal age of retirement for members of the Secretariat shall be 62 years<sup><6></sup>. This age limit may be extended in the interest of the Funds in exceptional cases.

#### Regulation 21

- (a) The Director may, giving his or her reasons therefore, terminate the appointment of a staff member before the expiry date of the appointment in any of the following circumstances, namely:
- (i) if the needs of the Funds require abolition of the post or reduction in staff;
  - (ii) if the services of the staff member prove unsatisfactory;
  - (iii) if the staff member is for reasons of health incapacitated for further service;
  - (iv) if the conduct of the staff member does not meet the high standards of integrity and behaviour required under these Regulations or is otherwise unsatisfactory;
  - (v) if facts anterior to the appointment of the staff member and relevant to his or her suitability come to light, which, if they had been known at the time of his or her appointment, should under the standards provided in these Regulations have precluded his or her appointment.
- (b) If a prima facie case for terminating an appointment under this Regulation has been established, the Director may suspend the staff member concerned from duty, with or without pay, during investigation, the suspension being without prejudice to the rights of the individual.

#### Regulation 22

The terms and conditions governing termination under Regulation 21, including provisions for the payment of termination indemnity, shall be specified in the Staff Rules.

#### Regulation 23

Where it is not intended to offer reappointment for a period of at least one year to a member of the Secretariat serving under a fixed-term contract, that staff member shall be entitled to be informed of the intention not to offer reappointment at least six months before the date of expiry of the contract.

#### Regulation 24

Unless otherwise specified in the letter of appointment, thirty days' written notice of resignation shall be given by members of the Secretariat. The Director may, however, accept resignations on shorter notice.

## **SECTION VII**

### *Travel and Removal Expenses*

#### Regulation 25

The 1992 Fund shall pay the travel and related expenses, including removal costs, of members of the Secretariat and their dependants on the terms and conditions specified in the Staff Rules.

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<6> The sentence "However, for staff members appointed to the Secretariat of the 1971 Fund before 1 January 1990, the normal age of retirement shall be 60 years" has been deleted.

## **SECTION VIII**

### *Social Security*

#### Regulation 26

- (a) The Director shall establish a scheme of social security for staff members, including provisions for health protection, sick leave and maternity leave, and compensation in the event of illness, accident or death attributable to the performance of official duties on behalf of the **Funds**.
- (b) The Director shall establish and operate a Provident Fund to which both the 1992 Fund and staff members shall contribute on such terms and conditions as may be approved by the Assembly.

## **SECTION IX**

### *Staff Relations*

#### Regulation 27

Members of the Secretariat shall be entitled to make proposals to the Director regarding **human resources**<sup><7></sup> policies and general questions of staff welfare.

## **SECTION X**

### *Disciplinary Measures*

#### Regulation 28

The Director may impose disciplinary measures on members of the Secretariat whose conduct is unsatisfactory. He or she may summarily dismiss a staff member for serious misconduct.

## **SECTION XI**

### *Appeals*

#### Regulation 29

- (a) A staff member, former staff member or rightful claimants to his or her estate may request the Director on the grounds of non-observance of these Staff Regulations, the Staff Rules or the conditions of employment, to withdraw or amend an individual decision applicable to him or her.
- (b) The request shall be made in writing within thirty days of the date of notification of the decision in question, or within ninety days in the case of a request by rightful claimants to an estate.
- (c) If the Director declines a request or takes no decision thereon within thirty days of receipt of the application, the applicant may lodge an appeal with the Appeals Board of the 1992 Fund which is hereby established for this purpose. The Statute of the Board is set out in Annex II to these Regulations.
- (d) The execution of a disputed decision of the Director shall not be suspended pending the consideration of a request or appeal.

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<7> The expression "human resources" has been substituted for the word "personnel".

## **SECTION XII**

### *General Provisions*

#### Regulation 30

These Regulations may be supplemented or amended by the Assembly, without prejudice to the acquired rights of members of the Secretariat.

#### Regulation 31

The Director shall issue Staff Rules necessary to implement these Regulations and shall report such Rules and any amendments thereto to the Assembly.

#### Regulation 32

Staff Members who on 15 May 1998 were employed by the 1971 Fund and who were transferred to the 1992 Fund Secretariat will receive treatment no less favourable, as regards the terms and conditions of their service, as a result of the change of legal personality of their employer.

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## **Annex I to the Staff Regulations**

(Staff Regulation 11)

### *Letter of Appointment*

- (a) The letter of appointment referred to in Staff Regulation 11 shall state:
- (i) that the appointment is subject to the provisions of the Staff Regulations and of the Staff Rules applicable to the category of appointment in question, and to changes which may be duly made in such Regulations and Rules from time to time;
  - (ii) the nature of the appointment;
  - (iii) the date at which the staff member is required to enter upon his or her duties;
  - (iv) the period of appointment, the notice required to terminate it and the period of probation, if any;
  - (v) the category, level, commencing rate of salary and, if increments are allowable, the scale of increments and the maximum attainable;
  - (vi) any special conditions which may be applicable.
- (b) A copy of the Staff Regulations and of the Staff Rules shall be transmitted to the staff member with the letter of appointment. In accepting appointment staff members shall state that they have been made acquainted with and accept the conditions laid down in the Staff Regulations and in the Staff Rules.

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## **Annex II to the Staff Regulations**

(Staff Regulation 29)

### *Statute of the Appeals Board of the International Oil Pollution Compensation Fund 1992*

#### **I Jurisdiction of the Board**

- (a) The Appeals Board established under Staff Regulation 29 shall have authority to settle disputes between staff members, former staff members or the rightful claimants to their estates and the Director concerning individual decisions applying to persons in the former categories, who base their case on non-observance of the Staff Regulations, the Staff Rules or the conditions of employment including the contract or letter of appointment.
- (b) Any dispute as to the competence of the Board shall be decided by the Board itself.

#### **II Composition of the Board**

- (a) The Appeals Board shall consist of three nationals of different Member States to be appointed by the Assembly. Three substitute members from three other Member States shall also be appointed.
- (b) The members and the substitute members may be named individuals or the holders for the time being of any senior government office and residing in or near London. They shall not be members of the <sup><1></sup> Secretariat. At least one member and one substitute member shall have legal qualifications.

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<1> The words "the 1992 Fund" have been deleted.

- (c) The members and the substitute members shall be appointed for a term of two years and may be reappointed. In the event of the death or resignation of a member or substitute member, the Assembly shall appoint a replacement for the unexpired portion of his/her term. Pending such appointment the member or substitute member shall be replaced by his/her successor in office.
- (d) The members of the Board shall be completely independent in the discharge of their duties. They shall not receive any instructions.
- (e) The Board shall designate from among its members a Chairman. The Chairman shall have legal qualifications.
- (f) The Board shall not be validly constituted unless three members or substitute members, one of whom shall have legal qualifications, is present. If the Chairman is unavailable for a particular hearing, another member shall be chosen to act as Chairman for that hearing.

### III Procedure

- (a) The Appeals Board shall adopt its own rules of procedure including provisions for fixing time limits on the lodgement of appeals and setting these dates for examining appeals.
- (b) The Board may decide on the appeal without holding a hearing. However, a hearing shall be held if so decided by the Chairman or at the request of the appellant or the Director. When a hearing is held, the Board shall decide whether all or part of the proceedings shall be held in public or in private.
- (c) The Director and the appellant may attend the hearing and make oral statements in support of the arguments put forward in written memoranda. They may be assisted or represented for this purpose by persons of their choice.
- (d) The Board is entitled to have before it any document it may consider useful for the consideration of an appeal. Any document communicated to the Board shall also be communicated to the Director and to the appellant.
- (e) The Board shall hear any witnesses whose evidence it considers may be useful in the proceedings. The Board may require any official of the 1992 Fund<sup><2></sup> to appear before it as a witness.
- (f) The members of the Board shall deliberate in private.
- (g) Where the Board allows an appeal, it shall annul or vary the disputed decision. It may also order the 1992 Fund<sup><2></sup> to pay the appellant compensation for damage sustained as a result of any non-observance of the Staff Regulations, the Staff Rules or the contract or conditions of employment.
- (h) In determining the amount of compensation to be paid to the appellant, the Board may take into account considerations put forward by the Director that the execution of the award might cause internal difficulties for the 1992 Fund<sup><2></sup>.
- (i) In cases where it has allowed an appeal, the Board may decide that the 1992 Fund<sup><7></sup> shall reimburse justified expenses incurred by the appellant. The Board may also decide that the 1992 Fund<sup><2></sup> shall reimburse travel and subsistence expenses incurred by witnesses. In taking such decisions, the Board shall take into account the nature of the dispute and the amount of money involved.
- (j) The Appeals Board shall reach its decisions by majority vote. Reasons shall be given for decisions.

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<sup><2></sup> The words "or the 1971 Fund" have been deleted.

- (k) No appeal lies from decisions of the Board.
  - (l) The Director shall make the necessary administrative arrangements for the functioning of the Appeals Board.
  - (m) The Chairman shall appoint a Secretary to the Board. In the discharge of his or her duties, the Secretary shall be responsible only to the Board.
  - (n) Travel expenses incurred by members of the Board and expenses incurred by the Secretary shall be refunded by the 1992 Fund<sup><3></sup>.
  - (o) Any compensation awarded by the Board and expenses payable by the 1992 Fund<sup><4></sup> shall be borne by the budget of the 1992 Fund<sup><3></sup>.
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<3> The words "or the 1971 Fund, as appropriate" have been deleted.  
<4> The words "or the 1971 Fund" have been deleted.