



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUNDS

Agenda item: 7	IOPC/APR16/7/2/Rev.1<1>	
Original: ENGLISH	31 March 2016	
1992 Fund Assembly	92AES20	•
1992 Fund Executive Committee	92EC66	
Supplementary Fund Assembly	SA12	•

AMENDMENTS TO INTERNAL REGULATIONS

DUE DATE OF CONTRIBUTIONS AS A RESULT OF LATE RECEIPT OF OIL REPORTS

Note by the Secretariat

Summary:	Internal Regulation 3.6 of both the 1992 Fund and the Supplementary Fund sets out the due date for payment of annual contributions decided by the respective Assembly. However, there are instances where oil reports are not submitted in time to be included in the invoice run relating to the levy. In such cases, invoices based on late oil reports are given a later due date for payment. The Director proposes that Internal Regulation 3.6 should be strengthened to cover the due date for payment of invoices based on late oil reports.
Action to be taken:	<u>1992 Fund Assembly and Supplementary Fund Assembly</u> Approve for the respective Fund a new Internal Regulation 3.6bis, as set out in paragraph 2.3 below.

1 Introduction

1.1 Internal Regulation 3.5 of the 1992 Fund and Supplementary Fund provides:

‘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.’

1.2 Internal Regulations 3.6 of the 1992 Fund and Supplementary Fund provides:

‘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.’

- 1.3 The due date for payment of contributions, as set out under Internal Regulation 3.6 of both Funds, is applicable to the vast majority of invoices sent out to contributors. However, there are instances where oil reports are submitted late and therefore invoices are raised with a later due date.

2 Proposed revision to Internal Regulations with respect to due date for invoices based on late submission of oil reports

- 2.1 When an oil report is received late the current practice is that an invoice is raised with a due date of two months from the date of the invoice, i.e. the contributor is in effect given two months to make payment of the contributions. The due date on the invoice is therefore likely to be different than 1 March.
- 2.2 However, a problem has occurred when an oil report for a contributor was submitted late by a Member State, the invoice was consequently issued with a later due date for payment, but the contributor refused to pay. In the legal proceedings to recover the outstanding contributions, the contributor argued that the due date should be calculated from the date when the Assembly had decided the original levy and not the due date set out in the invoice. He argued that the levy of contributions had become time-barred under its national law. The final court judgment is still pending.
- 2.3 The Director therefore proposes that the Internal Regulations should be strengthened to cover instances where oil reports are submitted late and the subsequent invoice has a later due date. The text of the proposed new Internal Regulation is set out below:

3.6bis Notwithstanding the due date prescribed in Internal Regulation 3.6, in instances where an invoice is issued at a later date than the invoices issued as per Internal Regulation 3.5, the due date for such an invoice shall be two months from the date it was issued.

3 Action to be taken

3.1 1992 Fund Assembly

The 1992 Fund Assembly is invited to approve the new Internal Regulation 3.6*bis* for the 1992 Fund, as set out in paragraph 2.3 above.

3.2 Supplementary Fund Assembly

The Supplementary Fund Assembly is invited to note the decision of the 1992 Fund Assembly in respect of Internal Regulation 3.6*bis* for the 1992 Fund and approve the corresponding new Internal Regulation 3.6*bis* for the Supplementary Fund, as set out in paragraph 2.3 above.
