

 <b>INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS</b>	<b>Agenda item: 8</b>	IOPC/JUL11/8/1	
	Original: ENGLISH	7 July 2011	
	1992 Fund Administrative Council	<b>92AC9/92AES16</b>	•
	1992 Fund Executive Committee	<b>92EC52</b>	•
1992 Fund Working Group	<b>92WG6/3</b>	•	

## RECORD OF DECISIONS OF THE JULY 2011 SESSIONS OF THE IOPC FUNDS' GOVERNING BODIES

(held from 5 to 7 July 2011)

<b>Governing Body (session)</b>		<b>Chairman</b>	<b>Vice Chairmen</b>
<b>1992 Fund</b>	Administrative Council <b>(92AC9/92AES16)</b>	Mr Jerry Rysanek (Canada)	Professor Tomotaka Fujita (Japan) Mr Mohammed Said Oualid (Morocco)
	Executive Committee <b>(92EC52)</b>	Ms Welmoed van der Velde (Netherlands)	Mr Alan Lim Chun Shien (Singapore)
	Working Group <b>(92WGR6/3)</b>	Mr Volker Schöfisch (Germany)	

## CONTENTS

	<b>Page</b>
<b>Opening of the sessions</b>	<b>3</b>
<b>1 Procedural matters</b>	<b>4</b>
1.1 Adoption of the Agenda	4
1.2 Examination of credentials: Establishment of Credentials Committee	4
1.2 Examination of credentials: Report of the Credentials Committee	4
<b>2 Overview</b>	<b>5</b>
2.1 Report of the Acting Director	5
<b>3 Incidents involving the IOPC Funds</b>	<b>7</b>
3.1 Incidents involving the IOPC Funds – 1992 Fund: <i>Erika</i>	7
3.2 Incidents involving the IOPC Funds – 1992 Fund: <i>Hebei Spirit</i>	8
<b>4 Secretariat matters</b>	<b>10</b>
4.1 Director of the IOPC Funds	10
<b>5 Treaty matters</b>	<b>11</b>
5.1 HNS Convention and HNS Protocol	11
<b>6 Other matters</b>	<b>14</b>
6.1 Any other business	14
<b>7 1992 Fund sixth intersessional Working Group – third meeting</b>	<b>14</b>
<b>8 Adoption of the Record of Decisions</b>	<b>14</b>
<b>ANNEXES</b>	
<b>Annex I</b>	List of Member States, non-Member States represented as observers, intergovernmental organisations and international non-governmental organisations
<b>Annex II</b>	Circular 92FUND/Circ.45 – Nomination of candidates for the position of Director of the International Oil Pollution Compensation Funds, 29 March 2005

*Opening of the sessions***1992 Fund Assembly**

- 0.1 The Chairman of the 1992 Fund Assembly attempted to open the 16th extraordinary session of the Assembly at 09.30 and 09.45 on Tuesday 5 July 2011, but the Assembly failed to achieve a quorum on both occasions.
- 0.2 Only the following 40 Member States of the 1992 Fund were present at that time, whereas a quorum required 53 States to be present:

Australia	Ghana	Philippines
Bahamas	Greece	Poland
Belgium	Grenada	Republic of Korea
Belize	Italy	Saint Kitts and Nevis
Cameroon	Japan	Sierra Leone
Canada	Liberia	Singapore
China <sup>&lt;1&gt;</sup>	Malaysia	Spain
Colombia	Malta	Sweden
Cyprus	Marshall Islands	Tonga
Denmark	Morocco	Trinidad and Tobago
Fiji	Netherlands	Turkey
France	Norway	United Kingdom
Gabon	Panama	
Germany	Papua New Guinea	

- 0.3 It was recalled that, at its 7th session, the 1992 Fund Assembly had adopted 1992 Fund Resolution N°7 whereby, whenever the Assembly failed to achieve a quorum, the Administrative Council established under Resolution N°7 should assume the functions of the Assembly, on the condition that, if the Assembly were to achieve a quorum at a later session, it would resume its functions.
- 0.4 In view of the fact that no quorum was achieved in the 1992 Fund Assembly, the Chairman of the 1992 Fund Assembly concluded that, in accordance with Resolution N°7, the items of the Assembly's agenda would therefore be dealt with by the 9th session of the 1992 Fund Administrative Council, acting on behalf of the 16th extraordinary session of the 1992 Fund Assembly<sup><2></sup>.
- 0.5 It was recalled that, at its 1st session in May 2003, the 1992 Fund Administrative Council had decided that the Chairman of the 1992 Fund Assembly should *ex officio* be the Chairman of the Administrative Council (document 92FUND/AC.1/A/ES.7/7, paragraph 2).
- 0.6 The Chairman opened the 9th session of the 1992 Fund Administrative Council.

**1992 Fund Executive Committee**

- 0.7 The Chairman opened the 52nd session of the 1992 Fund Executive Committee.

**1992 Fund 6th intersessional Working Group**

- 0.8 See section 7.

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<sup><1></sup> The 1992 Fund Convention applies to the Hong Kong Special Administrative Region only.

<sup><2></sup> From this point forward, references to the '9th session of the 1992 Fund Administrative Council' should be taken to read '9th session of the 1992 Fund Administrative Council, acting on behalf of the 16th extraordinary session of the 1992 Fund Assembly'.

**1 Procedural matters**

1.1	<b>Adoption of the agenda</b> <b>Document IOPC/JUL11/1/1</b>	<b>92AC</b>	<b>92EC</b>	
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The 1992 Fund Administrative Council and the 1992 Fund Executive Committee adopted the agenda as contained in document IOPC/JUL11/1/1.

1.2	<b>Examination of Credentials: Establishment of Credentials Committee</b> <b>Document IOPC/JUL11/1/2</b>	<b>92AC</b>	<b>92EC</b>	
	<b>Examination of Credentials: Report of the Credentials Committee</b> <b>Document IOPC/JUL11/1/2/1</b>	<b>92AC</b>	<b>92EC</b>	

1.2.1 The governing bodies recalled that, at its March 2005 session, the 1992 Fund Assembly had decided to establish, at each session, a Credentials Committee composed of five members elected by the Assembly on the proposal of the Chairman, to examine the credentials of delegations of Member States. It was also recalled that the Credentials Committee established by the 1992 Fund Assembly should also examine the credentials in respect of the 1992 Fund Executive Committee, provided the session of the Executive Committee was held in conjunction with a session of the Assembly.

1.2.2 The Member States present at the sessions are listed in Annex I, as are the non-Member States, intergovernmental organisations and international non-governmental organisations which were represented as observers.

***1992 Fund Administrative Council Decision***

1.2.3 In accordance with Rule 10 of its Rules of Procedure, the 1992 Fund Administrative Council appointed the delegations of Cameroon, Malaysia, Norway, Panama and Turkey as members of the Credentials Committee.

***1992 Fund Executive Committee***

1.2.4 The 1992 Fund Executive Committee took note of the appointment of the Credentials Committee by the 1992 Fund Administrative Council.

***Debate***

1.2.5 After having examined the credentials of the delegations of the 1992 Fund Member States, the Credentials Committee reported in document IOPC/JUL11/1/2/1 that that the credentials received from 46 Member States were in order but that no credentials had yet been received in respect of Cameroon and that credentials had been submitted but were not yet in order in respect of Fiji and Tonga. The Credentials Committee reported that it expected that this would be rectified by the delegations of Cameroon, Fiji and Tonga shortly after the session<sup><3></sup>.

1.2.6 The governing bodies expressed their sincere gratitude to the members of the Credentials Committee for their work during the July 2011 sessions.

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<sup><3></sup> Note by the Secretariat: This had not been rectified in respect of Fiji or Tonga when the final version of this Record of Decisions was issued.

## 2 Overview

2.1	<b>Report of the Acting Director</b>	<b>92AC</b>		
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- 2.1.1 The Acting Director, Mr José Maura, gave an oral report on the activities of the IOPC Funds since the March 2011 sessions of the governing bodies. He took the opportunity to express his sincere gratitude to the Government of Morocco for having hosted the very successful March 2011 sessions of the IOPC Funds' governing bodies in Marrakech.
- 2.1.2 With respect to staff matters, Mr Maura said that he was sure that Member States would be very pleased to see the Director, Mr Willem Oosterveen, back on the podium. Mr Maura also reported that, since the March sessions, Ms Katrin Park had joined the Secretariat as External Relations Officer. He further reported that Mrs Constanze Rimensberger had resigned as Information Officer. Recruitment to that position had very recently taken place and Mr Maura was pleased to report that Mrs Victoria Turner, formerly External Relations and Conference Coordinator, had been appointed to the post as of 1 July.
- 2.1.3 Mr Maura also reported that over recent months the need for an additional Spanish Translation Administrator and an Administrative Assistant in the External Relations and Conference Department had been experienced and two temporary staff had been covering this work. The governing bodies noted that the situation had now been formalised and accordingly two new General Service posts had been created and recruitment was underway. The governing bodies also noted that recruitment to the post of French Translation Administrator (which already existed and had been covered on a temporary basis) was also underway.
- 2.1.4 With respect to compensation issues, Mr Maura reported that discussions in respect of a global settlement with Total, Registro Italiano Navale (RINA), Steamship Mutual (representing the shipowner's interests) and the 1992 Fund in relation to the *Erika* incident, which had been discussed at the March 2011 session of the 1992 Fund Executive Committee, had continued since March and would be discussed in a closed session of the Executive Committee.
- 2.1.5 With respect to the *Hebei Spirit* incident, Mr Maura reported that an update would be provided to the 1992 Fund Executive Committee.
- 2.1.6 With respect to the IOPC Funds' joint Audit Body, Mr Maura reported that a second circular had been sent out calling for additional nominations to fill the two vacant positions on the Audit Body and that the deadline for receipt of nominations was 30 July 2011. The governing bodies noted that, to date, no nominations had been received.
- 2.1.7 With respect to the HNS Convention, Mr Maura reported that an international consultative meeting of States interested in ratifying the 2010 HNS Protocol had taken place in Rotterdam (Netherlands) on 14 and 15 June, in order to agree a way forward that would ensure the rapid entry into force of the Protocol as well as a guarantee of equitable contributions to the system once in place. The governing bodies noted that the Funds' Legal Counsel and Head of External Relations and Conference Department had participated in that meeting.
- 2.1.8 With respect to external relations, Mr Maura reported that the second informal regional lunch meeting for London-based delegates in 2011 had taken place in June and had been for the Eastern Asia and the Pacific region. It was noted that the lunch had been well attended and the next lunch meeting was planned for September 2011.
- 2.1.9 Mr Maura informed the governing bodies that, as a result of the lunch meeting for Latin America and the Caribbean region which had been held in February this year, the Secretariat had been asked by the Saint Kitts and Nevis International Ship Registry to provide a day's training for the Registry's Legal Assistant, Ms Merida Cable, who would be returning to her country to take up a position with the Ministry of Tourism and International Affairs. As a result of the visit, Ms Cable was able to arrange

for her country's missing oil reports for the period 2005 to 2010 to be provided by the Ministry of International Transport. Mr Maura said that this highlighted the importance of one-to-one contact with delegates and the usefulness of the lunch meetings.

- 2.1.10 Mr Maura reported that, since the March sessions of the governing bodies, the Secretariat had continued its external relations activities. In April, at the kind invitation of the Maritime and Port Authority of Singapore, he had attended the International Chemical and Oil Pollution Conference in Singapore where he had presented an update on the activities of the IOPC Funds. He also reported that in May he had attended the Wrecks of the World II Conference, the theme of which was Evaluating and Addressing Potential Underwater Threats, and had participated in the panel session on financial issues for potentially-polluting wrecks.
- 2.1.11 Mr Maura also reported that, together with the Head of External Relations and Conference Department, he had participated in a two-day workshop for European Union Member States, Norway and Iceland on liability and compensation for maritime claims with a focus on HNS, organised by the European Maritime Safety Administration (EMSA) in Lisbon. In addition, the Funds' Technical Adviser and one of the Claims Managers had attended the International Oil Spill Conference in Portland, Oregon (USA) where many useful contacts were made. Mr Maura further reported that since March, visits to the Funds' Secretariat had been made by students from the Erasmus School of Law, Rotterdam, and from the International Maritime Law Institute in Malta.
- 2.1.12 With respect to the online oil reporting system, Mr Maura reported that it was in the process of being improved following an analysis of the first trial. The governing bodies noted that the improved system would be ready for testing by the trial Member States in September and that a report on the system would be provided to the governing bodies in October 2011.
- 2.1.13 The governing bodies noted that it was anticipated that the new Document Services website would be available in English in August in order for delegates to prepare for the October 2011 meetings. They also noted that the French and Spanish sites would be ready in early 2012 and that in the meantime French and Spanish documents would be available via the English website.
- 2.1.14 Mr Maura recalled that the Director had developed a proposal for an internship programme which had been discussed by the 1992 Fund Administrative Council, acting on behalf of the 1992 Fund Assembly, at its October 2010 session. The Administrative Council had decided to endorse the Director's suggestion regarding the content and format of a pilot programme and had decided that a maximum of ten candidates should participate in the pilot scheme. Mr Maura reported that the Secretariat was therefore preparing a one-week pilot internship programme in English to be held in London from 21-25 November 2011. The pilot programme would give ten candidates, nominated from within Member States, the opportunity to participate in the programme and to assess the internship modules, after which participation in the programme might be opened to a wider audience. The governing bodies noted that a circular calling for nominations from governments of 1992 Fund Member States for participation in the internship programme would be issued to Member States shortly. Mr Maura pointed out that, with regard to funding arrangements, interns must be self-funded or supported by their nominating government so as to avoid any budgetary implications for the 1992 Fund and that the deadline for the receipt of nominations was Friday 26 August 2011. He said that it was anticipated that a selection decision would be made by mid-September.
- 2.1.15 Finally, Mr Maura took the opportunity to express his appreciation to Member States, organisations and experts for their continuing support and co-operation, specifically the IMO Secretariat, as well as to all members of the Funds' Secretariat for their hard work and assistance which, he said, was essential to the smooth running of the IOPC Funds.

### 3 **Incidents involving the IOPC Funds**

3.1	<b>Incidents involving the IOPC Funds – 1992 Fund: <i>Erika</i> Document IOPC/JUL11/3/1</b>		<b>92EC</b>
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- 3.1.1 The 1992 Fund Executive Committee took note of the information contained in document IOPC/JUL11/3/1 regarding the *Erika* incident.

*Criminal proceedings*

- 3.1.2 The 1992 Fund Executive Committee recalled that in a judgement delivered in March 2010 the Court of Appeal in Paris had confirmed the judgement of the Criminal Court of First Instance who had held the following parties criminally liable for the offence of causing pollution: the representative of the shipowner (Tevere Shipping), the President of the management company (Panship Management and Services Srl), the classification society (RINA) and Total SA. It was also recalled that the Court of Appeal had held that Total SA could benefit from the channelling provisions in the 1992 Civil Liability Convention (1992 CLC) and was therefore exempt of civil liability. It was recalled, however, that the Court of Appeal had confirmed the civil liability imposed on the other three parties. It was further recalled that the Court of Appeal had assessed the total damages at the amount of €203.8 million.
- 3.1.3 The Executive Committee recalled that the four parties and a number of claimants had appealed against the judgement to the French Supreme Court (Court of Cassation). It was noted that the Court of Cassation was expected to deliver its judgement in November 2011.

*Possible global settlement*

- 3.1.4 The 1992 Fund Executive Committee noted that the total amount available to pay compensation for this incident under the 1992 Civil Liability and Fund Conventions was €84 763 149, that payments of compensation had been made for a total of €29.7 million, out of which Steamship Mutual had paid €2.8 million (ie the liability limit for the shipowner under the 1992 CLC) and the 1992 Fund had paid €16.9 million, and that therefore there now remained some €55 million available for compensation.
- 3.1.5 The Executive Committee also noted that the amount the 1992 Fund would have to pay if the 1992 Fund were to lose all the legal actions brought against it would be €19.9 million.
- 3.1.6 It was recalled that, in accordance with the decision by Total to 'stand last in the queue' after the French Government, and since Total had already paid the losses suffered by the French Government, the amount left after having paid all other victims in these legal proceedings would have to be paid by the 1992 Fund to Total.
- 3.1.7 It was also recalled that there had been discussions between the 1992 Fund, the Steamship Mutual P&I Club, RINA and Total on a proposal for a possible global settlement. At the March 2011 session the 1992 Fund Executive Committee had authorised the Acting Director to continue exploring the possibility of a global settlement and had instructed him to return to a future meeting of the Executive Committee with a proposal.

*Debate (closed session)*

- 3.1.8 The 1992 Fund Executive Committee took note of the terms of a possible global settlement between the 1992 Fund, Steamship Mutual, RINA and Total, as explained by the Acting Director during a meeting held in private, in which only 1992 Fund Member States and members of the Secretariat were present.

**1992 Fund Executive Committee Decision**

- 3.1.9 The 1992 Fund Executive Committee authorised the Acting Director to reach a global settlement between the 1992 Fund, Steamship Mutual, RINA and Total on the terms described in the meeting held in private and instructed him to report to the Executive Committee once the settlement had been formalised.

3.2	<b>Incidents involving the IOPC Funds – 1992 Fund: <i>Hebei Spirit</i> Document IOPC/JUL11/3/2</b>		<b>92EC</b>	
	<b>Incidents involving the IOPC Funds – 1992 Fund: <i>Hebei Spirit</i> – Submitted by the Republic of Korea Document IOPC/JUL11/3/2/1</b>		<b>92EC</b>	

- 3.2.1 The 1992 Fund Executive Committee took note of the information contained in document IOPC/JUL11/3/2, submitted by the Director and document IOPC/JUL11/3/2/1, submitted by the Republic of Korea regarding the *Hebei Spirit* incident.

**DOCUMENT IOPC/JUL11/3/2, SUBMITTED BY THE DIRECTOR***Claims situation*

- 3.2.2 The 1992 Fund Executive Committee noted that as at 5 July 2011, 28 585 claims totalling KRW 2 579 billion had been registered, including 278 group claims, totalling 127 814 claims altogether representing 103 560 individual claimants. It further noted that 15 026 claims had been assessed at a total of KRW 148.7 billion, out of which 12 045 claims had been rejected. It was further noted that the shipowner's insurer, Assuranceforeningen Skuld (Gjensidig) (Skuld Club) had made payments to 2 227 claimants totalling KRW 131 billion, and that the remaining claims were being assessed or additional information was being requested from the claimants.

*Legal proceedings against the 1992 Fund*

- 3.2.3 The Executive Committee noted that legal proceedings against the 1992 Fund had been commenced by one clean-up company, one boat owner, a group of individual fishermen and the former owner of an aquaculture farm. It was noted that in one of the cases the Court had decided to stay the proceedings until the limitation proceedings were completed. It was noted that the 1992 Fund's Korean lawyers were following these cases.

*Limitation proceedings by the owner of the Hebei Spirit*

- 3.2.4 It was recalled that in February 2009, the Limitation Court had rendered an order for the commencement of limitation proceedings by the owner of the *Hebei Spirit*. It was noted that 127 118 claims totalling KRW 3 932 billion had been submitted to the limitation proceedings and that the Limitation Court had appointed a court administrator to deal with the claims.
- 3.2.5 The Executive Committee noted that in February 2011 the Limitation Court had appointed a court expert to assess the claims received by the Court and that the next hearing had been scheduled for November 2011.

*Recourse action*

- 3.2.6 It was recalled that in January 2009, the owner and insurer of the *Hebei Spirit* and the 1992 Fund had commenced recourse actions against Samsung C&T and Samsung Heavy Industries (SHI), the owner and operator/bareboat charterer of the two towing tugs, the anchor boat and the crane barge, in the Ningbo Maritime Court in the People's Republic of China, combined with an attachment of SHI's shares in two shipyards in China as security.



- 3.2.7 It was noted that both Samsung C&T and SHI had filed applications objecting to the jurisdiction of the Ningbo Maritime Court and, in the case of SHI, objecting to the attachment. The 1992 Fund Executive Committee took note that in September 2010 the Ningbo Maritime Court had rejected the objections of Samsung C&T and SHI to its jurisdiction in both recourse actions. It further noted that Samsung C&T and SHI had appealed against the decision.
- 3.2.8 The 1992 Fund Executive Committee noted that in February 2011, the Court of Appeal had held that the Ningbo Maritime Court was a '*forum non-conveniens*' and that a Korean court would be the appropriate jurisdiction to consider the case.
- 3.2.9 The Executive Committee noted that in March 2011, the 1992 Fund had lodged an application for a retrial with the Supreme Court in Beijing. The Executive Committee further noted that the Supreme Court had agreed to hear the applications and that it had ordered an adjournment of any application to set aside the attachment order pending the hearing of the application for a retrial.
- 3.2.10 The Executive Committee noted that the Supreme Court had recently suggested that the parties should participate in a mediation to explore a possible settlement of their dispute and that this mediation would take place in late July 2011.

*Level of payments*

- 3.2.11 The 1992 Fund Executive Committee recalled that in March 2011 it had authorised the Director to increase the level of payments to 100% of the established claims, subject to the following safeguards being in place before the 1992 Fund commenced making payments:
- an undertaking by the Korean Government to pay all established claims in full, in excess of the limits of the 1992 Civil Liability and Fund Conventions;
  - an undertaking by the Korean Government to hold the 1992 Fund harmless in case a Korean court were to render a judgement ordering the 1992 Fund to pay compensation in excess of the 1992 Fund's limit; and
  - a bank guarantee in the amount of KRW 130 billion to be provided by the Korean Government and issued by a bank which satisfied the long-term credit rating criteria established by the Funds' Investment Guidelines.
- 3.2.12 The 1992 Fund Executive Committee also recalled that it had decided that a bank guarantee issued by Standard Chartered First Bank of Korea would be acceptable to the 1992 Fund since it satisfied the long-term credit rating criteria established by the Funds' Investment Guidelines, whereas a bank guarantee issued by Suhyup Bank would not be acceptable.
- 3.2.13 The 1992 Fund Executive Committee further recalled that it had decided that the amount of the guarantee would be reviewed annually by the Executive Committee. The 1992 Fund Executive Committee had further decided that, if these safeguards were not put in place satisfactorily, the level of payments should be maintained at 35% of the established losses and that it should be reviewed at its next session.
- 3.2.14 The Executive Committee noted that no progress had been made on this matter.

DOCUMENT IOPC/JUL11/3/2/1, SUBMITTED BY THE REPUBLIC OF KOREA

- 3.2.15 The 1992 Fund Executive Committee took note of document IOPC/JUL11/3/2/1, submitted by the Republic of Korea, which summarised the assessment progress made by the 1992 Fund since the beginning of the incident.
- 3.2.16 The Executive Committee noted that the Korean delegation had expressed its gratitude to the Secretariat for the efforts made to assess claims as promptly as possible. However, it also noted that

the Korean delegation had expressed concern at the perceived delays in assessing claims and requested the 1992 Fund Secretariat to continue its efforts to accelerate, where possible, the assessment of claims.

- 3.2.17 The 1992 Fund Executive Committee further noted that the Korean Government, referring to the decision of the Limitation Court to hold its next hearing in November 2011, had requested the Secretariat to do its utmost to ensure that the majority of assessments of claims would be completed by the end of 2011.

#### **4 Secretariat matters**

4.1	<b>Director of the IOPC Funds Document IOPC/JUL11/4/1</b>	<b>92AC</b>		
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- 4.1.1 The 1992 Fund Administrative Council held a meeting in private pursuant to Rule 12 of the 1992 Fund Assembly's Rules of Procedure to consider this item. During the private meeting, covered by paragraphs 4.1.2 to 4.1.3 below, only representatives of Member States of the 1992 Fund were present.

- 4.1.2 The 1992 Fund Administrative Council noted the information contained in document IOPC/JUL11/4/1 submitted by the Chairman of the 1992 Fund Assembly.

- 4.1.3 The Administrative Council had an extensive debate on the various issues arising from that document and all delegations who spoke wished Mr Oosterveen further progress in his recovery in the hope that he would be able to continue to serve the IOPC Funds after his current contract expired on 31 October 2011. The Administrative Council took the view, however, that it would be prudent to have a contingency plan in advance of the October 2011 meetings and thus invited Mr Oosterveen to advise the governing bodies by 1 September 2011, through the Chairman of the 1992 Fund Assembly, whether or not he would seek a renewal of his appointment for another term of five years.

#### ***1992 Fund Administrative Council Decision***

- 4.1.4 The 1992 Fund Administrative Council decided on the following two possible courses of action:

##### *Plan A*

If the response from Mr Oosterveen was positive, ie that he would seek a renewal of his appointment, the 1992 Fund Assembly would consider it at its regular session in October 2011, pursuant to 1992 Fund Assembly Resolution N<sup>o</sup>9. The Administrative Council recognised that the burden of his decision should not be placed on Mr Oosterveen alone and that he should obtain a medical certificate of fitness to help him in that decision.

##### *Plan B*

If Mr Oosterveen's response was negative, ie that he would not seek a renewal of his appointment, the Secretariat would be authorised to issue, on 2 September 2011, a circular to 1992 Fund Member States to communicate Mr Oosterveen's decision and to invite nominations of candidates for the position of Director by 15 September 2011, subject to criteria similar to those approved by the 1992 Fund Assembly for the election of the Director in 2005 (cf Circular 92FUND/Circ.45, as set out in Annex II to this document).

- 4.1.5 Following translation of all nominations received into the Funds' three official languages, the Secretariat would be requested to circulate such nominations to all Member States by 22 September 2011, thus providing a period of four weeks for Member States to consider the nominations prior to the election of the new Director at the regular session of the 1992 Fund Assembly during the week of 24-28 October 2011.

- 4.1.6 Being mindful of the extraordinary nature of the present situation and its desire to avoid similar situations in the future, the 1992 Fund Administrative Council also decided to review, for the future, the governance provisions of the 1992 Fund that had a bearing on the present situation, most notably Resolution N°9 and the new template for the Director's contract which had been approved by the governing bodies at their March 2011 sessions.

## 5 Treaty matters

5.1	<b>HNS Convention and HNS Protocol Documents IOPC/JUL11/5/1 and IOPC/JUL11/5/1/Corr.1</b>	<b>92AC</b>		
	<b>HNS Convention and HNS Protocol – Progress Report – Submitted by the Netherlands Document IOPC/JUL11/5/1/1</b>	<b>92AC</b>		

### DOCUMENTS IOPC/JUL11/5/1 AND IOPC/JUL11/5/1/CORR.1, SUBMITTED BY THE DIRECTOR

- 5.1.1 The 1992 Fund Administrative Council took note of the information contained in documents IOPC/JUL11/5/1 and IOPC/JUL11/5/1/Corr.1, submitted by the Director, in respect of the progress made since the International Conference in April 2010, which adopted the Protocol of 2010 to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (2010 HNS Protocol).
- 5.1.2 It was recalled that, in accordance with Resolution 1 adopted by the International Conference, the 1992 Fund Administrative Council had, at its session in October 2010, instructed the Director, *inter alia*, to carry out, in addition to the tasks under the 1992 Fund Convention, the administrative tasks necessary for setting up the HNS Fund; to give all necessary assistance for setting up the HNS Fund; and to make the necessary preparations for the first session of the Assembly of the HNS Fund (document IOPC/OCT/10/11/1, paragraph 8.4.15).
- 5.1.3 It was recalled that the list of administrative tasks to be undertaken by the 1992 Fund Secretariat in connection with the setting up of the HNS Fund and the progress made so far in that regard had been reported at the March 2011 session of the 1992 Fund Administrative Council (documents IOPC/OCT10/8/4 and IOPC/MAR11/6/2).
- 5.1.4 In order for further progress to be made, it was recalled that, as agreed at the March 2011 session, a number of steps had to be taken first, in cooperation with IMO, to provide States with all the instruments and support required to be able to ratify the 2010 HNS Protocol (document IOPC/JUL11/5/1, paragraph 2.2). The 1992 Fund Administrative Council noted the progress made by the IOPC Funds and IMO Secretariats in that respect since March 2011, as set out in section 3 of document IOPC/JUL11/5/1.
- 5.1.5 The 1992 Fund Administrative Council noted in particular that, at its last session, the IMO Legal Committee had approved the consolidated text of the HNS Convention, 1996, as amended by the 2010 HNS Protocol (2010 HNS Convention) as well as the revised Overview, taking into account the substantive changes introduced by the 2010 HNS Protocol. It was noted that in addition, the Legal Committee had approved the Contributing Cargo Reporting Form which had been developed by the 1992 Fund Secretariat to facilitate reporting and had been designed to assist in the ratification/accession process, in accordance with Article 20 of the 2010 HNS Protocol (see document IOPC/JUL11/5/1/Corr.1, Annex).
- 5.1.6 With regard to the list of HNS substances to be covered by the 2010 HNS Protocol, it was noted that in addition to the circular issued by the IMO Secretariat in January 2011 containing the list of substances mentioned in both the IMSBC Code and the IMDG Code (1996), the 1992 Fund Secretariat had made available online a digitised version of the IMDG Code in effect in 1996, making it electronically accessible and hence navigable. It was further noted that, in order to find the most efficient method for making a searchable online consolidated list, the decision had been made, in

cooperation with IMO, to contract a software consulting company to consolidate the different lists, with the technical advice of an independent consultant and ongoing assistance from IMO. It was noted that this list would be made available in October 2011.

- 5.1.7 It was further noted that in addition to the consolidation of the HNS lists, the Secretariat was working on the development of a HNS calculator as an essential tool to access the list. It was recalled that this was in line with the decision from the March 2011 meetings of the IOPC Funds' governing bodies, when it was agreed that the HNS Convention Contributing Cargo Calculator (HNS CCCC) would be overhauled in order to update the HNS data and to reflect the changes introduced by the 2010 HNS Protocol. It was explained that the new HNS Calculator had two objectives. Firstly, to enable the receiver of HNS to determine whether or not a substance is contributing cargo, to which account it belongs, and to determine the quantity received for reporting purpose accordingly. Secondly, to expand the scope of the Calculator to include packaged HNS goods in order to assist the identification of substances qualified for compensation following an incident. It was noted that a demonstration system for the first element of the Calculator would be available for consideration by the 1992 Fund Assembly at its meeting in October 2011.
- 5.1.8 The Secretariat also reported on recent activities in which it had taken part in relation to the HNS Convention, namely a training seminar organised by EMSA in May 2011 and a special consultative meeting hosted by the Netherlands in June 2011, for which a report was provided in document IOPC/JUL11/5/1/1.
- 5.1.9 Finally, delegations were informed that all documents mentioned in the Secretariat's report were available on the IMO website ([www.imo.org](http://www.imo.org)) as well as on the revamped HNS website administered by the IOPC Funds ([www.hnsconvention.org](http://www.hnsconvention.org)).

#### DOCUMENT IOPC/JUL11/5/1/1, SUBMITTED BY THE NETHERLANDS

- 5.1.10 The 1992 Fund Administrative Council also took note of document IOPC/JUL11/5/1/1, submitted by the delegation of the Netherlands. In that document, it was reported that, further to a suggestion at the IMO Legal Committee in April 2011, the delegation of the Netherlands had convened and chaired a special consultative meeting of interested 1992 Fund Member States in Rotterdam on 14 and 15 June 2011 in order to agree a way forward that would ensure the HNS Protocol's early entry into force. It was noted that delegations of nine Member States and members of the IOPC Funds' Secretariat had attended the meeting. During the introduction of document IOPC/JUL11/5/1/1, the following points were highlighted:
- The delegations from the Rotterdam meeting had noted the deadline of 31 October 2011 to sign the 2010 HNS Protocol and agreed that States considering ratification should sign the Protocol before the deadline. If States were unable to make the deadline, they should at least clarify their position at the October 2011 sessions of the IOPC Funds governing bodies. The delegations also agreed that the decisions of the 2003 Ottawa meeting had to be reconfirmed in view of the implementation of the 2010 HNS Convention. There was agreement with the conclusion of the Ottawa meeting on the definition of the 'receiver', and the delegations supported the suggestion that the relationship between the physical and the principal receiver needed to be well defined to ensure proper reporting.
  - The political issue of deciding the HNS Fund Secretariat's location had been discussed and it had been agreed in Rotterdam that the IMO Legal Committee should consider this issue. The delegations at Rotterdam also agreed that special attention should be paid to the decision taken by the 1992 Fund Administrative Council at its October 2010 session on the matter of the joint Secretariat with the IOPC Funds.
  - The delegations present in Rotterdam had noted the need for developing a Memorandum of Understanding with organisations and experts involved in HNS incidents and acknowledged that this was related to the IOPC Funds Secretariat's work under the 2010 International Conference on the revision of the HNS Convention Resolution N<sup>o</sup>1.

- The delegations at the Rotterdam meeting had concluded that the application of insurance and insurance certificates with respect to terrorism had been solved in practice. They had noted that the revision or review of IMO Guidelines on Shipowners' Responsibilities in Respect of Maritime Claims was no longer necessary.
- The delegations at the Rotterdam meeting had fully endorsed the Ottawa conclusions on transshipment and had agreed that the first session of the HNS Fund Assembly needed to decide on the qualification of transshipment. They also noted that following the 2010 HNS Protocol, the issue of transshipment would only be relevant with respect to bulk HNS.

5.1.11 The delegation of the Netherlands indicated that the efforts to implement the Convention could be finalised during 2012 and 2013 with positive cooperation among States.

*Debate*

5.1.12 The observer delegation of IMO thanked the 1992 Fund Secretariat for the support provided on HNS matters and the excellent cooperation between the two Organisations in their efforts to facilitate the ratification process for States wishing to ratify the Protocol. Delegations were reminded of the fact that the deadline for signing the 2010 HNS Protocol was on 31 October 2011 and that so far, only Denmark had signed it.

5.1.13 One delegation sought clarification as to why the IMO Legal Committee would be involved in the decision regarding the location of the HNS Fund Secretariat since the HNS Fund Assembly would ultimately make that decision at its first session. The delegation of the Netherlands confirmed that this was the case but pointed out that the conclusion from the 2003 Ottawa meeting had been that such endorsement would provide a reasonable degree of certainty that would allow for progress to be made towards the setting up of the HNS Fund. One delegation stated that, taking into account that the Rotterdam meeting was a consultative meeting in which only nine States had taken part, it was of the view that the decisions taken during that meeting could only be noted. That delegation also stated that any decision which would have an impact on the HNS Convention and the HNS Fund must be reached by the States Parties to the Convention and be in accordance with the relevant provisions of the Convention.

5.1.14 The observer delegation of the International Group of P&I Clubs expressed concern at the suggestion in paragraph 3.6 of document IOPC/JUL11/5/1/1 that the issue in respect of insurance certificates in relation to terrorism had been solved in practice. In that delegation's view, whilst this issue had indeed been solved in respect of the Civil Liability and Bunkers Conventions, it had not yet been solved in respect of the 2010 HNS Protocol. The delegation of the Netherlands clarified that the text in the report was the reflection of the proceedings in Rotterdam only and was not intended to be misleading.

5.1.15 The observer delegation of the International Group of P&I Clubs drew the Administrative Council's attention to paragraph 3.18 of document IOPC/JUL11/5/1/1, which stated that the International Group of P&I Clubs was collecting data in respect of HNS incidents. That delegation pointed out that it no longer recorded such data since it had done so only to assist the 2010 International Conference which adopted the 2010 HNS Protocol.

5.1.16 The delegation of Malaysia expressed its support for both documents submitted and informed the Administrative Council that ratification of the 2010 HNS Protocol was included in their legislative programme for 2011-2015, including its implementation into national legislation and the establishment of a reporting system. As such it urged the Secretariat to make the HNS Calculator available as soon as possible as it would greatly assist in that process.

5.1.17 The Chairman expressed, on behalf of the 1992 Fund Administrative Council, its appreciation to the IOPC Funds and IMO Secretariats as well to the delegation of Netherlands for all their efforts towards making progress on the implementation of the 2010 HNS Protocol. The Administrative Council noted the conclusions of the Rotterdam meeting and, in summing up the discussions, the Chairman pointed

out that some delegations were pleased to endorse them, particularly in respect of paragraphs 3.2 and 4.2 of document IOPC/JUL11/5/1/1. In addition, the Chairman suggested that the Administrative Council reflect further on the points raised during the debate, in particular in connection with the insurance certificate issue. Furthermore, he noted that the 1992 Fund Administrative Council, as well as the observer delegation of IMO, were satisfied with the suggestion that the Director of the IOPC Funds should submit a document to the next IMO Legal Committee regarding the issue of the joint Secretariat.

## **6 Other matters**

6.1

<b>Any other business</b>	<b>92AC</b>	<b>92EC</b>	
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The governing bodies noted that the IOPC Funds' Secretariat would be making changes to the registration procedure for participation in sessions of the Funds' governing bodies to avoid some confusion as to whom registration forms and credentials should be sent. The governing bodies noted that, as of the October 2011 sessions, registration and the receipt of credentials (or notifications as appropriate) would be handled by the IOPC Funds' Secretariat only and not jointly with IMO. Instructions would be provided in the Agenda circular as to the exact procedure to follow. The governing bodies also noted that the registration form would henceforth be available on-line via the Funds' Document Services website. The Secretariat drew the attention of the governing bodies to the fact that Permanent/Deputy/Alternate Representatives to IMO should also register with the Funds' Secretariat for participation in Funds' meetings.

## **7 1992 Fund sixth intersessional Working Group – third meeting**

7.1

<b>Report of the third meeting of the 1992 Fund sixth intersessional Working Group Document IOPC/JUL11/7/8</b>			<b>92WGR6</b>
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The 1992 Fund sixth intersessional Working Group held its third meeting on 6 July 2011. It was noted that, in keeping with past practice, the Report of that meeting would be prepared by the Acting Director, in consultation with the Working Group's Chairman, and issued at a later date. The Report will be considered by the 1992 Fund Assembly at its next regular session.

## **8 Adoption of the Records of Decisions**

The draft Record of Decisions of the July 2011 sessions of the IOPC Funds' governing bodies as contained in documents IOPC/JUL11/8/WP.1 and IOPC/JUL11/8/WP.1/1 was adopted, subject to certain amendments.

\* \* \*

## ANNEX I

1.1 Member States

	1992 Fund Assembly	1992 Fund Executive Committee
Angola	•	
Australia	•	
Bahamas	•	•
Belgium	•	
Belize	•	
Bulgaria	•	
Cameroon	•	•
Canada	•	
China <sup>&lt;4&gt;</sup>	•	
Colombia	•	
Cyprus	•	
Denmark	•	
Ecuador	•	
Fiji	•	
France	•	
Gabon	•	
Germany	•	•
Ghana	•	
Greece	•	•
Grenada	•	
Islamic Republic of Iran	•	
Italy	•	•
Japan	•	•
Liberia	•	
Malaysia	•	•
Malta	•	
Marshall Islands	•	
Mexico	•	•
Morocco	•	•
Netherlands	•	•
Nigeria	•	•
Norway	•	•
Panama	•	
Papua New Guinea	•	
Philippines	•	
Poland	•	
Republic of Korea	•	•
Saint Kitts and Nevis	•	
Sierra Leone	•	
Singapore	•	•
Spain	•	

&lt;4&gt;

The 1992 Fund Convention applies to the Hong Kong Special Administrative Region only.

Sri Lanka	•	
Sweden	•	
Tonga	•	
Trinidad and Tobago	•	
Turkey	•	•
United Kingdom	•	
Uruguay	•	
Venezuela (Bolivarian Republic of)	•	

1.2 Non-Member States represented as observers

	1992 Fund
Guatemala	•
Saudi Arabia	•
Thailand	•
Ukraine	•

1.3 Intergovernmental organisations

	1992 Fund
International Maritime Organization (IMO)	•

1.4 International non-governmental organisations

	1992 Fund
Comité Maritime International (CMI)	•
International Association of Classification Societies Ltd (IACS)	•
International Association of Independent Tanker Owners (INTERTANKO)	•
International Chamber of Shipping (ICS)	•
International Group of P&I Clubs	•
International Tanker Owners Pollution Federation Ltd (ITOPF)	•
International Union of Marine Insurance (IUMI)	•

\* \* \*



## ANNEX II



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1992

92FUND/Circ.45  
29 March 2005

To: Member States of the International Oil Pollution Compensation Fund 1992

Subject: **Nomination of candidates for the position of Director of the International Oil Pollution Compensation Funds**

As a result of the expiry of the contract of the current Director of the International Oil Pollution Compensation Funds (IOPC Funds) <sup><1></sup>, Mr Måns Jacobsson, on 31 December 2006, the post of Director will become vacant.

The 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.

Pursuant to the decision of the Assembly of the International Oil Pollution Compensation Fund 1992 (1992 Fund) at its 9th session in October 2004, the Assembly will at its 10th session in October 2005 appoint a new Director. At its 9th extraordinary session held in March 2005, the Assembly decided that in order to ensure a smooth transition from the present Director to his successor, the present Director should retain responsibility for the Organisations up to 31 October 2006, the newly-elected Director should join the Secretariat on 1 September 2006 and take over responsibility for the Organisations on 1 November 2006 and the present Director would continue to be available up to 31 December 2006.

It should be noted that the Director of the 1992 Fund is *ex officio* Director of the International Oil Pollution Compensation Fund 1971 and of the International Oil Pollution Compensation Supplementary Fund.

The Director has been instructed by the 1992 Fund Assembly to make the necessary preparations for the entry into force of the 1996 International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention), the preparations to be based on the assumption that the present IOPC Funds Secretariat will administer also the Fund which will be established under the HNS Convention.

Nominations of candidates for the position of Director are invited from 1992 Fund Member States and must be received by the IOPC Funds Secretariat by 30 June 2005. The Director will circulate to Member States, without delay, any candidatures received by that deadline. The Assembly has decided that candidatures received by the IOPC Funds Secretariat after that date will not be considered for the appointment of Director and such candidatures will not be circulated.

The relevant provisions of the 1992 Fund Convention and details on the responsibilities of the Director as well as desirable experience, skills and competences of the candidates are set out in the Annex.

States nominating a candidate should validate the candidate's experience, skills and competences against those set out in the Annex by indicating to what extent the candidate fulfils these attributes.

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<sup><1></sup> The International Oil Pollution Compensation Fund 1971 (1971 Fund), the International Oil Pollution Compensation Fund 1992 (1992 Fund) and the International Oil Pollution Compensation Supplementary Fund (Supplementary Fund)

Depending on the number of candidates, the Assembly may wish to invite candidates to make a short oral presentation of approximately 10 minutes' duration in support of his/her candidature at the Assembly's October 2005 session.

**States which will be Members of the 1992 Fund at the opening of the  
10th session of the 1992 Fund Assembly on 17 October 2005**

Algeria	Georgia	Panama
Angola	Germany	Papua New Guinea
Antigua and Barbuda	Ghana	Philippines
Argentina	Greece	Poland
Australia	Grenada	Portugal
Bahamas	Guinea	Qatar
Bahrain	Iceland	Republic of Korea
Barbados	India	Russian Federation
Belgium	Ireland	Saint Lucia
Belize	Italy	Saint Vincent and the Grenadines
Brunei Darussalam	Jamaica	Samoa
Cambodia	Japan	Seychelles
Cameroon	Kenya	Sierra Leone
Canada	Latvia	Singapore
Cape Verde	Liberia	Slovenia
China (Hong Kong Special Administrative Region)	Lithuania	South Africa
Colombia	Madagascar	Spain
Comoros	Malaysia	Sri Lanka
Congo	Malta	Sweden
Croatia	Marshall Islands	Tonga
Cyprus	Mauritius	Trinidad and Tobago
Denmark	Mexico	Tunisia
Djibouti	Monaco	Turkey
Dominica	Morocco	Tuvalu
Dominican Republic	Mozambique	United Arab Emirates
Estonia	Namibia	United Kingdom
Fiji	Netherlands	United Republic of Tanzania
Finland	New Zealand	Uruguay
France	Nigeria	Vanuatu
Gabon	Norway	Venezuela
	Oman	

\* \* \*

## ANNEX

### JOB SPECIFICATION FOR POST OF DIRECTOR

#### OVERVIEW

There are three Fund Organisations, the International Oil Pollution Compensation Fund 1971 (1971 Fund) established under the 1971 Fund Convention, the International Oil Pollution Compensation Fund 1992 (1992 Fund) established under the 1992 Fund Convention and the International Oil Pollution Compensation Supplementary Fund (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.

Annex, Page 1

## **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 senior 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 and other related Conventions;
- experience in handling complex legal issues relevant to the work of the Funds 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 intergovernmental meetings;
- experience in dealing with the media;
- excellent oral and written communication skills including ability to draft complex documents.

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;
  - diplomacy;
  - sensitivity to political issues related to the work of the Funds;
  - excellent decision-making skills;
  - flexibility and openness to change;
  - excellent inter-personal skills;
  - organisational and management skills;
  - ability to set priorities;
  - ability to delegate and to motivate staff and others who work on behalf of the Funds;
  - attention to detail;
  - fluency in one of the official languages of the Funds (English, French and Spanish) and a good working knowledge of one of the other two official languages, bearing in mind the working environment of the Secretariat and related organisations.
-