



**INTERNATIONAL
OIL POLLUTION
COMPENSATION
SUPPLEMENTARY
FUND**

ASSEMBLY
1st session
Agenda item 40

SUPPFUND/A.1/39/2
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RECORD OF DECISIONS OF THE FIRST SESSION OF THE ASSEMBLY

INTERNAL REGULATIONS

At its 1st session held in March 2005, the Assembly adopted Internal Regulations of the Supplementary Fund. It also instructed the Director to make the necessary adjustments so as to render the text gender neutral. The Internal Regulations as adopted (including these adjustments) are contained in the Annex.

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ANNEX

INTERNAL REGULATIONS OF THE INTERNATIONAL OIL POLLUTION COMPENSATION SUPPLEMENTARY FUND ESTABLISHED UNDER THE 2003 SUPPLEMENTARY FUND PROTOCOL

(as adopted by the Assembly at its 1st session held from 14 - 22 March 2005)

Regulation 1

Definitions

- 1.1 The "1992 Fund Convention" means the International Convention on the Establishment of an International Fund 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 Supplementary Fund Protocol 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 16.1 of the Supplementary Fund Protocol or, where appropriate, a subsidiary body established by the Assembly in accordance with Article 16.2 of the Supplementary Fund Protocol in conjunction with Article 18.9 of the 1992 Fund Convention.
- 1.12 "Director" means the Director referred to in Article 16.1 of the Supplementary Fund Protocol.
- 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.
- 1.16 "Established claim" has the same meaning as in Article 1.8 of the Supplementary Fund Protocol.

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 11.2 of the Supplementary Fund Protocol 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 In respect of any State for which the Supplementary Fund Protocol 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 11.2(a) of the Supplementary Fund Protocol, shall be calculated pro rata for that part of the calendar year for which the Protocol is in force for that State.
- 3.4 During the period when the provisions of Article 18 of the Supplementary Fund Protocol are applicable, the calculations pursuant to those provisions shall be made in a manner determined by the Assembly.
- 3.5 The Director shall promptly issue to every person liable to pay contributions under Articles 10, 11, 12.2 and 14.2 of the Supplementary Fund Protocol 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 Supplementary 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.
<p><u>Regulation 4</u></p> <p><i>Reports on Contributing Oil Receipts</i></p>	
4.1	Since, under Article 13.1 of the Supplementary Fund Protocol, reports on contributing oil receipts made to the 1992 Fund under the 1992 Fund Convention shall be deemed to have been made also under the Protocol, special reports, using the form annexed to these Internal Regulations, in respect of the Supplementary Fund shall be forwarded to the Director only in respect of contributing oil received in a Member State by means of transport other than by sea which has previously been received by sea in another State Member of the 1992 Fund but not Member of the Supplementary Fund. Such reports shall specify the names and addresses of all persons who, in the preceding calendar year, received within the territory of the Member State concerned such oil in respect of which contributions are liable to be paid in accordance with Article 10 of the Supplementary Fund Protocol together with details of the quantities of contributing oil received by all such persons during that year.
4.2	The special 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 Supplementary Fund Protocol enters into force after 30 April of any year shall, on or before the date of entry into force of the Protocol for that State, submit a special 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 special 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 special 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 Supplementary Fund Protocol was in force on 1 January of that year, with an indication of the date on which the Protocol 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 Protocol 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 Supplementary Fund Protocol for a State during the course of any given year, some quantities of contributing oil have been reported to the Supplementary 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 11 of the Supplementary Fund Protocol 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 12.2 of the Supplementary Fund Protocol in conjunction with Article 14 of the 1992 Fund Convention, a Member State assumes itself the obligations of any person who is liable to contribute to the Supplementary 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.
4.10	As regards Member States in which the aggregate quantity of contributing oil reported as received in any calendar year is less than 1 million tonnes, the quantity of contributing oil in respect of which a Member State is under obligation to pay contributions pursuant to Article 14.2 of the Supplementary Fund Protocol shall be determined by the Director as the difference between 1 million tonnes and the reported aggregate quantity of contributing oil received in that State. The Director shall inform the State concerned of the result of this calculation.
<p><u>[Regulation 5]</u></p> <p>[Regulation 5 of the 1992 Fund's Internal Regulations deals with the filing of claims. No corresponding provisions are required in the Supplementary Fund's Internal Regulations. In order to obtain the same numbering in the two sets of Internal Regulations, the Supplementary Fund's Internal Regulations do not contain any Regulation 5.]</p>	

Regulation 6

Intervention in Legal Proceedings

- 6.1 Where the Director considers that the Supplementary Fund may be liable to meet claims arising out of a particular incident, he or she shall arrange to have the Supplementary 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 Supplementary Fund. If the Director is satisfied that the interests of the Supplementary Fund and those of the owner and/or his or her guarantor are not in conflict, the Director may arrange for the Supplementary 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 Supplementary Fund.
- 6.3 Where the Supplementary Fund has joined the owner and/or his or her guarantor, the Supplementary 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 established claims to the extent that they are not paid under the 1992 Civil Liability Convention and 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 As a condition for satisfying any claim under Internal Regulation 7.2 the Director shall obtain a full and final release in favour of the Supplementary Fund from the claimant in respect of the claims in question.
- 7.5 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 to the extent that these items are not paid under the 1992 Civil Liability Convention and the 1992 Fund Convention. Internal Regulation 7.4 applies correspondingly.
- 7.6 All agreements to submit claims to arbitration under Internal Regulation 7.3 and all claims satisfied by the Supplementary Fund under Internal Regulation 7.2 shall be reported by the Director at the next session of the Assembly.

7.7	If in the Director's view the Supplementary Fund should make provisional payments in order to mitigate financial hardship to victims, the Director shall refer the matter to the Assembly for decision.
7.8	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 Supplementary 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 Supplementary Fund to that claimant.
7.9	Where a person who is in arrears in respect of any payment due to the Supplementary Fund is entitled to receive payment from the Supplementary 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 Supplementary Fund.
7.10	<p>The Director may authorise another officer or other officers to make final or partial payment of claims or to make provisional payments. Such authority shall:</p> <ul style="list-style-type: none"> (a) in respect of the Deputy Director and the Head of the Claims Department, be limited to payments not exceeding £500 000 for a particular claim; and (b) in respect of other officers: <ul style="list-style-type: none"> (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 payments not exceeding £75 000 for a particular claim. <p>The conditions and extent of such delegation shall be laid down in Administrative Instructions issued by the Director.</p>
7.11	Any settlements made under Internal Regulation 7.10(a) shall be reported to the Director and those made under Regulation 7.10(b) to the Head of the Claims Department.
<u>Regulation 8</u>	
<i>Denying compensation due to non-submission of oil reports</i>	
8.1	<p>A Member State shall be considered as having failed to comply with its obligations in respect of reports on contributing oil receipts as set out in Internal Regulation 4 of the 1992 Fund and Internal Regulation 4 of the Supplementary Fund, and compensation in respect of claims arising from a particular incident shall therefore be denied temporarily under Article 15.2 of the Supplementary Fund Protocol, if for a given year prior to the occurrence of that incident:</p> <ul style="list-style-type: none"> (i) the Director has <u>neither</u> been notified by that State that no person is liable to contribute to the Supplementary Fund in respect of that State <u>nor</u> received any oil reports for that year; (ii) the Director has not received all oil reports or has received incomplete reports in respect of that State; or (iii) there are deficiencies in respect of one or more reports which would prevent the Supplementary Fund from issuing invoices in respect of those contributors.
8.2	When the Director becomes aware that an incident might give rise to payments of compensation by the Supplementary Fund, in addition to the normal procedures for checking whether States have submitted their oil reports, the Director shall promptly assess the situation as regards the affected State's oil reports for all years prior to the occurrence of the incident.

8.3	If a Member State has not, in the Director's view, fulfilled its obligation to submit oil reports or if there is uncertainty as to whether its obligation has been complied with, the Director shall notify the State in question, by registered letter to its diplomatic representative accredited to the Government of the United Kingdom of Great Britain and Northern Ireland, inviting the State to take the necessary steps to resolve the issues set out in the notification. If the State in question does not have such a diplomatic representative, the notification shall be sent to the Minister of Foreign Affairs of that State by courier.
8.4	If the situation has not been resolved to the Director's satisfaction within a period of three months from the notification referred to in Internal Regulation 8.3, the Director shall notify that State accordingly and refer the matter to the Assembly for its consideration at a session to be held within three months of the date of this second notification.
8.5	At the session referred to in Internal Regulation 8.4 the Assembly will decide whether or not the State has fulfilled its obligation to submit reports. In the event that the Assembly decides that the State has failed to comply with its obligations, the Director shall notify the State in writing of the Assembly's decision, drawing the State's attention to the provision of Article 15.3 of the Supplementary Fund Protocol, under which compensation will be permanently denied if the State has not complied with its obligations to submit oil reports within one year of this notification.
8.6	If, six months after the date of the Director's notification of the Assembly's decision, the State has still not fulfilled its obligation to submit reports, the Director shall remind the State in writing of the need to fulfil these obligations in order to avoid compensation being permanently denied after the one-year period has expired.
8.7	If, nine months after the date of the Director's notification of the Assembly's decision, the State has still not fulfilled its obligation to submit reports, the Director shall remind the State again in writing of the need to fulfil these obligations in order to avoid compensation being permanently denied after the one-year period has expired.
8.8	If, after the expiry of the one-year period referred to in Internal Regulation 8.5, the State has not, in the Director's view, fulfilled its obligation to submit oil reports, the Director shall refer the matter to the Assembly to decide, at a session to be held within three months after the expiry of that period, whether compensation should be permanently denied in respect of that State under Article 15.3 of the Supplementary Fund Protocol.
8.9	The Director shall keep the Executive Committee of the 1992 Fund informed of the steps taken in accordance with Internal Regulations 8.2-8.8 so that in the event that the Supplementary Fund Assembly were to decide that compensation should be denied either temporarily or permanently, the Executive Committee can decide whether the 1992 Fund should pro-rate compensation payments in order to ensure that Article 4.5 of the 1992 Fund Convention will be respected.
<p><u>[Regulation 9]</u></p> <p>[Regulation 9 of the 1992 Fund's Internal Regulations deals with the extension of credit facilities in respect of preventive measures. No corresponding provisions are required in the Supplementary Fund's Internal Regulations. In order to obtain the same numbering in the two sets of Internal Regulations, the Supplementary Fund's Internal Regulations do not contain any Regulation 9.]</p>	

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 Supplementary 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 16.2 of the Supplementary Fund Protocol in conjunction with Article 29 of the 1992 Fund Convention, and to be the legal representative of the Supplementary 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 Supplementary 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.