



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUNDS

Agenda item: 4	IOPC/APR12/4/1	
Original: ENGLISH	27 March 2012	
1992 Fund Assembly	92AES17	•
1992 Fund Executive Committee	92EC55	
1971 Fund Administrative Council	71AC28	
1992 Fund Working Group 6	92WG6/4	
1992 Fund Working Group 7	92WG7/1	

CONTINGENCY ARRANGEMENTS FOR THE DIRECTOR AND SENIOR SECRETARIAT PERSONNEL

Note by the Director

Summary:	<p>At their October 2011 sessions, the governing bodies discussed contingency arrangements for the Director and senior Secretariat personnel, and in particular the appointment of a Deputy Director. The Director had requested time to consider this issue and to report back to the Assembly at some future date, putting forward solutions and setting out his proposals on this issue. This document contains the Director's proposals in respect of the appointment of a Deputy Director and other contingency arrangements for the consideration of the 1992 Fund Assembly.</p>
Action to be taken:	<p><u>1992 Fund Assembly</u></p> <ul style="list-style-type: none">(a) Note the Director's intention to appoint of Mr Ranjit Pillai as Deputy Director/Head of Finance and Administration Department;(b) Decide whether the position of Deputy Director should be D2, as recommended by the Director;(c) Note that in the event that the Director is unable to assume his functions, the Deputy Director/Head of Finance and Administration Department, the Legal Counsel, the Head of the Claims Department/Technical Adviser or the Head of the External Relations and Conference Department, in that order, will act on the Director's behalf;(d) Decide whether, in the event that none of the said members of the Secretariat are available to assume the functions of Director, the Chairman of the 1992 Fund Assembly shall appoint a member of the Secretariat to carry out this function until the next regular or extraordinary session of the Assembly or until any of the said senior members of the Secretariat has been able to resume their responsibilities;(e) Approve an amendment to Internal Regulation 12 to reflect paragraphs (c) and (d) above accordingly (see Annex);(f) Note that the Director will amend Administrative Instruction N°2 accordingly;(g) Note that the Director appointed Mr Matthew Sommerville as Head of the Claims Department as of 8 March 2012 and that Mr Sommerville will combine this role with that of Technical Adviser, the post he previously held;(h) Note that Mr Thomas Liebert, Head of the External Relations and Conference Department, will assume the full grade of the post at D1; and(i) Note that these changes will take effect as of 1 May 2012 (except for the appointment of Mr Sommerville which took effect on 8 March 2012).

1 Introduction

- 1.1 At their October 2011 sessions, the governing bodies recalled that at the October 2010 sessions, following the unexpected situation which resulted from the Director being unable to fulfil his role, the Audit Body had been instructed to consider succession planning within the Secretariat and to formulate recommendations for consideration by the 1992 Fund Assembly at a future regular session.
- 1.2 The governing bodies further noted that the Audit Body had, in its document IOPC/OCT11/7/1/3, considered contingency arrangements to ensure that, at any given time, Member States, the Secretariat and other stakeholders would know who acted as the IOPC Funds' legal representative and Chief Administrative Officer and also to ensure that the function of Director continued effectively.
- 1.3 The governing bodies also noted that the Audit Body had also reviewed both contingency and succession planning arrangements for the other senior members of the Secretariat and had also taken into account the likelihood that contingency arrangements should be designed to accommodate the entry into force of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 as revised by the Protocol of 2010 to the Convention (2010 HNS Convention) in the future.
- 1.4 In October 2011, the governing bodies discussed the recommendations of the Audit Body in a meeting held in private during which only representatives of the 1992 Fund Member States, former 1971 Fund Member States and members of the Audit Body were present.
- 1.5 Following the private meeting, the Chairman of the 1992 Fund Assembly stated in an open session of the governing bodies that the main focus of the discussion had been on the recommendations contained in paragraph 8.1-8.3 of document IOPC/OCT11/7/1/3, noting in particular, the importance of the appointment of the Deputy Director. The Chairman had stated that some delegations had felt that filling the post was a matter of urgency and that the position should be filled as soon as possible. He noted, however, that the general consensus had been that no decision should be taken at those sessions of the governing bodies as the matter required further consideration by the Director. All delegations which took the floor expressed the view that it was premature to discuss the appointment of a Deputy Director in charge of the HNS Fund.
- 1.6 At the same sessions, the governing bodies noted that the Director-Elect recognised the importance of the role and agreed that a Deputy Director should be appointed. However, he had requested time to consider the role and its implications. He indicated that with regard to Internal Regulation 12, Delegation of Authority in the absence of the Director, there was a provisional arrangement in place and in the interim he had delegated his authority under Internal Regulation 12 to the Head of the Finance and Administration Department. He also stated that it was for the Assembly to make the final decision on the level of remuneration for the Deputy Director. The governing bodies had noted that the Director would report back to the Assembly at some future date, putting forward solutions and setting out his proposals on this issue.
- 1.7 With respect to contingency arrangements, the governing bodies had decided that it would be left to the Director to decide on delegation of authority in respect of Internal Regulation 12.

2 Director's considerations since the October 2011 sessions of the governing bodies

2.1 Appointment of a Deputy Director

- 2.1.1 The Director has given careful consideration to the concerns expressed by the governing bodies and the Audit Body since the unfortunate illness of the previous Director. In the light of these concerns and in accordance with the decision he announced in October 2011 that a Deputy Director should be appointed, he has decided to appoint Mr Ranjit Pillai (Sri Lanka) to this position effective 1 May 2012. However, given that the Secretariat is a small body, overall responsibilities are clearly defined so as to operate effectively without duplication, he believes that this is not a full-time role. He has therefore decided that Mr Pillai will also continue in his position as Head of the Finance and

Administration Department, thus combining the roles of Deputy Director and Head of the Finance and Administration Department.

2.1.2 The Director shares the view expressed by the Audit Body in October 2011 that as the Deputy Director would also have responsibilities as Head of Department, his salary level should be higher than that of a Head of Department role alone (D1). The Director therefore recommends that the position of Deputy Director/Head of Finance and Administration should be graded at D2. In this regard, it is recalled that this was the grade accorded to the previous Deputy Director, Mr Joe Nichols, who held the positions of Deputy Director/Technical Adviser until his resignation in August 2007.

2.2 Contingency arrangements

2.2.1 The Director has given due consideration to this issue and shares the view expressed by the Audit Body in October 2011 that the list of possible alternates to act on his behalf in the fulfilment of the functions set out in Article 29 of the 1992 Fund Convention, and to be the legal representative of the 1992 Fund as set out in Internal Regulation 12 should be extended to include all the members of the Management Team and should indicate the seniority in which this list should apply.

2.2.2 Accordingly the Director has the intention to set up the following contingency arrangement in the Secretariat: in the event that the Director is unable to assume his functions, the Deputy Director/Head of Finance and Administration Department, the Legal Counsel, the Head of the Claims Department/Technical Adviser or the Head of the External Relations and Conference Department, in that order, will act on the Director's behalf. The Director will keep the contingency arrangements under review to ensure that at all times they take into account any significant changes in composition, role, responsibilities or availability of Management Team members.

2.2.3 The Director is also of the view that Internal Regulation 12 should also contain specific guidance as to what should happen in the event that none of those specified in paragraph 2.2.2 were able to take up that responsibility. For this reason the Director is proposing the inclusion of a new paragraph in Internal Regulation 12 to the effect that if none of these staff members were available to assume the function of the Director, the Chairman of the 1992 Fund Assembly should appoint a member of the Secretariat, other than those mentioned in the preceding paragraph, to carry out this function until the next regular or extraordinary session of the Assembly or until any of the said senior members of the Secretariat has been able to resume their responsibilities.

2.2.4 The Annex contains the existing and proposed new text of Internal Regulation 12. Should the 1992 Fund Assembly approve the proposed amendment, the Director will invite the 1971 Fund Administrative Council and the Supplementary Fund Assembly, at their next session, to approve the same amendment to the corresponding Internal Regulation of the 1971 Fund and Supplementary Fund.

2.2.5 Administrative Instruction N°2 will be amended accordingly by the Director.

2.3 Management Team

2.3.1 The organisation's strategic direction is developed and implemented by the Management Team which previously consisted of the Director, the Legal Counsel, the Heads of the Claims Department, Finance and Administration Department and External Relations and Conference Department and the Technical Adviser.

2.3.2 The Director has appointed Mr Matthew Sommerville (United Kingdom), formerly Technical Adviser/Claims Manager, as Head of the Claims Department as of 8 March 2012. The Director has decided that the role of Head of Claims Department and that of the Technical Advisor should be combined given Mr Sommerville's previous role as Technical Advisor. The Head of the Claims Department post is graded D1.

2.3.3 Following the appointment of Mr Sommerville in a dual role, the number of members of the Management Team has been reduced from six to five, ie Director, Deputy Director/Head of Finance

and Administration Department, Legal Counsel, Head of Claims Department/Technical Adviser and Head of External Relations and Conference Department.

- 2.3.4 Mr Thomas Liebert (France) was appointed to the post of Head, External Relations and Conference Department on 1 September 2010 at P5 level. Mr Liebert has been serving in the post for some 18 months and has performed well in the role. In recognition of his performance, the Director has decided that Mr Liebert should now assume the full grade of the post at the level of D1, effective 1 May 2012. In this regard, it is recalled that this was the grade accorded to the previous incumbent of this post.

3 Action to be taken

1992 Fund Assembly

The 1992 Fund Assembly is invited:

- (a) to take note of the information contained in this document;
- (b) to note the appointment of Mr Ranjit Pillai as Deputy Director/Head of Finance and Administration Department;
- (c) to decide whether the position of Deputy Director should be D2, as recommended by the Director;
- (d) to note that in the event that the Director is unable to assume his functions, the Deputy Director/Head of Finance and Administration Department, the Legal Counsel, the Head of the Claims Department/Technical Adviser or the Head of the External Relations and Conference Department, in that order, will act on the Director's behalf;
- (e) to decide whether, in the event that none of the said members of the Secretariat are available to assume the functions of Director, the Chairman of the 1992 Fund Assembly shall appoint a member of the Secretariat to carry out this function until the next regular or extraordinary session of the Assembly or until any of the said senior members of the Secretariat has been able to resume their responsibilities;
- (f) to approve an amendment to Internal Regulation 12 to reflect paragraphs (d) and (e) above accordingly (see Annex);
- (g) to note that the Director will amend Administrative Instruction N°2 accordingly;
- (h) to note that the Director appointed Mr Matthew Sommerville as Head of the Claims Department as of 8 March 2012 and that Mr Sommerville will combine this role with that of Technical Adviser, the post he previously held;
- (i) to note that Mr Thomas Liebert, Head of the External Relations and Conference Department, will assume the full grade of the post at D1; and
- (i) to note that these changes will take effect as of 1 May 2012 (except for the appointment of Mr Sommerville which took effect on 8 March 2012).

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ANNEX

Internal Regulation 12 - existing and proposed text:

<i>Existing text</i>	<i>Proposed text</i>
<p><i>Delegation of authority in the absence of the Director</i></p> <p>The Director may authorise the Deputy Director, the Legal Counsel or the Head of Claims Department to act on his or her behalf in the fulfilment of the functions set out in Article 29 of the 1992 Fund Convention, and to be the legal representative of the 1992 Fund. The conditions and extent of such delegation shall be laid down in Administrative Instructions issued by the Director. Delegation made in accordance with this Regulation overrides any limitation of the authority of the above-mentioned officers contained elsewhere in these Regulations or in the Financial Regulations.</p>	<p><i>Delegation of authority in the absence of the Director</i></p> <p>The Director may authorise the Deputy Director/Head of the Finance and Administration Department, the Legal Counsel, the Head of the Claims Department/Technical Adviser or the Head of the External Relations and Conference Department, in that order, to act on his behalf in the fulfilment of the functions set out in Article 29 of the 1992 Fund Convention, and to be the legal representative of the 1992 Fund. The conditions and extent of such delegation shall be laid down in Administrative Instructions issued by the Director. Delegation made in accordance with this Regulation overrides any limitation of the authority of the above-mentioned officers contained elsewhere in these Regulations or in the Financial Regulations.</p> <p>If there is no one of the said senior members of the Secretariat available to assume the function of the Director, the Chairman of the 1992 Fund Assembly shall appoint a member of the Secretariat, other than those mentioned in the preceding paragraph, to carry out this function until the next regular or extraordinary session of the Assembly or until any of the said senior members of the Secretariat has been able to resume their responsibilities.</p>