

ASSEMBLY
1st session
Agenda item 15

SUBMISSION OF OIL REPORTS

Note by the Director of the International Oil Pollution Compensation Fund

1 The levying of contributions to the 1992 Fund will be based on reports on oil receipts in respect of individual contributors in 1992 Fund Member States. Provisions relating to the submission of oil reports are contained in Article 15 of the 1992 Fund Convention which reads:

Article 15

1. Each Contracting State shall ensure that any person who receives contributing oil within its territory in such quantities that he is liable to contribute to the Fund appears on a list to be established and kept up to date by the Director in accordance with the subsequent provisions of this Article.
2. For the purposes set out in paragraph 1, each Contracting State shall communicate, at a time and in the manner to be prescribed in the Internal Regulations, to the Director the name and address of any person who in respect of that State is liable to contribute to the Fund pursuant to Article 10, as well as data on the relevant quantities of contributing oil received by any such person during the preceding calendar year.
3. For the purposes of ascertaining who are, at any given time, the persons liable to contribute to the Fund in accordance with Article 10, paragraph 1, and of establishing, where applicable, the quantities of oil to be taken into account for any such person when determining the amount of his contribution, the list shall be *prima facie* evidence of the facts stated therein.
4. Where a Contracting State does not fulfil its obligations to submit to the Director the communication referred to in paragraph 2 and this results in a financial loss for the Fund, that Contracting State shall be liable to compensate the Fund for such loss. The Assembly shall, on the recommendation of the Director, decide whether such compensation shall be payable by that Contracting State.

2 Experience within the 1971 Fund has shown that a number of States do not submit their oil reports by the due date. For the purpose of establishing the tonnage to be used when calculating the levy per tonne, the Secretariat estimates the quantities of oil received in States which have not reported. These estimates are based on previous years' reports, if any.

3 In the light of this experience, it will probably be necessary for the 1992 Fund to use such estimates when determining whether contributions in respect of a particular State exceed 27.5% of the total levy, ie the threshold for determining whether the capping procedure should be applied. If the quantities given in the reports submitted after the invoices have been calculated were to be considerably higher than predicted, this might result in the capped State no longer representing more than 27.5% of the total quantity of contributing oil actually reported. A recalculation of the contributions at that stage, however, would cause significant difficulties both for contributors and for the Fund Secretariat. It is therefore proposed that no adjustment be made in this situation.

4 It will be imperative for the smooth operation of the 1992 Fund that Member States fulfil their obligations under the 1992 Fund Convention and the Internal Regulations (proposed Internal Regulation 4, reproduced in document 92FUND/A.1/23) to submit their reports on contributing oil at the time and in the manner prescribed. The Assembly of the 1992 Fund may therefore wish to consider adopting a resolution to this effect (cf Resolution N°7 of the 1971 Fund). A draft resolution is attached at the Annex for consideration.

5 During its consideration in October 1995 of the preparations for the entry into force of the 1992 Fund Convention, the Assembly of the 1971 Fund recognised that it would be essential for the smooth functioning of the 1992 Fund that Member States fulfilled their obligations under the 1992 Fund Convention and the proposed Internal Regulations to submit their oil reports at the time and in the manner prescribed. For this reason, the Assembly of the 1971 Fund endorsed the proposal of the Director of the 1971 Fund to submit to the 1992 Fund Assembly a draft resolution as set out in the present document in the Annex.

Action to be taken by the Assembly

- 6 The Assembly is invited to:
- (a) take note of the information contained in the present document;
 - (b) consider the proposal set out in paragraph 3 above that no adjustment of contribution calculations should be made if the situation described therein should arise; and
 - (c) consider adopting a resolution on the submission of oil reports.

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ANNEX

DRAFT

Resolution N°[] – Submission of Oil Reports

THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND, 1992 (1992 Fund),

AWARE of the obligations imposed on Member States to submit reports on receipts of contributing oil in accordance with Article 15.2 of the 1992 Fund Convention,

RECOGNISING that these reports will be crucial for the functioning of the 1992 Fund, as the levying of contributions is based on these reports,

NOTING that these reports will also be essential in determining when the capping provisions of Article 36 ter of the 1992 Fund Convention shall cease to apply,

RECALLING that the experience of the 1971 Fund has been that reports do not always reach the Secretariat on time or in the manner laid down in the Internal Regulations, and that some reports are incomplete,

URGES Member States to take the necessary steps to ensure that the reports on contributing oil received in their territory are submitted in time, using the prescribed forms, and that the reports contain the particulars prescribed in the 1992 Fund Convention and in the Internal Regulations,

AND REQUESTS Member States in which no person is liable to contribute to the 1992 Fund to submit reports certifying that this is the case in respect of the State concerned as prescribed in the Internal Regulations.
