



International Oil Pollution
Compensation Funds

Agenda Item 7	IOPC/MAR20/7/2	
Date	30 January 2020	
Original	English	
1992 Fund Assembly	92AES24	●
1992 Fund Executive Committee	92EC74	
Supplementary Fund Assembly	SAES8	●

APPOINTMENT OF THE DIRECTOR

Note by the Chair of the 1992 Fund Assembly

Summary:

At its 21st session in October 2016, the 1992 Fund Assembly reappointed Mr José Maura as the Director of the IOPC Funds for a second five-year term. His second term of office will expire on 31 December 2021. The Director is, *ex officio*, also the Director of the Supplementary Fund.

In accordance with Resolution N°9 of the 1992 Fund on the Appointment of the IOPC Funds' Director — Term of service (as amended by the 1992 Fund Assembly in October 2016), the second term of the incumbent Director may be extended for a limited period of time, if the Assembly so decides, in response to exceptional circumstances that would warrant such an extension.

The Director has shared with me some of the circumstances that the Secretariat will be facing in the coming years. The following, in his view, could be considered exceptional:

- (i) succession planning in the Secretariat; and
- (ii) the preparation for the entry into force of the HNS Convention.

The Assembly will have to consider whether these circumstances are exceptional and, if so, whether they warrant an extension.

I have discussed this matter with the Director who has advised me that he would agree to serve as Director for three additional years beyond his second term, i.e. until 31 December 2024.

This matter needs to be discussed and decided at this stage as in October 2020, I will have to present a document containing the procedural arrangements for the election of the next Director in October 2021.

Action to be taken:

1992 Fund Assembly

- (a) Decide whether to appoint the Director for an additional three years, who would, *ex officio*, also be the Director of the Supplementary Fund; and if so
- (b) determine the terms and conditions of service of the Director; and
- (c) instruct the Chair to conclude a contract between the 1992 Fund and the Director.

Supplementary Fund Assembly

Note the decisions of the 1992 Fund Assembly on the appointment of the Director for an additional three years, who would, *ex officio*, also be the Director of the Supplementary Fund.

1 Background information

- 1.1 At its 21st session in October 2016, the 1992 Fund Assembly reappointed Mr José Maura as the Director of the IOPC Funds for a second five-year term. His second term of office will expire on 31 December 2021. The Director is, *ex officio*, also the Director of the Supplementary Fund.
- 1.2 In accordance with Resolution N°9 of the 1992 Fund on the Appointment of the IOPC Funds' Director — Term of service (as amended by the 1992 Fund Assembly at its 21st session in October 2016), the second term of the incumbent Director may be extended for a limited period of time, if the Assembly so decides, in response to exceptional circumstances that would warrant such an extension. Resolution N°9 is reproduced at the Annex.

2 Circumstances for the Assembly to consider

- 2.1 There are two main circumstances that the Assembly might wish to consider in relation to the extension of the Director's term of office which relate to: (i) succession planning; and (ii) the preparation for the entry into force of the HNS Convention. It is worth noting that these circumstances have been highlighted as key risks in the IOPC Funds' risk management that is prepared by the Secretariat on an annual basis and reviewed by the Audit Body.
- 2.2 Bearing in mind that in October 2020 I will have to present a document containing the procedural arrangements for the election of the next Director in October 2021, I have decided to bring this matter to your attention at this meeting of the governing bodies.

Succession planning

- 2.3 The Director is assisted by the Management Team in the day-to-day running of the Secretariat. The Management Team consists of the Director, the Deputy Director/Head of the Finance and Administration Department, the Head of the External Relations and Conference Department, the Head of the Claims Department, and the Legal Counsel.
- 2.4 The Deputy Director/Head of Finance and Administration will be retiring in June 2022 which will be only six months after the incumbent Director will have completed his second term. Considering that both the Director and the Deputy Director have worked for the Secretariat for more than 20 years each, this change at the senior management level leaves the organisation vulnerable regarding succession planning. As indicated in the Funds' annual risk review, the safeguard for mitigating the risk arising from this situation is to start succession planning well in advance.
- 2.5 Considering the small size of the Secretariat, having to replace two senior managers with such a long history in the organisations within six months can be expected to pose a significant challenge in terms of the experience and overall knowledge when trying to fill those vacancies.

Preparation for the entry into force of the HNS Convention

- 2.6 As at 20 January 2020, there are five Contracting States to the 2010 HNS Protocol, namely Canada, Denmark, Norway, South Africa and Turkey. A number of other States have indicated that they are working towards implementation of the HNS Convention in 2019 with a view to ratifying or acceding to it between 2020 and 2022.

- 2.7 The entry into force of the HNS Convention, the need to set up the HNS Fund and the related administrative implications and activities, will require close management within the Secretariat. These arrangements will impose significantly greater additional demands on the Secretariat and, in particular, on the next Director, especially if coming from outside the Secretariat, who would also need to become familiar with the existing responsibilities of the post itself.
- 2.8 It seems sensible to think that the extension of the Director's mandate would enable him to make a valuable contribution when establishing the HNS Fund.

Additional factor

- 2.9 There is an additional factor that the Assembly may also wish to take into account. At the end of the current term, i.e. 31 December 2021, the Director will be 61 years old. While recognising that the mandatory age of retirement for staff members is 65 and this does not apply to the Director who is elected by the 1992 Fund Assembly, by extending his term for three years, he would be 64 years old which would be closer to the mandatory retirement age of the other staff members.

3 Chair's considerations

- 3.1 Resolution N°9 does not define what 'exceptional circumstances' would warrant an extension in the Director's mandate. It is therefore up to the 1992 Fund Assembly to interpret whether the circumstances described above, occurring simultaneously, would be 'exceptional'.
- 3.2 Just before Resolution N°9 was adopted, the 1992 Fund Assembly decided to extend the fourth term of office of the then Director, Mr Måns Jacobsson, for two additional years to ensure a smooth transition to the next Director.
- 3.3 Having considered the above issues, in my view, it would be advisable for the 1992 Fund Assembly to extend the Director's term of service for an additional three years, i.e. until 31 December 2024.

4 Action to be taken

4.1 1992 Fund Assembly

The 1992 Fund Assembly is invited to:

- (a) decide whether to appoint the Director for an additional three years, who would, *ex officio*, also be the Director of the Supplementary Fund; and if so
- (b) determine the terms and conditions of service of the Director; and
- (c) instruct the Chair to conclude a contract between the 1992 Fund and the Director.

4.2 Supplementary Fund Assembly

The Supplementary Fund Assembly is invited to take note of the decisions of the 1992 Fund Assembly on the appointment of the Director for an additional three years, who would, *ex officio*, also be the Director of the Supplementary Fund.

ANNEX

Resolution N°9 on the Appointment of the IOPC Funds' Director — Term of service (as amended by the 1992 Fund Assembly at its 21st session held from 17–20 October 2016)

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

RECALLING Article 18 of the 1992 Fund Convention,

NOTING that the Assembly has appointed Directors for five-year terms with provision for renewal for such further periods as may be determined by the Assembly

CONSIDERING the desirability of establishing a more specific term of office for future Directors,

CONSIDERING ALSO the normal practice within the United Nations agencies and subsidiary bodies, and especially the International Maritime Organization precedents,

CONSIDERING FURTHER Rule 54 of the Rules of Procedure of the Assembly and Section IV, Regulations 17 and 18, of the 1992 Fund's Staff Regulations,

DECIDES that:

- 1 Future IOPC Fund Directors shall be appointed for an initial term of five years, normally commencing on 1 January of the year following his/her election.
- 2 The incumbent Director may be re-appointed for a second term of five years by a vote pursuant to Article 32 and 33 (b) of the 1992 Fund Convention. However, the voting procedure shall be dispensed with in cases where the incumbent Director has indicated his/her availability for re-election and where there are no other candidates standing for election.
- 3 The second term of the incumbent Director may be extended for a limited period of time, if the Assembly so decides, in response to exceptional circumstances that would warrant such an extension.
- 4 Candidates for the appointment to the post of Director pursuant to section 1 or 2 above must notify the Secretariat at least three months before the Assembly is scheduled to meet to appoint or reappoint the Director, as the case may be.
- 5 The Resolution shall be referenced by footnote to Rule 54 of the Rules of Procedure of the Assembly.