



International Oil Pollution
Compensation Funds

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1992 Fund Assembly	92A25	●
1992 Fund Executive Committee	92EC74	
Supplementary Fund Assembly	SA17	●

EUROPEAN UNION GENERAL DATA PROTECTION REGULATION

Note by the Secretariat

Summary:	This document provides recent developments on the application of the General Data Protection Regulation (GDPR) of the European Union and Directive 2016/680 (Directive) to the IOPC Funds and the Secretariat's engagement towards the implementation of the GDPR and Directive.
Action to be taken:	<u>1992 Fund Assembly and Supplementary Fund Assembly</u> Information to be noted.

1 Background information

- 1.1 The European Union Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the General Data Protection Regulation (GDPR) and the accompanying Directive 2016/680 (Directive)^{<1>}, have been applied within the European Union (EU) as of 25 May 2018. The GDPR and the Directive seek to protect fundamental rights and freedoms of natural persons relating to the collection and processing of their personal data and to allow for the free movement of personal data within the EU.
- 1.2 Due to the nature of the work of the IOPC Funds, the collection of personal data is required, in particular with regard to the payment of compensation to victims of oil pollution and the receipt of oil reports from Member States. Against this background, and since the IOPC Funds are international intergovernmental organisations, the Director requested the European Commission for clarification on the application of the GDPR and the Directive to the Funds. The Director received a response from the European Commission stating that the application depends on the privileges and immunities applicable under the Headquarters Agreement.
- 1.3 Following the reply, the Secretariat sought a clarification from the United Kingdom (UK) Government on the application of the GDPR and the Directive in light of the existing Headquarters Agreement. The reply from the UK Government indicated that the GDPR applies to the IOPC Funds and that the IOPC Funds can have its own position as to its application.
- 1.4 The Secretariat believes that the GDPR will not apply to the IOPC Funds, based on the inviolability of archives stipulated in Article 6 of the Headquarters Agreement for the 1992 Fund. Nevertheless, the Secretariat believes that it would be good practice for the Funds to apply the same principles as the GDPR and to ensure that similar internal policies and procedures regarding data protection are in place.

^{<1>} The Directive lays down the rules relating to the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.

- 1.5 Following the departure of the UK from the EU on 31 January 2020, the UK has maintained the data protection standards that existed under the GDPR and the UK's Data Protection Act 2018 by means of legislation. The EU-UK arrangements on data protection will be subject to negotiations in the future, as part of the wider talks on the economic relationship between the parties.

2 Recent developments

- 2.1 In December 2019, the Secretariat engaged an expert in implementing the GDPR, in order to receive assistance with developing policies and procedures reflecting the data protection principles laid out by the GDPR. The Secretariat has been working on the introduction of a data protection system, which substantially implements the GDPR.
- 2.2 To date, based on the implementation plan, the Secretariat has worked on identifying personal data which the Funds hold, drafting a Data Protection Policy, Data Privacy Notices for claimants and all other persons who have dealings with the Funds, a Data Retention Policy, and the provisions necessary to be inserted in various types of contracts which the Funds conclude, including the experts' contracts which the Funds normally conclude with experts in the claims-handling process. The Secretariat has also engaged a data protection lawyer to review the various policies and procedures.
- 2.3 The Secretariat has made substantial progress with the tasks and continues to develop the application of the GDPR, and will report developments at future sessions of the governing bodies.

3 Action to be taken

1992 Fund Assembly and Supplementary Fund Assembly

The 1992 Fund Assembly and Supplementary Fund Assembly are invited to take note of the information.
