



International Oil Pollution
Compensation Funds

Fonds internationaux
d'indemnisation pour les
dommages dus à la pollution
par les hydrocarbures

Fondos internacionales
de indemnización de daños
debidos a contaminación por
hidrocarburos

RESOLUTIONS OF THE 1992 FUND

RESOLUTIONS OF THE 1992 FUND

- 2 -

CONTENTS

Resolution N°1	Position of members of the 1971 Fund Secretariat	June 1996	3
Resolution N°2	Submission of Oil Reports	June 1996	4
Resolution N°3	Admissibility of claims for compensation	June 1996	5
Resolution N°4	Establishment of EEZ or determined area	June 1996	6
Resolution N°5	Establishment of the Executive Committee	October 1997	7
Resolution N°6	Resolution on the International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC) 1990 and the Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000 OPRC (HNS) Protocol	October 2001	9
Resolution N°7	Creation of Administrative Council	October 2002	10
Resolution N°8	Resolution on the interpretation and application of the 1992 Civil liability Convention and the 1992 Fund Convention	May 2003	12
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	13
Resolution N°10	Joint Secretariat	March 2005	14
Resolution N°11	Measures in respect of Contributions	October 2009	15
Resolution N°12	Measures in respect of outstanding oil reports and outstanding contributions	April 2016	17
Resolution N°13	Authorisation for the Director to issue invoices to contributors based on estimated oil receipts, including retrospectively, where no reports have been submitted	November 2023	20

RESOLUTIONS OF THE 1992 FUND

- 3 -

Resolution N°1—Position of members of the 1971 Fund Secretariat (June 1996)

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

NOTING that the 1971 Fund and the 1992 Fund will be administered by a joint Secretariat headed by one Director, at least so long as the States with major receipts of contributing oil remain Parties to the 1971 Fund Convention,

RECALLING operative paragraph 3(a) of Resolution 2 of the International Conference which adopted the 1992 Protocol to the 1971 Fund Convention, concerning the position of personnel employed by the 1971 Fund on the date when the 1971 Fund Convention ceases to be in force,

RECOGNISING the need to safeguard the position of the personnel employed by the 1971 Fund when the 1992 Fund establishes its own Secretariat,

DECLARES that, when the 1992 Fund establishes its own Secretariat, the personnel employed by the 1971 Fund will, if they so wish, be transferred to the 1992 Fund Secretariat and that they will in such a case receive treatment no less favourable, as regards the terms and conditions of their service, as a result of the change of legal personality of their employer.

RESOLUTIONS OF THE 1992 FUND

- 4 -

Resolution N°2—Submission of Oil Reports (June 1996)

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.

Resolution N°3—Admissibility of claims for compensation (June 1996)

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

CONSCIOUS of the need to establish at an early stage the general policy of the 1992 Fund on the admissibility of claims for compensation,

NOTING that one of the aims of the international compensation system is to adopt uniform international rules and procedures for determining questions of liability and providing adequate compensation,

NOTING FURTHER that the definitions of ‘pollution damage’ and ‘preventive measures’ in the 1992 Fund Convention which form the basis for the criteria for admissibility are the same as those in the 1971 Fund Convention, except on one point where a modified text was adopted in 1992, in order to codify the interpretation of the definition of ‘pollution damage’ as decided by the Assembly of the International Oil Pollution Compensation Fund, 1971 (1971 Fund),

AWARE of the necessity of ensuring consistency between the decisions of the 1992 Fund and those of the 1971 Fund on the admissibility of claims,

RECALLING that the 7th Intersessional Working Group established by the Assembly of the 1971 Fund was given the mandate to examine the general criteria for the admissibility of claims for compensation for ‘pollution damage’ and ‘preventive measures’ within the scope of the 1969 Civil Liability Convention and the 1971 Fund Convention and the 1992 Protocols thereto,

RECALLING FURTHER that the Assembly of the 1971 Fund endorsed the report of the 7th Intersessional Working Group on the criteria for the admissibility of claims for compensation,

NOTING ALSO that the Executive Committee of the 1971 Fund has taken a number of further decisions on the admissibility of claims,

RESOLVES that the report of the 7th Intersessional Working Group of the 1971 Fund (as contained in document [FUND/A.17/23](#)) shall form the basis of the policy of the 1992 Fund on the criteria for the admissibility of claims,

DECIDES that the criteria hitherto laid down by the Executive Committee of the 1971 Fund should be applied by the 1992 Fund in its consideration of the admissibility of claims,

AFFIRMS that the 1992 Fund shall endeavour to ensure consistency, as far as possible, between the decisions of the 1992 Fund and those of the 1971 Fund on the admissibility of claims.

Resolution N°4—Establishment of EEZ or determined area (June 1996)

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

NOTING that Article 3(a)(ii) of the 1992 Fund Convention provides that compensation by the 1992 Fund is payable for pollution damage which occurs in the exclusive economic zone (EEZ) of a Contracting State, established in accordance with international law, or, if a Contracting State has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured,

RECOGNISING that it will be crucial for the functioning of the 1992 Fund to know whether a Member State has established an EEZ or determined such an area,

NOTING that the 1992 Fund will also need to know the extent of an EEZ established or area determined by a Member State, as well as the date of such establishment or determination,

URGES States to notify the Secretary-General of the International Maritime Organization, when depositing instruments of ratification, acceptance, approval or accession to the 1992 Fund Convention, of the delimitation of their EEZ or area, if already established or determined,

AND REQUESTS Member States which establish an EEZ or determine such an area after the entry into force of the 1992 Fund Convention in respect of those States to notify the Director of the 1992 Fund of the delimitation of their EEZ or determined area, and the date on which it was established or determined.

RESOLUTIONS OF THE 1992 FUND

- 7 -

Resolution N°5—Establishment of the Executive Committee (October 1997)

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

NOTING that the Assembly may, in accordance with Article 18.9 of the 1992 Fund Convention, establish any temporary or permanent subsidiary body it considers to be necessary, define its terms of reference and give it the authority needed to perform the functions entrusted to it,

NOTING FURTHER that, in accordance with that Article, the Assembly shall, when appointing the members of such a subsidiary body, endeavour to secure an equitable geographical distribution of members and to ensure that the Member States, in respect of which the largest quantities of contributing oil are received, are appropriately represented,

RECALLING the decision of the Assembly at its 1st session that the 1992 Fund should have a claims subsidiary body to deal with claims for compensation and the decision by the Assembly at its 1st extraordinary session that this body should be known as the Executive Committee,

HEREBY CREATES an Executive Committee which shall be established at the first session of the Assembly after the number of 1992 Fund Member States has reached 25,

DECIDES that the Executive Committee shall be composed of 15 Member States elected by the Assembly to hold office until the end of the next regular session of the Assembly, and that a member may not serve on the Executive Committee for more than two consecutive terms, except to the extent necessary to comply with the eligibility requirements,

FURTHER DECIDES that the election of the Executive Committee should be governed in the following provisions:

- (a) Seven Executive Committee members shall first be elected from among the eleven Member States in the territory of which the largest quantities of oil to be taken into account under Article 10 of the 1992 Fund Convention were received during the preceding calendar year.
- (b) Eight members shall then be elected from among the other Member States.
- (c) A Member State which was eligible but was not elected under sub-paragraph (a) shall not be eligible for any remaining seat on the Committee.
- (d) The Assembly shall, when electing the members of the Committee, secure an equitable geographical distribution of the seats on the Committee on the basis of an adequate representation of Member States particularly exposed to the risks of oil pollution and of Member States having large tanker fleets. The Assembly may also take into account the extent to which a particular State has fulfilled its obligation to submit reports on receipts of contributing oil, in accordance with Article 15 of the 1992 Fund Convention.
- (e) Members of the Executive Committee shall hold office until the end of the next regular session of the Assembly.

RESOLUTIONS OF THE 1992 FUND

- 8 -

- (f) Except to the extent that may be necessary to comply with the requirement set out under (a) above, no State may serve on the Executive Committee for more than two consecutive terms. However, if a State eligible under (a) declares before the election that it might not be able to attend the Committee's sessions, the Assembly may elect in its place another State from among the eleven States eligible under (a), even if the latter State has served for two consecutive terms.

ADOPTS the following mandate for the Executive Committee:

The functions of the Executive Committee shall be:

- 1 to take decisions in place of the Assembly on matters referred to in Article 18.7 of the 1992 Fund Convention, in particular on claims for compensation referred to it by the Director;
- 2 to consider new issues of principle and general policy questions relating to claims for compensation as they arise (and not in the abstract) and procedures for handling incidents involving the 1992 Fund;
- 3 to extend, to the extent it considers appropriate, the Director's authority to make final settlement of claims arising out of a given incident beyond that vested in him in accordance with the Internal Regulations;
- 4 to give the Director such instructions in respect of the handling of claims for compensation as may be required; and
- 5 to make such recommendations to the Assembly, for example on questions of principle of great importance, as the Executive Committee may deem appropriate.

Resolution N°6 on the International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC) 1990 and the Protocol on Preparedness, Response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances, 2000 OPRC (HNS) Protocol (October 2001)

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

NOTING that the International Convention on Oil Pollution Preparedness, Response and Cooperation 1990 (OPRC) came into force in 1995, and that 59 States have ratified or acceded to the Convention,

ALSO NOTING that the Protocol on Preparedness, Response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances, 2000 OPRC (HNS) Protocol will not come into force until 12 months after ratification by not less than 15 States,

NOTING FURTHER that no States are yet party to the 2000 OPRC (HNS) Protocol,

RECOGNIZING the need for some States to identify existing resources that could form part of the resources needed to implement the 1990 OPRC and 2000 OPRC (HNS) Protocol,

RECOGNIZING FURTHER that some States may not have all the resources needed to effectively implement the OPRC and 2000 OPRC (HNS) Protocol,

BELIEVING it is desirable for coastal States to have in place effective measures and cooperative arrangements to deal with oil spill incidents wherever they may occur,

FURTHER BELIEVING that wider and speedy implementation of both the 1990 OPRC and the 2000 OPRC (HNS) Protocol would benefit potential victims of oil spills and the IOPC Fund in helping to minimize the environmental and financial impact of oil spills,

- 1 **URGES** all Contracting States to the 1992 Fund Protocol that have not yet done so to ratify, or to accede to, the 1990 OPRC;
- 2 **ENCOURAGES** States Parties to the OPRC to also become party to the 2000 OPRC (HNS) Protocol, with the aim of promoting speedy implementation;
- 3 **FURTHER ENCOURAGES** States not parties to the 1990 OPRC to put in place effective contingency plans for oil pollution prevention and response to the best of their abilities.

Resolution N°7—Creation of Administrative Council (October 2002)

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

NOTING that there are 71 States Parties to the 1992 Fund Convention, that 11 States have deposited instruments of ratification or accession and that a number of other States are expected to become Parties within the near future,

RECOGNISING that, as a result of the great increase in the number of 1992 Fund Member States, there is a risk that the Assembly of the Organisation will in the near future no longer be able to achieve a quorum,

ACKNOWLEDGING that this would result in the 1992 Fund's being unable to operate in a normal way,

MINDFUL that the 1992 Fund's objective is to pay compensation to victims of oil pollution damage in Member States,

RECALLING that it is the task of the Assembly, under Article 18.14 of the 1992 Fund Convention, to perform such functions as are necessary for the proper operation of the 1992 Fund,

AWARE that under Article 18.9 of the 1992 Fund Convention the Assembly may establish any temporary or permanent subsidiary body it may consider necessary, to define its terms of reference and to give it the authority needed to perform its functions,

CONSCIOUS of the need to establish a structure which will permit the 1992 Fund to operate even if the Assembly does not achieve a quorum at one or more of its sessions,

RECOGNISING that it is the general responsibility of the Assembly to ensure the proper operation of the 1992 Fund and that it is therefore the duty of the Assembly to take the necessary measures to achieve this,

- 1 **INSTRUCTS** the Director to convene a regular session of the Assembly of the 1992 Fund once every calendar year, as provided in Article 19, paragraph 1 of the 1992 Fund Convention, and in the invitations to urge States to make every effort to be represented at the session, and to draw attention to the consequences of a quorum not being achieved;
- 2 **HEREBY CREATES** a body to be known as the Administrative Council, which shall have the following mandate:
 - (a) to perform such functions as are allocated to the Assembly under the 1992 Fund Convention or which are otherwise necessary for the proper operation of the 1992 Fund;
 - (b) to elect members of the Executive Committee in accordance with 1992 Fund Resolution N°5;
 - (c) to give instructions to the Director concerning the administration of the 1992 Fund;
 - (d) to supervise the proper execution of the Convention and of its own decisions;

RESOLUTIONS OF THE 1992 FUND

- 11 -

- 3 **FURTHER RESOLVES** that the Administrative Council shall assume its functions whenever the Assembly fails to achieve a quorum, on the condition that, if the Assembly were to achieve a quorum at a later session, it would resume its functions;
- 4 **DECIDES** that the following States and organisations shall be invited to take part in sessions of the Administrative Council:
- (a) 1992 Fund Member States;
 - (b) other States which would be invited to attend sessions of the Assembly as observers; and
 - (c) (intergovernmental organisations and international non-governmental organisations which have observer status with the 1992 Fund; and
- 5 **FURTHER DECIDES:**
- (a) that decisions of the Administrative Council shall be taken by majority vote of those 1992 Fund Member States present and voting, provided that decisions which under Article 33 of the 1992 Fund Convention require two-thirds majority shall be taken by two-thirds majority of the 1992 Fund Member States present;
 - (b) that at least 25 Member States shall constitute a quorum for the meetings of the Administrative Council;
 - (c) that the Rules of Procedure of the Administrative Council shall be those of the Assembly, to the extent applicable;
 - (d) that credentials are required for delegations in accordance with Rule 9 of the Rules of Procedure of the Assembly; and
 - (e) that the sessions of the Administrative Council shall be held in public, unless the Council decides otherwise.

Resolution N°8 on the interpretation and application of the 1992 Civil liability Convention and the 1992 Fund Convention (May 2003)

THE ADMINISTRATIVE COUNCIL, ACTING ON BEHALF OF THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND, 1992, SET UP UNDER THE INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE, 1992 (1992 Fund Convention)

NOTING that the States Parties to the 1992 Fund Convention are also parties to the International Convention on Civil Liability for Oil Pollution Damage, 1992 (1992 Civil Liability Convention),

RECALLING that the 1992 Conventions were adopted in order to create uniform international rules and procedures for determining questions of liability and providing adequate compensation in such cases,

CONSIDERING that it is crucial for the proper and equitable functioning of the regime established by these Conventions that they are implemented and applied uniformly in all States Parties,

CONVINCED of the importance that claimants for oil pollution damage are given equal treatment as regards compensation in all States Parties,

MINDFUL that, under Article 235, paragraph 3, of the United Nations Convention on the Law of the Sea 1982, States shall cooperate in the implementation of existing international law and the further development of international law relating to the liability for and assessment of damage caused by pollution of the marine environment,

RECOGNISING that, under Article 31, paragraph 3, of the Vienna Convention on the Law of Treaties 1969, for the purpose of the interpretation of treaties there shall be taken into account any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions and any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation,

DRAWING ATTENTION to the fact that the Assembly, the Executive Committee and the Administrative Council of the International Oil Pollution Compensation Fund 1992 (1992 Fund) and the governing bodies of its predecessor, the International Oil Pollution Compensation Fund 1971 (1971 Fund), composed of representatives of Governments of the States Parties to the respective Conventions, have taken a number of important decisions on the interpretation of the 1992 Conventions and the preceding 1969 and 1971 Conventions and their application, which are published in the Records of Decisions of the sessions of these bodies ^{<1>}, for the purpose of ensuring equal treatment of all those who claim compensation for oil pollution damage in States Parties,

EMPHASISING that it is vital that these decisions are given due consideration when the national courts in the States Parties take decisions on the interpretation and application of the 1992 Conventions,

CONSIDERS that the courts of the States Parties to the 1992 Conventions should take into account the decisions by the governing bodies of the 1992 Fund and the 1971 Fund relating to the interpretation and application of these Conventions.

^{<1>} IOPC Funds' website: www.iopcfund.org

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.

RESOLUTIONS OF THE 1992 FUND

- 14 -

Resolution N°10—Joint Secretariat (March 2005)

THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND, 1992 (1992 Fund),
THE ADMINISTRATIVE COUNCIL OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND, 1971 (1971 Fund), and
THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION SUPPLEMENTARY FUND, 2003
(Supplementary Fund)

NOTING that the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 entered into force on 3 March 2005, thereby establishing the Supplementary Fund,

AWARE that since the establishment of the 1992 Fund in 1996, the 1971 Fund and the 1992 Fund have been administered by a joint Secretariat headed by a single Director,

RECALLING that from 1996 to 1998 the Secretariat of the 1971 Fund administered the 1992 Fund, whereas since 1998 the Secretariat of the 1992 Fund has served as Secretariat of the 1971 Fund also,

RECOGNISING the benefits of the present arrangement,

BELIEVING that a similar arrangement in respect of the Supplementary Fund would be beneficial,

CONSIDERING that the 1992 Fund, the 1971 Fund and the Supplementary Fund should be administered by one Secretariat headed by a single Director,

TAKING THE VIEW that the most appropriate arrangement would be for the Secretariat of the 1992 Fund to function as the Secretariat not only of the 1971 Fund but also of the Supplementary Fund and that the Director of the 1992 Fund, in addition to being *ex officio* Director of the 1971 Fund, should also be *ex officio* Director of the Supplementary Fund,

DECIDE

- 1 The Secretariat of the 1992 Fund shall as hitherto administer the 1971 Fund and shall also administer the Supplementary Fund;
- 2 The Director of the 1992 Fund shall continue *ex officio* to be Director of the 1971 Fund and shall also *ex officio* be Director of the Supplementary Fund.

Resolution N°11—Measures in respect of Contributions (October 2009)

THE ADMINISTRATIVE COUNCIL ACTING ON BEHALF OF THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND, 1992 (1992 Fund), and

THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION SUPPLEMENTARY FUND, 2003 (Supplementary Fund),

NOTING that the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 and the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 were established to pay adequate compensation and to this end contributions are required to fund payment of claims,

RECOGNISING that States Parties in accepting the Conventions have agreed to ensure that contributors fulfil their obligations under Article 13, paragraph 2 of the 1992 Fund Convention and Article 12, paragraph 1 of the 2003 Supplementary Fund Protocol,

RECOGNISING ALSO that the Funds cannot operate effectively and equitably unless oil reports and contributions are received in a timely manner,

- 1 **ENDORSE** current measures employed by the Director and Secretariat for following up arrears of contributions,
- 2 **CALL ON** all receivers of contributing oil to comply with their obligations under the Conventions,
- 3 **URGE** associations representing receivers of contributing oil to engage proactively in ensuring that obligations by industry members are met and to report to the Director/Secretariat on the measures taken,
- 4 **FURTHER URGE** States Parties to ensure that they have taken all necessary measures to implement effectively their obligations under Article 13, paragraph 2 of the 1992 Fund Convention and Article 12, paragraph 1 of the 2003 Supplementary Fund Protocol, whilst reminding them of the option to make use of Article 14, paragraph 1 of the 1992 Fund Convention and Article 12, paragraph 2 of the 2003 Supplementary Fund Protocol,
- 5 **REQUEST** States Parties to report to the Director the means by which they have implemented their obligations under Article 13, paragraph 2 of the 1992 Fund Convention and Article 12, paragraph 1 of the 2003 Supplementary Fund Protocol, so that, based on the information submitted, the Secretariat, with the assistance of the Audit Body, may summarise such means and report such information to the 1992 Fund Assembly and Supplementary Fund Assembly,
- 6 **CALL SPECIFICALLY ON** States Parties with contributors who are in arrears to report to the Director the means by which they have implemented their obligations under Article 13, paragraph 2 of the 1992 Fund Convention and Article 12, paragraph 1 of the 2003 Supplementary Fund Protocol and on any steps they have taken to ensure payment of the outstanding contributions,
- 7 **ALSO REQUEST** that the Director, in consultation with the State(s) Parties concerned, should consider options for providing, as part of regular reports on outstanding contributions, a list of

RESOLUTIONS OF THE 1992 FUND

- 16 -

non-contributing 'persons' (entities) and that such a list be made prominent in reports of the operations of the Funds, subject to any applicable laws,

8 **DIRECT** the Audit Body to:

- (a) monitor the effectiveness of the above actions in respect of outstanding contributions;
- (b) monitor the effectiveness of the new 1992 Fund Policy on Outstanding Oil Reports and Deferment of Compensation Payments, adopted by the 1992 Fund Assembly at its October 2008 session; and
- (c) report to the 1992 Fund Assembly and Supplementary Fund Assembly on its findings, including recommendations for further measures as may be warranted.

Resolution N°12—Measures in respect of outstanding oil reports and outstanding contributions
(April 2016)

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

RECALLING that the International Fund for Compensation for Oil Pollution Damage, 1992 (the 1992 Fund) was established by the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (the 1992 Fund Convention) in order to ensure that adequate compensation is available to persons who suffer damage caused by pollution resulting from the escape or discharge of oil from ships,

NOTING the obligation of States Parties pursuant to Article 15 of the 1992 Fund Convention to communicate to the Director of the Fund (the Director), at a time and in the manner provided in the Internal Regulations, the name and address of any person who in respect of those States is liable to contribute to the 1992 Fund pursuant to Article 10 of the 1992 Fund Convention, as well as data on the relevant quantities of contributing oil received by any such person during the preceding calendar year (oil reports),

MINDFUL, in order to secure adequate compensation, of the need to ensure payment of annual contributions to the 1992 Fund as required by Article 10 of the 1992 Fund Convention,

NOTING also the duty of States Parties pursuant to Article 13.2 of the 1992 Fund Convention to ensure that any obligation to contribute to the 1992 Fund arising under the Convention in respect of oil received within the territory of those States is fulfilled and to this end to take appropriate measures under their law,

AWARE THAT, where States Parties are in breach of their obligations under Article 13.2 or Article 15 of the 1992 Fund Convention, then those States Parties bear a responsibility to the 1992 Fund under public international law,

BEARING IN MIND that the 1992 Fund cannot carry out its mandate nor operate effectively unless accurate oil reports and contributions are received in a timely manner,

RECALLING the decision taken in October 2008 by the 1992 Fund Assembly at its 13th session to adopt a policy whereby, in the event that a State is two or more oil reports in arrears, any claim submitted by the Administration of that State or a public authority working directly on the response or recovery from the pollution incident on behalf of that State will be assessed for admissibility but payment will be deferred until the reporting deficiency is rectified,

RECALLING also Resolution N°11—Measures in respect of Contributions (October 2009),

- 1 **ENDORSES** the current efforts of the Director to follow up on arrears of oil reports and contributions;
- 2 **CALLS ON** all receivers of contributing oil to discharge their obligations under the 1992 Fund Convention in a timely manner;

RESOLUTIONS OF THE 1992 FUND

- 18 -

- 3 **URGES** associations representing receivers of contributing oil to engage proactively in ensuring that industry members meet their obligations and to report to the Director on the measures taken in this regard;
- 4 **FURTHER URGES** all States Parties to fulfil their obligations under Articles 13.2, 15.1 and 15.2 of the 1992 Fund Convention, in particular, to provide oil reports in a timely and accurate manner and to ensure payment of contributions;
- 5 **REMINDS** States Parties of the option contained in Article 14.1 of the 1992 Fund Convention whereby a State Party may at any time declare that it assumes the obligation to make contributions to the 1992 Fund that are otherwise incumbent on persons pursuant to Article 10.1 of the Convention;
- 6 **REQUESTS** those State Parties which have outstanding oil reports or which have contributors that are in arrears with their payments to report to the Director on any steps they have taken to redress these situations;
- 7 **INSTRUCTS** the Director:
 - (a) in consultation with the Audit Body, to examine the reports referred to in paragraphs 4 and 6 above and to present any recommendations to the 1992 Fund Assembly;
 - (b) to report at each regular session of the 1992 Fund Assembly the names of those States which have not provided oil reports or which have not taken steps to ensure the timely payment of contributions; and
 - (c) to include in such reports an account of what actions, if any, have been taken by the States referred to in sub-paragraph (b) in the previous 12 month period in response to any request made by the Director to rectify the situation;
- 8 **DECIDES** that it shall make a determination as to those States that are responsible for two or more oil reports in arrears, in which event any claim submitted by the Administration of those States, including a claim submitted by a public authority working directly on the response or recovery for the pollution incident on behalf of those States, will be assessed for admissibility, but actual payment will be deferred pending rectification of the reporting deficiency;
- 9 **DECIDES ALSO** that it shall make a determination as to those States that are found to be in breach of their obligations under Article 13.2 of the 1992 Fund Convention for two or more years, in which event any claim submitted by the Administration of those States, including a claim submitted by a public authority working directly on the response or recovery for the pollution incident on behalf of those States, will be assessed for admissibility, but actual payment will be deferred pending rectification of the breach;
- 10 **DECIDES FURTHER** that it shall make a determination as to those States that are found to be in breach of their obligations under Articles 13.2, 15.1 or 15.2 of the 1992 Fund Convention, in which event those States shall not be eligible to nominate candidates for membership of the Audit Body nor to be elected as members of the 1992 Fund Executive Committee;
- 11 **INSTRUCTS** the Director to develop guidelines in relation to implementation by States Parties of their obligations under Articles 13.2, 15.1 and 15.2 of the 1992 Fund Convention;

RESOLUTIONS OF THE 1992 FUND

- 19 -

- 12 **DIRECTS** the Audit Body to:
- (a) monitor the effectiveness of the above actions in respect of outstanding oil reports and outstanding contributions; and
 - (b) report to the 1992 Fund Assembly on its findings, including recommendations for further measures as may be warranted;
- 13 **REVOKES** Resolution N°11 of the 1992 Fund Assembly (October 2009) to the extent that it affects the 1992 Fund.

Resolution N°13 — Authorisation for the Director to issue invoices to contributors based on estimated oil receipts, including retrospectively, where no reports have been submitted (November 2023)

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

RECALLING that the International Fund for Compensation for Oil Pollution Damage, 1992 (the 1992 Fund) was established by the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (the 1992 Fund Convention) in order to ensure that adequate compensation is available to persons who suffer damage caused by pollution resulting from the escape or discharge of oil from ships,

NOTING the obligation of States Parties pursuant to Article 15 of the 1992 Fund Convention to communicate to the Director of the Fund (the Director), at a time and in the manner provided in the Internal Regulations, the name and address of any person who in respect of those States is liable to contribute to the 1992 Fund pursuant to Article 10 of the 1992 Fund Convention, as well as data on the relevant quantities of contributing oil received by any such person during the preceding calendar year (oil reports),

MINDFUL that the IOPC Funds' governing bodies have expressed significant concern that a number of States Parties have not complied with this specific obligation to submit oil reports and that this has been a long-standing issue despite considerable efforts on the part of the Secretariat to engage the States Parties concerned,

REITERATING the duty of States Parties pursuant to Article 13.2 of the 1992 Fund Convention to ensure that any obligation to contribute to the 1992 Fund arising out of the Convention in respect of oil received within the territory of those States is fulfilled and to this end to take appropriate measures under their law,

CONSIDERING that the failure or omission by some States Parties, as well as by some contributors, to abide by their obligations to submit oil reports places an unfair burden on those States Parties and contributors which do comply with these obligations,

BEARING IN MIND that the 1992 Fund cannot carry out its mandate nor operate effectively unless accurate oil reports and contributions are received in a timely manner,

NOTING FURTHER that, whereas in the past it had been decided that it was not practicable to determine the quantities of oil receipts of individual contributors on the basis of information available to the 1992 Fund but that, since then, the quality and reliability of available information from a variety of sources has improved significantly,

RECALLING FURTHER the governing bodies' instruction to the Director at their October 2019 sessions to examine ways to incentivise the submission of oil reports, including the possibility of invoicing contributors on the basis of estimated oil receipts if no oil reports are submitted,

RECALLING ALSO the governing bodies' instruction to the Director at their October 2022 sessions to prepare, in consultation with the Audit Body, a draft Resolution and the relevant draft amendments to the Internal Regulations to enable him to issue invoices to contributors based on estimates if no oil reports were submitted,

CONSIDERING FURTHER that, while no specific reference exists, nevertheless there is a clear and firm legal basis pursuant to Article 12.2 read with Article 13.3 of the 1992 Fund Convention for the Director

RESOLUTIONS OF THE 1992 FUND

- 21 -

to issue, and for the 1992 Fund Assembly to authorise the Director to issue, invoices on the basis of estimated oil receipts if no oil reports are submitted, including retrospectively in relation to past periods,

BEING OF THE VIEW that this Resolution would further strengthen the Director's ability to take action against States Parties which have not complied with their legal obligations under the Convention by issuing invoices on the basis of estimated oil receipts if no oil reports are submitted, including retrospectively in relation to past periods, and would provide support for the Director's action in the event that a legal challenge were to be pursued in a national court,

BELIEVING that this Resolution would constitute an important tool to encourage the prompt and accurate reporting of contributing oil,

BELIEVING MOREOVER that this Resolution would be a clear expression by States Parties of the fundamental importance of the reporting obligation to the entire International Oil Pollution Compensation Funds system,

AFFIRMING that the Secretariat would continue its efforts to assist States Parties to fully implement the Convention including with respect to their reporting obligations,

MINDFUL ALSO of Resolution N°12 of the 1992 Fund—Measures in respect of outstanding oil reports and outstanding contributions (April 2016),

- 1 **ENDORSES** the current efforts of the Director to follow-up on arrears of oil reports and contributions;
- 2 **CALLS ON** all receivers of contributing oil to discharge their obligations under the 1992 Fund Convention in a timely manner;
- 3 **URGES** associations representing receivers of contributing oil to engage proactively in ensuring that industry members meet their obligations; and to report to the Director on the measures taken in this regard;
- 4 **FURTHER URGES** all States Parties to fulfil their obligations under Articles 13.2, 15.1 and 15.2 of the 1992 Fund Convention, in particular, to provide oil reports in a timely manner and to ensure payment of contributions;
- 5 **REMINDS** States Parties of the option expressed in Article 14.1 of the 1992 Fund Convention whereby a State Party may at any time declare that it assumes the obligation to make contributions to the 1992 Fund that are otherwise incumbent on persons pursuant to Article 10.1 of the Convention;
- 6 **REQUESTS** those States Parties which have outstanding oil reports or which have contributors that are in arrears with their payments to report to the Director on any steps they have taken to redress these situations;
- 7 **AUTHORISES** the Director, in the event that no oil reports are submitted by States Parties in breach of their obligations under Articles 13.2, 15.1 and 15.2 of the 1992 Fund Convention, to issue invoices on the basis of estimated oil receipts to persons who are liable to contribute to the 1992 Fund pursuant to Article 10 of the 1992 Fund Convention, including retrospectively in relation to past periods;

RESOLUTIONS OF THE 1992 FUND

- 22 -

- 8 **INSTRUCTS** the Director, whenever invoices are issued in accordance with paragraph 7 above, to:
- (a) inform the relevant State Parties of the fact that and the basis on which such invoices have been issued,
 - (b) report fully at each regular session of the 1992 Fund Assembly on the issue of any such invoices in the previous twelve-month period including the basis on which they have been issued, and
 - (c) include in such reports an account of what actions by way of response, if any, have been taken by those States Parties and/or receivers of contributing oil to whom the invoices have been issued;
- 9 **FURTHER INSTRUCTS** the Director to prepare the relevant draft amendments to the Internal Regulations to enable the Director to issue invoices on the basis of estimated oil receipts including retrospectively in relation to past periods, in the event that the oil reports referred to in paragraphs 4, 6 and 7 above have not been submitted;
- 10 **DIRECTS** the Audit Body to:
- (a) monitor the effectiveness of the above actions in respect of outstanding oil reports and outstanding contributions, and
 - (b) report to the 1992 Fund Assembly on its findings, including recommendations for further measures, as may be warranted.
-