



International Oil Pollution
Compensation Funds

Agenda Item 9	IOPC/APR24/9/1	
Date	13 May 2024	
Original	English	
1992 Fund Administrative Council	92AC24/92AES28	●
1992 Fund Executive Committee	92EC82	●
Supplementary Fund Assembly	SAES12	●

RECORD OF DECISIONS OF THE APRIL 2024 SESSIONS OF THE IOPC FUNDS' GOVERNING BODIES

(24th session of the 1992 Fund Administrative Council, acting on behalf of the
28th extraordinary session of the 1992 Fund Assembly, held from 29 April to 1 May 2024)

Governing Body (session)		Chair	Vice-Chairs
1992 Fund	Administrative Council (92AC24/ 92AES28)	Ambassador Antonio Bandini (Italy)	Professor Tomotaka Fujita (Japan) Ms Stellamaris Muthike (Kenya) (absent)
	Executive Committee (92EC82)	Ms Małgorzata Buszyńska (Poland)	Ms Karen Andersen (Denmark)
Supplementary Fund	Assembly (SAES12)	Mr François Marier (Canada)	Mr Andrew Angel (United Kingdom) Ms Safiye Tecen (Türkiye)

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*Opening of the sessions***1992 Fund Administrative Council**

- 0.1 The Chair of the 1992 Fund Assembly could not open the 28th extraordinary session of the Assembly at 9.30 am since the required quorum of 61 Member States was not achieved. Fifty-seven 1992 Fund Member States were present at that time.
- 0.2 The Chair therefore concluded that, in accordance with Resolution N°7, the items of the Assembly's agenda would be dealt with by the 24th session of the 1992 Fund Administrative Council, acting on behalf of the 28th extraordinary session of the 1992 Fund Assembly^{<1>}.
- 0.3 The Chair reiterated that Member States that have registered for a meeting should ensure that they are present at the opening of the 1992 Fund Assembly session so that quorum can be achieved.

Supplementary Fund Assembly

- 0.4 The Supplementary Fund Assembly Chair opened the 12th extraordinary session of the Assembly with 22 Member States present.

1992 Fund Executive Committee

- 0.5 The 1992 Fund Executive Committee Chair opened the 82nd session of the Executive Committee with 14 Member States present.
- 0.6 The Member States present at the sessions are listed at Annex I, as are the non-Member States, intergovernmental organisations and international non-governmental organisations which were represented as observers.

1 Procedural matters

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| Adoption of the Agenda
Document IOPC/APR24/1/1 | 92AC | 92EC | SAES |
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The 1992 Fund Administrative Council, 1992 Fund Executive Committee and Supplementary Fund Assembly adopted the agenda as contained in document [IOPC/APR24/1/1](#).

- 1.2
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| Examination of credentials
Documents IOPC/APR24/1/2 , IOPC/APR24/1/2/1 and IOPC/APR24/1/2/2 | 92AC | 92EC | SAES |
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Establishment of the Credentials Committee

- 1.2.1 The governing bodies took note of the information contained in document [IOPC/APR24/1/2](#).
- 1.2.2 The governing bodies recalled that at its March 2005 session, the 1992 Fund Assembly had decided to establish, at each session, a Credentials Committee composed of five members elected by the Assembly on the proposal of the Chair, to examine the credentials of delegations of Member States. It was also recalled that the Credentials Committee established by the 1992 Fund Assembly should

<1> From this point forward, references to the '24th session of the 1992 Fund Administrative Council' should be taken to read '24th session of the 1992 Fund Administrative Council, acting on behalf of the 28th extraordinary session of the 1992 Fund Assembly'.

also examine the credentials in respect of the 1992 Fund Executive Committee, provided the session of the Executive Committee was held in conjunction with a session of the Assembly.

- 1.2.3 The governing bodies further recalled that, at their October 2008 sessions, the 1992 Fund Assembly and the Supplementary Fund Assembly had decided that the Credentials Committee established by the 1992 Fund Assembly should also examine the credentials of delegations of Member States of the Supplementary Fund (documents [92FUND/A.13/25](#) and [SUPPFUND/A.4/21](#)).
- 1.2.4 It was recalled that, at their May 2023 sessions, the governing bodies had amended the Rules of Procedure relating to the deadline for the submission of credentials and had decided that credentials should be submitted no later than five working days in advance of the meeting. It was noted that for the April 2024 sessions, the deadline was therefore 22 April 2024.

1992 Fund Administrative Council decision

- 1.2.5 In accordance with Rule 10 of the Rules of Procedure of the 1992 Fund Assembly and the Supplementary Fund Assembly and Rule 9 of the Rules of Procedure of the 1992 Fund Executive Committee, the 1992 Fund Administrative Council appointed the delegations of Algeria, Ecuador, Portugal, United Kingdom and Uruguay as members of the Credentials Committee.

1992 Fund Executive Committee and Supplementary Fund Assembly

- 1.2.6 The 1992 Fund Executive Committee and the Supplementary Fund Assembly took note of the appointment of the Credentials Committee by the 1992 Fund Administrative Council.

Interim Report of the Credentials Committee

- 1.2.7 In order to facilitate the resolution of an issue regarding the credentials of one particular delegation, the Chair of the Credentials Committee, Mr Carlos Sequeira (Portugal) presented an Interim Report of the Credentials Committee on Tuesday 30 April in accordance with Rule 10 of the Rules of Procedure of the 1992 Fund Assembly.
- 1.2.8 The Chair reported that the Credentials Committee was comprised of the representatives of the delegations of Algeria, Ecuador, Portugal, the United Kingdom and Uruguay, and had met on 29 April. He also reported that the Credentials Committee had examined the credentials of 50 Member States of the 1992 Fund, including members of the 1992 Fund Executive Committee and Member States of the Supplementary Fund, under the relevant Rules of Procedure, of which 48 credentials had been found to be in order.
- 1.2.9 The Chair of the Committee also reported that at the time of preparing the interim report, the Credentials Committee had noted that the credentials submitted by one Member State were not in order and that those submitted by another Member State required clarification. He added that the Credentials Committee expected both cases to be resolved before the presentation of its final report on 1 May 2024.
- 1.2.10 The Chair further reported that 12 Member States had submitted credentials after the deadline, which had therefore not been accepted for examination.

Bolivarian Republic of Venezuela

- 1.2.11 The Chair recalled that as in some of the previous meetings of the governing bodies, between 2019 and 2022, the Director had received two letters of credentials from two separate delegations claiming to represent the Bolivarian Republic of Venezuela: one signed by the Minister of Foreign Affairs of the Bolivarian Republic of Venezuela, Mr Yvan Gil, and one signed by Ms Dinorah Figuera as President of the National Assembly of the Bolivarian Republic of Venezuela.

- 1.2.12 The Chair also reported that the Director had requested an updated legal opinion from Professor Antonios Tzanakopoulos, on this matter.
- 1.2.13 The Chair reported that the Credentials Committee had been unanimous in its view that it was not the function of the IOPC Funds to decide which was the legitimate Government of the Bolivarian Republic of Venezuela. The Chair also reported that the Credentials Committee had concluded that the role of the Credentials Committee and the 1992 Fund Assembly was simply to decide which of the two delegations should be accredited as the official representative of the Bolivarian Republic of Venezuela at those particular sessions of the governing bodies.
- 1.2.14 Having considered this matter and the legal advice provided by Professor Tzanakopoulos on 24 April 2024, the Credentials Committee recommended once again that the *status quo* should continue. The Credentials Committee thus recommended that the letter of credentials of the delegation of the Bolivarian Republic of Venezuela issued by the Minister of Foreign Affairs of Venezuela, Mr Yvan Gil, should be accepted and that the named individuals therein be deemed the official representatives for the April 2024 sessions of the governing bodies. The Chair of the Credentials Committee also noted that this position applied to this meeting only and could be susceptible to change in the coming months.

Debate

- 1.2.15 Several delegations expressed their satisfaction with the recommendation made by the Credentials Committee.

1992 Fund Administrative Council decision

- 1.2.16 The 1992 Fund Administrative Council took note of the Interim Report of the Credentials Committee and based on its recommendation, decided to accept the credentials of the delegation headed by H.E. Félix Ramón Plasencia González as the official representative of the Bolivarian Republic of Venezuela at the April 2024 sessions of the governing bodies.

1992 Fund Executive Committee and Supplementary Fund Assembly

- 1.2.17 The 1992 Fund Executive Committee and the Supplementary Fund Assembly noted the decision of the 1992 Fund Administrative Council.

Final Report of the Credentials Committee

- 1.2.18 The Credentials Committee reported in its final report (document [IOPC/APR24/1/2/2](#)) that it had examined 50 credentials and that 48 had been found to be in order.
- 1.2.19 It was noted that the credentials submitted by one Member State which were not in order, had not yet been rectified. The Credentials Committee also noted that further clarifications were pending in relation to the credentials submitted by another Member State. The situation regarding the credentials of these two Member States had been reported in the Interim Report of the Credentials Committee presented at the sessions of the governing bodies on Tuesday, 30 April.
- 1.2.20 It was also noted that one more Member State had submitted credentials after the deadline, bringing the number of credentials presented after the deadline to 13. These credentials had not been accepted for examination.
- 1.2.21 The Credentials Committee reminded Member States that, in accordance with the Rules of Procedure of the governing bodies, credentials had to be submitted no later than five working days prior to the opening of the sessions.
- 1.2.22 The Credentials Committee encouraged Member States to follow the guidelines provided in

[IOPC/2023/Circ.6](#) regarding their form and content.

- 1.2.23 The governing bodies took note of the final report of the Credentials Committee and expressed their sincere gratitude to the members of the Credentials Committee for their work during the April 2024 meeting of the governing bodies.

2 Overview

2.1	Report of the Director	92AC		SAES
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- 2.1.1 The Director gave an oral report on the activities of the IOPC Funds since the November 2023 sessions of the governing bodies and provided some background to the key items on the agenda. He also reported on some of the issues on which the Secretariat would be working on in the coming months. Before starting his report, the Director apologised for the late issuance of some of the documents. He explained that the intention always was to issue the documents with the latest information available to Member States, but that there had been delays due to circumstances beyond the Secretariat's control.
- 2.1.2 In terms of membership, the Director recalled that there were 121 States Parties to the 1992 Fund Convention. He reported that on 9 April 2024, the Republic of Mauritius had deposited its instrument of accession to the Supplementary Fund Protocol, which would enter into force for Mauritius on 9 July 2024, bringing the membership of the Supplementary Fund to 33 States.
- 2.1.3 With respect to compensation matters, the Director reported that substantial progress had been made in relation to the *Princess Empress* incident and that 38 675 claims had been registered mainly in the fisheries sector. He also reported that the provisional payments had been completed in February 2024 and that the payment of some £10 million to 23 238 fishers had started the week before. He anticipated that given the number of claimants involved and the logistical challenges, this process would take months.
- 2.1.4 The Director referred to the articulated tank barge *Gulfstream*, towed by the tug *Solo Creed* that had capsized and sunk, and had spilled oil approximately 15 km off Tobago in early February 2024 and had subsequently also contaminated the coast of Bonaire (Kingdom of the Netherlands), some 800 km away. He indicated that Trinidad and Tobago was a Party to the 1992 Civil Liability and 1992 Fund Conventions and was up to date with oil reporting to the IOPC Funds' Secretariat. He noted that the analysis of the oil had proved it to be persistent oil and that it appeared that the vessel could be defined as a 'ship'. The Director noted that the vessel seemed not to have been registered and seemed not to have insurance. The Director reported that the IOPC Funds had monitored the developments relating to this incident and had sent experts to obtain samples. Staff members of the IOPC Funds had also visited Trinidad and Tobago in a fact-finding mission in March 2024. He recalled that he had raised concerns in past meetings regarding the increasing trade of oil being conducted by unsafe and uninsured or insufficiently insured ships, which was undermining the safety and environmental standards developed by the International Maritime Organization (IMO) and the international liability and compensation regime.
- 2.1.5 Regarding the Incident in Israel, the Director reported that the three-year time bar had been reached in February 2024 and that all claimants had been informed in advance. He also reported that three lawsuits had been suspended while the claims were being assessed or reassessed. He anticipated that the compensation payment amount might be lower than originally estimated.
- 2.1.6 In relation to the *Bow Jubail* incident, the Director reported that the shipowner had not been able to establish a limitation fund due to objections by some of the plaintiffs as to the amount of interest to be included. He added that the Rotterdam District Court would decide on this issue by the end of April 2024. He noted that in June 2024 it would be six years from the date of the incident and

added that the IOPC Funds was informing these claimants of their need to start proceedings against the 1992 Fund to protect their right to compensation. The Director indicated that he would be reporting on the progress of this incident at the following session.

- 2.1.7 Regarding the *Agia Zoni II* incident, the Director reported that the decision of the criminal judges sitting in Council had revealed that the ship had been sunk intentionally and that there were strong indications that five out of the nine parties who had been examined were criminally liable. He also noted that a criminal trial had been set for 24 October 2024 and said that he would report on the latest developments relating to this incident to the 1992 Fund Executive Committee at the following session.
- 2.1.8 The Director reported on the progress made in relation to the appointment of the External Auditor and said that three commercial firms and a nominee from one of the Member States had confirmed interest to tender.
- 2.1.9 The Director updated the governing bodies on the progress made towards the entry into force of the 2010 HNS Convention. He noted that there were eight States who had acceded to the 2010 HNS Convention. He referred to the workshop on the 2010 HNS Convention, organised by the IOPC Funds in cooperation with IMO, which would take place immediately after the closure of the IOPC Funds' April 2024 meeting. He added that substantial work was still to be conducted, in particular, in relation to reporting requirements, reporting tools and a simplified approach to reporting. The Director noted that there had been encouraging news on the progress made by the Netherlands in relation to the national legislation implementing the 2020 HNS Convention.
- 2.1.10 The Director referred to the potential impact of international sanctions. Once again, he expressed concern regarding the large number of tankers conducting unsafe operations with little or no insurance which put the Member States, the environment, and the contributors to the IOPC Funds at risk. He added that the IOPC Funds had been following closely the increase of the illegal operations in the maritime sector by the 'dark fleet' or 'shadow fleet'. He referred to the incidents in Trinidad and Tobago and the Danish Straits and other near miss situations that could have resulted in serious incidents. The Director noted that he had raised this issue during the meeting of the 111th session of the IMO Legal Committee the previous week and added that his concern had been shared by several of the Member States present at that meeting.
- 2.1.11 The Director reported that the 1992 Fund had received 96% of the £40 million 2023 levies to date, with £1.6 million outstanding.
- 2.1.12 The Director announced that the text of the non-technical guide to the nature and definition of persistent oil (the Guide) agreed by the 1971 Fund Assembly had been reviewed to ensure that it took into account the latest oil products and other relevant developments. He added that it would be submitted to the governing bodies for approval.
- 2.1.13 The Director reported on the outreach activities of the IOPC Funds, many of them conducted remotely, including lectures delivered to universities and the webinar series, which reached a large audience. He also referred to the regional lunches organised by the Secretariat and the visits to Member States. He announced that the 2024 Annual Academy would be conducted together with IMO, the International Chamber of Shipping (ICS), the International Group of P&I Associations, INTERTANKO and ITOPF, and would take place from 17 to 21 June 2024. He also announced that the IOPC Funds' Annual Report for 2023 had been published and was available online via the Publications section of the organisation's website and could be provided in hard copy upon request.
- 2.1.14 The Director also reported that Singapore had submitted to the Secretariat a copy of its national legislation relevant to the IOPC Funds and encouraged other Member States to do the same.
- 2.1.15 The Director referred to the key issues on which the Secretariat would be working on during the

following months, namely: the 2010 HNS Convention, the appointment of the External Auditor, the payment of compensation of the fishers claims of the *Princess Empress* incident and depending on the decision of the 1992 Fund Executive Committee, the assessment of claims relating to the Incident in Trinidad and Tobago.

- 2.1.16 Finally, the Director said that the Secretariat would continue raising awareness and monitoring the developments relating to the increase of the illegal operations in the maritime sector conducted by uninsured and unsafe vessels.
- 2.1.17 He added that during the November 2024 sessions of the governing bodies, he hoped to be able to report on the progress made in relation to the guidance document detailing a standard procedure to determine when a ship that can serve both as an oil tanker under the 1992 Civil Liability Convention (1992 CLC) and as a chemical tanker under the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention 2001), ceased to be a 'ship' under the 1992 CLC.

1992 Fund Administrative Council and Supplementary Fund Assembly

- 2.1.18 The governing bodies noted the information reported by the Director under this item.

3 Incidents involving the IOPC Funds

3.1	Incidents involving the IOPC Funds Document IOPC/APR24/3/1		92EC	SAES
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- 3.1.1 The 1992 Fund Executive Committee and Supplementary Fund Assembly took note of document [IOPC/APR24/3/1](#), which contained information on documents for the April 2024 meeting relating to incidents involving the IOPC Funds.

- 3.1.2 The governing bodies further noted that there are currently no incidents involving the Supplementary Fund.

3.2	Incidents involving the IOPC Funds — 1992 Fund: <i>Agia Zoni II</i> Document IOPC/APR24/3/2		92EC	
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- 3.2.1 The 1992 Fund Executive Committee took note of document [IOPC/APR24/3/2](#), relating to the *Agia Zoni II* incident.

Limitation fund claims evaluation procedure

- 3.2.2 The Executive Committee recalled that the Limitation Fund Administrator had concluded the evaluation procedure of the claims filed at the Limitation Court (totalling EUR 94.4 million) by publishing their provisional assessments totalling EUR 45.45 million.

- 3.2.3 The Executive Committee also recalled that the 1992 Fund had filed pleadings against the Limitation Fund in respect of the claims it had paid but which had not been subrogated, due to the short period (six months) set under Greek law for filing claims against the Limitation Fund, which had expired in May 2018. The Executive Committee further recalled that court hearings took place in 2020 to deal with the eight appeals lodged against the Limitation Fund Administrator's assessments.

- 3.2.4 It was recalled that in June 2022, a judgment was made by the Piraeus Multi-Member Court of First Instance which generally upheld the Limitation Fund Administrator's assessments but denied the 1992 Fund's appeal. It was also noted that the 1992 Fund had appealed and that the date for the hearing had been adjourned until September 2024.

Investigation into the cause of the incident

- 3.2.5 The Executive Committee recalled that two investigations had been conducted into the cause of the incident which had each reached different conclusions: one determining that the *Agia Zoni II* sank after an explosion, and the other that it sank after the seawater ballast valves were opened. It was also recalled that the Marine Accident Investigation Council (ASNA) report considered that the incident was attributed to the deliberate and negligent actions of:
- (i) the shipowner;
 - (ii) the two crew members on board at the time of the incident;
 - (iii) the General Manager of the shipowning company;
 - (iv) the Designated Person Ashore of the shipowning company; and
 - (v) representatives of the salvor/clean-up contracting company.
- 3.2.6 The Executive Committee further recalled that the Greek Mercantile Marine, as the supervisory body overseeing disciplinary matters for seafarers, had initiated a disciplinary tribunal against the crew members mentioned in the ASNA report who were on board the *Agia Zoni II* at the time of the incident, and the senior representative of the salvor mentioned in the ASNA report.
- 3.2.7 It was recalled that in June 2021, the disciplinary tribunal had published its findings and held that the Master was liable in negligence for the loss of the ship, but the tribunal did not examine the ASNA report's criticism of the salvors for their delayed antipollution response in sealing off and pumping out the wreck.
- 3.2.8 It was noted that the 1992 Fund's lawyers had recently been provided with a copy of the criminal file for the incident by the District Attorney, which reported a decision of the criminal judges sitting in Council which concluded that there appeared strong indications of criminal liability against five of the nine parties originally examined on the grounds that:
- (a) as per the opinion of all experts, the ship was intentionally sunk in order to cause pollution;
 - (b) according to all experts (except the National Technical University of Athens), the sinking was caused by the opening up from within the ship of the ballast water valves of the bottom starboard ballast tanks 2, 3 and 4, and by leaving open the engine room porthole. This could only have been done by the two crewmen who remained on board (there was no indication of any third-party boarding and leaving covertly);
 - (c) notwithstanding the progressive starboard list of the ship, the two crewmen did not act or notify anyone;
 - (d) the Greek Coast Guard was first notified at 02:10 hours by another ship close by, without either of the above two crewmen on board, or the Master or the owning company having called earlier;
 - (e) despite the second clean-up company having previously contacted the shipowning company, and its antipollution vessel had already started operating onsite, the owners of the *Agia Zoni II* awarded the salvage and antipollution contract at 06:30 hours with delay, to the first clean-up company which had no experience in that field of work; and
 - (f) the closing and sealing of the 11 cargo tank covers was achieved by that company, 53 hours after the ship sank, which was considered a very long timeframe.

- 3.2.9 It was also noted that in view of the above, the two crew members who remained on board, were indicted for intentionally:
- (i) causing malicious maritime pollution that could, and did, damage the environment and third-party properties, by unscrewing the cargo tanks' covers from which oil leaked into the sea following the ship's starboard list, which they caused by intentionally allowing ballast water into the starboard bottom ballast tanks 2, 3 and 4;
 - (ii) sinking the ship by illegally opening the starboard valves of the bottom ballast tanks 2, 3 and 4, and opening the engine room porthole which endangered human life; and
 - (iii) discharging into the sea, polluting materials.
- 3.2.10 It was further noted that the Master, the owning company representative and the representative of the first clean-up company were indicted as instigators of all above criminal actions, with the aim of causing extensive maritime pollution in order to benefit from the remuneration for antipollution works.
- 3.2.11 The Executive Committee noted that the decision of the criminal judges committed the engine room foremaster, the AB seaman, the Master, the shipowning company representative and the representative of the first clean-up company to trial, and also noted that the decision contained negative remarks about the first clean-up company.
- 3.2.12 The Executive Committee further noted that a date had been set for 24 October 2024, for a full trial (expected to last four to six days) of the five persons listed above, at the end of which, a judgment would be issued.

Claims for compensation

- 3.2.13 The Executive Committee noted that the 1992 Fund had received 424 claims amounting to EUR 100.21 million and one claim for USD 175 000, that it had approved 418 claims and had paid 192 claims amounting to EUR 16.88 million in compensation. Further offers of compensation and advance payments had been made to a number of claimants whose responses were awaited.
- 3.2.14 The Executive Committee recalled the details of the claims that had been submitted against the 1992 Fund by clean-up contractors, fishers, claimants in the tourism sector and by the Greek State, the further details of which were included within document [IOPC/APR24/3/2](#).

Statement by the delegation of Greece

- 3.2.15 The delegation of Greece made the following statement:

'First of all, we would like to thank you for the thorough and enlightening presentation. Having heard the summary on the said incident, I am afraid that there are no further advancements to report as regards this case from our part. This is mainly due to lawyers' abstention from all their court-related duties at a pan-Hellenic level having resulted in all scheduled trials to be postponed, as also mentioned in the document just presented.

With regards to the cause of the investigation of the sinking of the *Agia Zoni II*, namely the criminal proceedings in progress, the judicial development of the case for the incident and the issuance of an irrevocable criminal court decision, the results are still awaited as all the relevant proceedings are still ongoing.'

Debate

3.2.16 In response to a request by another delegation for details of the claims submitted by the clean-up contractor identified in the criminal proceedings, the Secretariat provided the details requested, noting that before the ASNA report had been published, an advance payment had been made to the salvors, but that no further payments had been made subsequently to that party, pending the conclusion of the criminal proceedings. The Secretariat also confirmed that the shipowner was indicted.

3.2.17 Another delegation stated that it noted the recent developments provided in the document regarding the indictment of the various parties including the two crew members and Master of the ship, and expected that through the trial it would become clear whether the sinking of the ship was caused intentionally, and hoped that the judgment of the trial would be reported at the next sessions of the governing bodies.

1992 Fund Executive Committee

3.2.18 The 1992 Fund Executive Committee noted that the Director would continue to monitor the incident and would report any developments at the next session of the governing bodies.

3.3	Incidents involving the IOPC Funds — 1992 Fund: <i>Bow Jubail</i> Document IOPC/APR24/3/3		92EC	
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3.3.1 The 1992 Fund Executive Committee took note of document [IOPC/APR24/3/3](#) on the *Bow Jubail* incident.

3.3.2 The Executive Committee recalled that on 23 June 2018, the oil and chemical tanker *Bow Jubail* (23 196 GT) had collided with a jetty owned by LBC Tank Terminals in Rotterdam, the Netherlands, resulting in a leak in the area of the starboard bunker tank, spilling fuel oil into the harbour.

3.3.3 It was also recalled that, at the time of the incident, the *Bow Jubail* was in ballast but that on the voyage prior to the incident, the *Bow Jubail* carried 'oil' as referred to in the 1992 CLC. It was further recalled, however, that the shipowner had stated that the tanks were clean of oil cargo residues at the time of the incident.

3.3.4 The Executive Committee recalled that in May 2023, the Supreme Court had confirmed the previous decisions of the Rotterdam District Court and the Court of Appeal in The Hague that the Bunkers Convention 2001 did not apply to the *Bow Jubail* incident and that the *Bow Jubail*, therefore, qualified as a 'ship' as defined under the 1992 CLC.

3.3.5 The Executive Committee further recalled that a total of 29 legal actions had been brought by 57 claimants before the Rotterdam District Court against the shipowner, its insurer and other parties. It was further recalled that 1992 Fund was notified or included as a defendant in the actions.

3.3.6 The Executive Committee also recalled that following a preliminary review of the amounts claimed, the total provisional amount was close to EUR 60 million, well in excess of the 1992 CLC limit. This amount is also in excess of the indemnity that the shipowner would provide to the 1992 Fund under the Small Tanker Oil Pollution Indemnification Agreement (STOPIA) 2006 (as amended 2017)^{<2>}.

<2> From this point forward, references to 'STOPIA 2006' should be taken to read 'STOPIA 2006 (as amended 2017)'.

- 3.3.7 The Executive Committee also recalled that at its May 2023 meeting, it had authorised the Director to make payments in respect of losses arising out of the *Bow Jubail* incident.
- 3.3.8 The Executive Committee further recalled that, in June 2023, the shipowner had applied before the Rotterdam District Court for leave to limit its liability to SDR 15 991 676 in accordance with the 1992 CLC.
- 3.3.9 The Executive Committee noted that in October 2023, after the Court had rejected the shipowner's application to limit its liability to the amount of the 1992 CLC only, the latter had resubmitted a request to limit its liability to the amount of the 1992 CLC, this time including interest.
- 3.3.10 The Executive Committee noted that, in a hearing on 26 April 2024, the Court indicated that it will take a decision whether to accept the shipowner's application by the end of May 2024.

1992 Fund Executive Committee

- 3.3.11 The 1992 Fund Executive Committee noted that the Director would continue to monitor the incident and would report any developments at the next session of the governing bodies.

3.4	Incidents involving the IOPC Funds — 1992 Fund: Incident in Israel Document IOPC/APR24/3/4		92EC	
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- 3.4.1 The 1992 Fund Executive Committee took note of the information regarding the Incident in Israel, as set out in document [IOPC/APR24/3/4](#).
- 3.4.2 The 1992 Fund Executive Committee recalled that in February 2021, the Government of Israel had contacted the 1992 Fund requesting assistance with oil found along the Israeli coastline. The Executive Committee also recalled that the Israeli Government believed a spill had occurred in the waters of the Exclusive Economic Zone (EEZ) of Israel. It further recalled that the source of the spill had not been identified.
- 3.4.3 The Executive Committee also recalled that, according to the investigations carried out by experts engaged by the 1992 Fund, the pollution was caused by crude oil which could not have originated from any other source but a passing oil tanker.
- 3.4.4 The Executive Committee further recalled that, as a consequence, at its July 2021 session, it had decided that the pollution which had affected the coastline of Israel could be considered as a spill from an unknown source (a so-called 'mystery spill') and that the 1992 Civil Liability and Fund Conventions would apply. It recalled that it had authorised the Director to pay compensation in respect of claims arising out of the Incident in Israel.
- 3.4.5 The Executive Committee noted that 470 claims had been submitted for clean-up operations, property damage and economic losses, totalling ILS 39.8 million, and noted that 12 claims had been paid for a total of ILS 4.6 million. The Executive Committee also noted that 344 claims for economic losses and property damage had been rejected for lack of supporting information.
- 3.4.6 The Executive Committee noted that further claims had been assessed at ILS 3.6 million and that the claimants had been informed of the assessment but had not yet replied.
- 3.4.7 The Executive Committee also noted that a number of claims, including claims for spill response and clean-up operations carried out by local authorities along the Israeli coastline and for economic losses, had recently been received through the Admiralty Court in Haifa, where a number of claimants whose claims had not yet been settled had commenced legal proceedings against the 1992 Fund, in order to protect their claims from being time-barred.

1992 Fund Executive Committee

3.4.8 The 1992 Fund Executive Committee noted that the Director would continue to monitor the incident and would report any developments at the next session of the governing bodies.

3.5	Incidents involving the IOPC Funds — 1992 Fund: <i>Princess Empress</i> Document IOPC/APR24/3/5		92EC	
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3.5.1 The 1992 Fund Executive Committee took note of the information regarding the *Princess Empress* incident contained in document [IOPC/APR24/3/5](#).

3.5.2 The Executive Committee recalled that on 28 February 2023, the Philippine-flagged *Princess Empress* (508 GT) sank in rough seas off the coast of Naujan, Oriental Mindoro, the Philippines, whilst carrying 800 000 litres of fuel oil as cargo and that subsequently, an oil spill had been detected around the location of the wreck which had extended to other areas, causing pollution damage.

3.5.3 It was recalled that the pollution damage resulting from the *Princess Empress* incident had affected the coasts of Oriental Mindoro to varying degrees and that the oil had also travelled to the Caluya archipelago, which is situated south of Mindoro Island, affecting the islands of Semirara and Liwagao.

3.5.4 The Executive Committee recalled that the 1992 Fund and the Shipowners' P&I Club had opened a central Claims Submission Office (CSO) in Calapan, Oriental Mindoro, and set up a number of temporary collection centres in different areas, some of which are not easily reachable.

3.5.5 It was recalled that claims related to this incident had exceeded the limit of liability of the shipowner under the 1992 CLC. It was also recalled that although the 1992 Fund started paying compensation when the 1992 CLC limit was reached, the shipowner's insurer had reimbursed the 1992 Fund for the amounts paid in compensation, up to the STOPIA 2006 limit of SDR 20 million. It was recalled, however, the STOPIA 2006 limit had also been reached.

Claims for compensation

3.5.6 The Executive Committee took note of the information on claims for compensation, contained in section 8 of document [IOPC/APR24/3/5](#).

3.5.7 It was noted that, after the publication of the document, the fisheries experts had finalised their assessment of some 36 000 claims in the fisheries sector. It was noted that of those, some 23 500 capture fisheries claims had been assessed at PHP 794.2 million. It was also noted that the payment process of the approved amounts had commenced but that given the high volume of claims to be paid and the logistical challenges, it would take several months to complete the payments.

Statement by the delegation of the Philippines

3.5.8 The delegation of the Philippines made the following statement:

'The offshore and shoreline response operations in relation to the oil spill incident brought by the sinking of the *Princess Empress* in the waters off Naujan, Oriental Mindoro last 28 February 2023 were demobilised as of 25 July 2023 after the series of final surveys initiated by the Incident Management Team. All government agencies and the local government units involved in the Command post participated in the survey. However, continued monitoring of the affected sites must continue.

The PCG and other government agencies are now concentrating on the rehabilitation of the affected areas.

The PCG and other agencies are preparing the documents to claim against the IOPC Funds.

The Philippines is doing its utmost to communicate to potential claimants the IOPC Funds compensation regime. There is also close coordination between the Government and the IOPC Funds through the CSO as regards claims.

In the meantime, we thank the IOPC Funds' Secretariat and all relevant partners and stakeholders for all their efforts and assistance to the Philippines and to the claimants, especially the fisherfolks.'

1992 Fund Executive Committee

- 3.5.9 The 1992 Fund Executive Committee noted that the Director would continue to monitor the incident and would report any developments at the next session of the governing bodies.

3.6	Incidents involving the IOPC Funds — 1992 Fund: Incident in Trinidad and Tobago (<i>Gulfstream</i>) Documents IOPC/APR24/3/6 and IOPC/APR24/3/6/1		92EC	
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- 3.6.1 The 1992 Fund Executive Committee took note of document [IOPC/APR24/3/6](#) submitted by the Secretariat, and document [IOPC/APR24/3/6/1](#) submitted by the Government of the Republic of Trinidad and Tobago.

Document IOPC/APR24/3/6 submitted by the Secretariat

- 3.6.2 The 1992 Fund Executive Committee noted that the articulated barge *Gulfstream*, towed by the tug *Solo Creed*, had capsized on 5/6 February 2024, some 16 km off the coast of Tobago and had lodged on a reef some 150 metres off Canoe Bay on the South Eastern coast of Tobago, spilling an unknown quantity of its 4 652 mt of persistent Bunker Fuel C cargo, which had polluted some 15 km of the coastline of Tobago. Subsequently, traces of oil and tar balls were washed up on the coast of Bonaire (Kingdom of the Netherlands), which were cleaned up by the local authorities.
- 3.6.3 The Executive Committee also noted that the barge was on a voyage from Pozuelo Bay, Venezuela to Guyana and that the Tobago Emergency Management Agency (TEMA) had triggered the national Oil Spill Contingency Plan to manage the response to the spill.
- 3.6.4 The Executive Committee further noted that the 1992 Fund had mobilised ITOPI to provide assistance to the authorities, and that in early March 2024, the Deputy Director/Head of Claims Department and a Claims Manager had visited Trinidad and Tobago for a fact-gathering visit and to meet with representatives from the Ministry of Energy and Energy Industries (MEEI).
- 3.6.5 It was noted that two salvage and environmental companies had been retained to remove any further oil which remained inside the wreck; an unknown quantity of oil, possibly up to 25 000 barrels of the original cargo of 35 000 barrels remained within the capsized barge.
- 3.6.6 It was also noted that clean-up operations were continuing with upwards of 150 workers and volunteers.
- 3.6.7 It was further noted that the oil carried onboard the barge was persistent and that the barge had been engaged in sea-going voyages for many years in the company of a push-tug *Marlin*.
- 3.6.8 The Executive Committee noted that online databases indicate that the barge *Gulfstream* was classed with the American Bureau of Shipping (ABS) until 31 December 2018 but that no further

registration details were available. It was also noted that it appeared that the vessel had not been reclassified or registered for a number of years.

- 3.6.9 The Executive Committee recalled that there have been a number of incidents in which the IOPC Funds' governing bodies have accepted that a vessel which traded regularly at sea was a 'sea-going' vessel satisfying the definition of 'ship' within Article I(1) of the 1992 CLC, including the *Victoriya* (2003), *Al Jaziah 1* (2000) and *Pontoon 300* (1998) incidents.
- 3.6.10 The Executive Committee further noted that in March 2023, the barge *Gulfstream* had been docked in Colón, Panama and was according to Court records in a damaged condition which required pumping to prevent it from sinking. In June 2023, it had been auctioned for sale before being laid up aground on a beach for seven months.
- 3.6.11 It was noted that on 30 December 2023, the tug *Solo Creed* moved the barge to anchor in the harbour at Colón, Panama, and that the barge was then towed to Venezuela.
- 3.6.12 It was also noted that an online database revealed the *Solo Creed* and *Gulfstream* offshore near Amuay, Venezuela before the tug and barge were observed in Pozuelo Bay, Venezuela between 27 and 31 January 2024.
- 3.6.13 It was further noted that on 3 February 2024, after leaving Pozuelo Bay, satellite imagery showed the tug and barge heading northeast with the barge on a long tow. The images show the barge to be leaking an oily substance, leaving behind a slick that stretched for at least 40 km. This indicated that it was likely that the *Gulfstream* took on a cargo from Venezuela in Pozuelo Bay, possibly via a ship-to-ship transfer (STS).
- 3.6.14 The Executive Committee noted that satellite imagery revealed that the *Gulfstream* barge had capsized approximately 16 km southeast of Tobago, and that the tug *Solo Creed* had seemingly released the tow wire and fled. Despite searches made by the local authorities, and enquiries made of neighbouring States and various ship registries, the location of the tug has not been determined.
- 3.6.15 The Executive Committee also noted that according to a document purportedly showing a request to book a pilot for the tug *Solo Creed* and its barge tow *Culie Boy*, the cargo was destined for Guyana Power and Light, Guyana's state-owned electric utility. It was noted that Guyana Power and Light had denied any involvement with the incident, but that the existence of further additional contracts providing oil to entities in Guyana could not be discounted.
- 3.6.16 The Executive Committee further noted that ship registration documents provided by the Zanzibar Maritime Authority indicated that the listed owner of the *Solo Creed* during its voyage towing the barge *Gulfstream* was an officer of a company based in Panama, and that several directors of that company were shared with three other companies which owned several other vessels which transited between Caribbean, Colombian and Venezuelan ports, often appearing to sail 'dark' with the automatic identification system (AIS) tracking data disabled.
- 3.6.17 It was noted that an independent investigative agency had made contact with a person in Nigeria who claimed to have purchased both the tug and barge in August 2023 (providing an unnotarised Bill of Sale for the mis-named barge *Gulf Stream*), and who claimed that both vessels were en route to Nigeria when the incident occurred, that they were not insured, and that the tug *Solo Creed* was still en route to Nigeria.
- 3.6.18 It was also noted that a new certificate of registration had been provided by the Zanzibar Maritime Authority dated 13 February 2024 listing a new owner based in Georgetown, Guyana, but that it had not been possible to locate that company in the Guyana Commercial Registry, and further enquiries continued by the Trinidad and Tobago authorities.

- 3.6.19 It was further noted that offshore clean-up and containment began on 8 February 2024 involving over 200 people, but that due to spring tides the oil was pushed beyond the usual high water mark leaving many areas with oil stains. It was also noted that the wave action of the next spring tides would assist in naturally cleaning many areas which were contaminated.
- 3.6.20 The Executive Committee noted that oil removal operations had been due to commence in the week of 1 April 2024 but had been hampered due to bad weather.
- 3.6.21 The Executive Committee also noted that as at 4 April 2024, some 8 255 m³ of liquid waste and 15 926 m³ of solid waste had been collected.
- 3.6.22 The Executive Committee further noted that no claims for compensation had yet been presented and that enquiries were continuing to locate the owners of the barge *Gulfstream*.
- 3.6.23 It was noted that the incident involved a barge which appeared to have no insurance, was in poor condition, for which no registered owner had yet been identified, and which appeared to be leaking oil at the start of its voyage suggesting the vessel was unseaworthy before and at the commencement of the voyage.

Document IOPC/APR24/3/6/1 submitted by the Government of the Republic of Trinidad and Tobago

- 3.6.24 The 1992 Fund Executive Committee also took note of document [IOPC/APR24/3/6/1](#) submitted by the Government of the Republic of Trinidad and Tobago, which detailed that the barge *Gulfstream* reportedly has a capacity of 60 000 barrels of cargo and an alleged consignment of 35 000 barrels allegedly bound for the Republic of Guyana. The Executive Committee further noted that the Tanzanian authorities had advised that the registration certificate was fraudulent.
- 3.6.25 It was noted that the local authorities were in pursuit of the *Solo Creed* worldwide, and that official correspondence had been dispatched to Panama and Tanzania seeking any relevant information regarding the two vessels. It was also noted that the Maritime Services Division (MSD) of the Ministry of Works and Transport had been contacted by a Nigerian lawyer representing the purported owner of the tug and barge, and that the MSD was scrutinising the validity of the claims having initiated inquiries to the Nigerian Government.
- 3.6.26 It was further noted that the Trinidad and Tobago Coast Guard (TTCG) had been working closely with the Guyana Coast Guard, the Caribbean Community Implementation Agency for Crime and Security (CARICOM IMPACS) and IR Consilium who are working with CARICOM IMPACS in an effort to identify the vessels involved or responsible for the oil spill in Tobago.
- 3.6.27 The Executive Committee noted that initial estimates of the cost of response to the oil spill were in the region of USD 23.5 million, with USD 12.5 million having been spent as at 6 April 2024. The Executive Committee also noted that bulk clean-up operations were completed in March 2024, and shoreline clean-up was expected to be completed in April 2024, with oil removal from the wreck expected to be completed in mid-May 2024.
- 3.6.28 The Executive Committee further noted that the Government of Trinidad and Tobago intended to take all and any necessary legal actions against the owner of the barge, the owner of the cargo and/or the owner of the tug in order to recover the monies spent on the oil spill prevention and clean-up efforts, and that they intended to utilise the Bunker Fuel C collected from the vessel in order to defray costs.
- 3.6.29 The Executive Committee noted the response actions undertaken by the local authorities as detailed within the document. It also noted that in relation to the search for the *Solo Creed*, CARICOM IMPACS had advised that a legal firm for the charterer of a barge had informed the Guyana power plant believed to have been the intended recipient of the cargo, that due to unforeseen circumstances it could not honour the contract to provide fuel and could not say when

it would be able to do so. It was also noted that the barge was not named in the correspondence and indicated that the volume of heavy fuel oil on board was 75 000 barrels, not 35 000 barrels as listed in the pilotage document obtained from the Guyana Maritime Authority, which had mentioned a barge *Culie Boy*, whose IMO number detailed in the pilotage document matched that of the barge *Gulfstream*, based on online sources.

- 3.6.30 It was further noted that assistance had been sought from CARICOM IMPACS to contact Panama and Aruba to ascertain whether there were any photos of the *Solo Creed* and its barge. Photos were provided showing the tug towing a barge which matched the barge shown sinking in videos made available to the Trinidad and Tobago authorities.
- 3.6.31 The 1992 Fund Executive Committee noted that the MSD had written to IMO for the provision of a consultant to assist with the investigation, and that IMO was actively engaged in identifying one. The Executive Committee also noted that it was the intention of the Government of Trinidad and Tobago to take legal action against the owner of the barge *Gulfstream* and/or the owner of the tug *Solo Creed* under the applicable Trinidad and Tobago legislation.
- 3.6.32 The delegation of Trinidad and Tobago gave a detailed statement on this incident which is included in its entirety and is attached at Annex II to this document.

Statement by the delegation of the Republic of Korea

- 3.6.33 The delegation of the Republic of Korea made the following statement:

‘First of all, we would like to express our appreciation to the Secretariat and the Republic of Trinidad and Tobago for providing relevant information and submitting the documents on the incident in Trinidad and Tobago, which occurred in early February this year.

This incident is of significant importance to the implementation of the 1992 Civil Liability and Fund Conventions, which form the foundation of the IOPC Funds, and the issues revealed in the documents are all related to non-compliance with key obligations under these Conventions.

In particular, as specified in the documents, the incident is suspected to be linked to deliberate illegal actions such as intentional vessel registration avoidance by some shipowners in specific areas. There were also problems in identifying shipowners due to a lack of registration-related information regarding the ships involved in the incident, along with matters of classification.

Moreover, it is evident that the barge in question had serious maintenance and seaworthiness issues before the incident, which is an action that potentially and greatly increases the risk of oil spills. Consequently, the intervention of the IOPC Funds becomes inevitable, leading to an increase in the contribution of the Member States.

Furthermore, shipowners in all Member States are obliged to have liability insurance under the 1992 CLC. However, in the current situation, it is believed that the unidentified shipowner of the barge in this case has failed to fulfil its obligation in accordance with the Convention. Even if the shipowner is identified later, it is anticipated that the 1992 Fund may incur financial losses if the shipowner does not have insurance as per the Convention. The Republic of Korea expresses serious concern that this will be directly placing a burden on Member States.

During previous IOPC Funds' meetings, the IOPC Funds' governing bodies have accepted that a vessel which traded regularly at sea, including a barge transporting oil in bulk as cargo from one place to another, was a 'sea-going' vessel satisfying the definition of 'ship' within the 1969 and 1992 Civil Liability Conventions. Since this incident is to be interpreted as a similar case, it is believed that payment of compensation is inevitable, so the Republic of Korea agrees to pay compensation in respect of claims arising from this incident.

However, this delegation expresses serious concerns about the high probability of similar incidents occurring in the future. Given the continuous sharing of cases concerning interpretations of the definition of 'ship', intentional incidents, and under-insurance falling short of the shipowner's liability, the Republic of Korea is concerned about the negative impact on the IOPC Funds and Member States due to ongoing issues of compliance with the 1992 Conventions.

In particular, the unlawful practices associated with the fraudulent registries of ships which is the main issue identified in this case, was discussed at the IMO Legal Committee last week, and the matter is directly related to the IOPC Funds as it is related to the identification of the shipowners.

Therefore, the Republic of Korea requests all Member States to fulfil their obligations under the Conventions, including management and supervision obligations of the flag States, to protect the interests of the IOPC Funds and Member States.

In addition, this delegation also kindly requests the Secretariat to actively engage in this matter, including taking all necessary and reasonable legal remedies regarding the incident, to ensure that Member States comply with their obligations under the Convention, by cooperating with the IOPC Funds' Secretariat in the future.'

Statement by the delegation of the Kingdom of the Netherlands

3.6.34 The delegation of the Kingdom of the Netherlands made the following statement:

'We firstly would like to thank Trinidad and Tobago and the IOPC Funds for the steps already taken in this incident and the efforts that already have been made to identify the shipowner of the vessel. The Kingdom of the Netherlands is pleased to hear members of the Executive Committee stating that the 1992 Conventions should apply to this incident, since oil and tar balls also washed up on the coast of Bonaire which resulted from this incident. Beaches and mangrove areas were polluted, but luckily cleaned up quite quickly by the Dutch authorities. There is a yearly training on oil spill response in Bonaire, which proved to be very effective in this situation. However, despite this effective response, pollution has been experienced and therefore claims will arise from this incident.

We do also support the concerns that were expressed by other Member States that the unclarity about the ownership and insurance of vessels in these type of incidents, could undermine the workings of the IOPC Funds' system. We very much welcome the proposal to discuss this issue further.

On our part, we additionally would like to highlight the importance of good cooperation among States that are involved in such an incident. In the case of the Trinidad and Tobago incident, due to the oil washed up on the coast of Bonaire, the Kingdom of the Netherlands has also offered help to Trinidad and Tobago in removing the wreck in order to prevent any further possible ecological damage to the wider Caribbean area and also to explore possibilities to cooperate in obtaining compensation from the owner of the vessel.'

Debate

- 3.6.35 One delegation stated that this incident emphasised the need to improve the control of shipping in order to minimise the possibility of similar vessels which presented significant risks of damage to coasts and the environment, and emphasised the importance of the support provided by the IOPC Funds and the reasons for being a Member of the 1992 Fund.
- 3.6.36 A significant number of delegations agreed that the 1992 Civil Liability and Fund Conventions applied to this incident, and authorised the Director to make payment of compensation in respect of claims arising from this incident, and that efforts should continue to identify the shipowner and to pursue a recourse action for the 1992 CLC portion.
- 3.6.37 Several delegations stated that they appreciated the efforts made to recover more information and to identify the shipowner, but noted that despite the efforts of the Secretariat and the Government of Trinidad and Tobago, the identity of the owner had still not been ascertained, and commented that even if found, it was unlikely that the vessel involved was insured. This raised serious concerns and undermined the integrity of the compensation regime.
- 3.6.38 Several delegations supported further discussion in the 1992 Fund Assembly, and one delegation stated that this matter should be brought to the attention of the IMO Legal Committee.
- 3.6.39 One delegation noted the difficulty of identifying the shipowner even with the availability of modern satellite coverage, and another delegation, noting that it was not a member of the Executive Committee, shared the concerns expressed by the Director regarding the threat to the marine environment and the stability of the compensation regime posed by substandard vessels sailing with insufficient or no insurance.
- 3.6.40 That delegation noted that document [IOPC/APR24/3/6](#) provided ample legal grounds and precedents to conclude that the barge and the oil laden onboard complied with the 1992 CLC definitions of 'ship' and 'oil', and also noted that previously the 1992 Fund Assembly had established the 7th Intersessional Working Group on the definition of 'ship', whose final report was contained in document [IOPC/APR15/8/2](#), and which in paragraph 12.2.7.3 analysed this exact scenario, and reached the same conclusions.

1992 Fund Executive Committee decisions

- 3.6.41 The 1992 Fund Executive Committee decided:
- a) that the 1992 Civil Liability and Fund Conventions would apply to this incident; and
 - b) to authorise the Director to make payments of compensation in respect of claims arising from this incident.

4 Compensation matters

4.1	The potential impact of sanctions on the liability and compensation regime Document IOPC/APR24/4/1	92AC		SAES
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- 4.1.1 The 1992 Fund Administrative Council and Supplementary Fund Assembly took note of document [IOPC/APR24/4/1](#).
- 4.1.2 The governing bodies recalled that in March 2022 the Director had submitted document [IOPC/MAR22/8/1](#) which contained at its Annex, a draft circular of the IMO Legal Committee containing guidance on the impact of the situation in the Black Sea and the Sea of Azov on insurance or other financial security certificates. That circular included information relevant to the

IOPC Funds (see IMO document LEG 109/16/1, paragraphs 5.14 and 5.15).

- 4.1.3 The governing bodies recalled that from 5 December 2022, pursuant to Articles 3(m) and 5aa of European Regulation 833/2014 (the Regulation), further restrictions had come into effect which governed the carriage and insurance of Russian crude oil and products, and prohibited transactions with the entities listed in Annex XIX of the Regulation that were controlled by the Russian Federation, which may have included potential shippers and contributors to the IOPC Funds.
- 4.1.4 The governing bodies noted that at the 110th session of the IMO Legal Committee, which convened from 27 to 31 March 2023, a number of States submitted document LEG 110/5 which requested flag States to ensure that tankers under their flag adhere to measures which lawfully prohibit or regulate STS transfers, and that such vessels adhere to the spirit of the safety requirements in IMO Conventions and practice safe shipping standards to minimise the risk of oil pollution.
- 4.1.5 The governing bodies also noted that at the IMO Assembly, which convened from 27 November to 6 December 2023, the Member States adopted Resolution A.1192(33) which called upon flag States to take measures against 'dark fleet' or 'shadow fleet' operations, and for port States to ensure enforcement of the safety and liability conventions, as detailed in that Resolution.
- 4.1.6 The governing bodies also recalled that as a result of the restriction on insurance of vessels carrying Russian crude oil and products, many of the P&I Clubs that are members of the International Group of P&I Associations (International Group) had not been able to insure such vessels, meaning that the shipowners needed to seek insurance from other non-International Group P&I Clubs.
- 4.1.7 The governing bodies further recalled that while the IOPC Funds are intergovernmental organisations and are not ordinarily subject to domestic or international sanction regulations and legislation, a number of practical difficulties might arise if dealing with an incident involving a vessel laden with Russian oil.
- 4.1.8 It was recalled that although the 1992 Fund had no liability for pollution damage resulting from acts of war, hostilities, civil war or insurrection or for damage caused by oil escaping or discharging from a warship or other ship owned or operated by a State and used exclusively for Government non-commercial service at the time of the incident, in the event of an oil spill following an attack on a civilian vessel, there might be extensive pollution affecting governments, businesses, individuals, the environment and wildlife.

Sanctions-avoiding vessels

- 4.1.9 It was also recalled that a high number of vessels had been reported as attempting to circumvent the sanctions by various methods, including turning off their AIS transponders so as to disappear from coverage. It was further recalled that this was understood to be done in order to conduct illegal STS oil transfer operations, often in dangerous waters or the open sea, or in areas with little satellite coverage, thereby negating many of the IMO safety measures and putting coastlines at increased risk of oil pollution.
- 4.1.10 The governing bodies recalled that maritime authorities had also been grappling with a further deceptive shipping practice of location manipulation, which involved a vessel transmitting a fake location.

Council of the European Union (EU) – 12th package of economic sanctions

- 4.1.11 The governing bodies noted that in December 2023, the EU had announced its 12th package of economic sanctions making it mandatory for any (i) national of a Member State, (ii) natural person residing in a Member State, and (iii) legal person, entity or body established in the EU to notify the competent authorities of any sale or other arrangement entailing a transfer of ownership to any

third country of any tanker engaged in the transport of crude oil or petroleum products listed in Annex XXV (Council Regulation (EU) 2023/2878), falling under the HS Code ex 8901 20.

Provision of insurance by International Group insurers – compliance with Price Cap Scheme

- 4.1.12 The governing bodies recalled that on 5 February 2023, the EU had expanded the Price Cap Scheme which was intended to curb the revenue that the Russian Federation earned from its petroleum products of Russian origin which fall under the EU's Combined Nomenclature (CN) code 2710, and that there were two price caps set depending on whether the petroleum product traded at a discount or a premium to crude oil.
- 4.1.13 The governing bodies also recalled that under the Price Cap Scheme, the International Group was permitted to provide P&I cover for shipments of Russian petroleum products to countries which were not part of the Price Cap Coalition, provided that the price of the cargo remained below the relevant price cap per barrel from the time it was loaded until it had cleared customs at the port of destination.
- 4.1.14 The governing bodies further recalled that a shipowner or charterer that intended to transport Russian petroleum product cargoes after 5 February 2023, needed to provide its P&I Club with an attestation that it would not, for the duration of the insurance period, carry Russian petroleum product cargoes which had been sold at a price that, for the period it was on board the vessel, was in excess of the price caps.
- 4.1.15 It was recalled that this enabled shipowners that were able to provide and comply with the attestation provisions to be insured by a P&I Club belonging to the International Group for certain voyages covered by the Price Cap Scheme, but that for voyages outside those permitted under the regulations, no such insurance was permitted, and shipowners would have to seek insurance from insurers not covered by the sanctions.

Provision of services by shipping registries

- 4.1.16 The governing bodies noted that there had been an increase in the number of ships undertaking flag transfers to those States with less enviable inspection records.

STS operations

- 4.1.17 The governing bodies also noted that there had been a dramatic increase in the number of STS operations being undertaken, often in dangerous conditions and without notification to the Member State in whose waters the operations were being conducted.

The use of ageing vessels

- 4.1.18 It was also noted that a result of the growing 'shadow' or 'dark' fleet had been an increase in the age of the tanker fleet calling at Russian ports, and that a number of shipping companies with little regulatory oversight appeared to be operating ships on the boundaries of the global safety regime.

Banking restrictions

- 4.1.19 The governing bodies recalled that there were a number of practical issues that might arise if an incident occurred involving a vessel laden with Russian oil, or within the Russian Federation itself; specifically with the existence of the sanctions, many banks had refused to have any dealings with money destined for, or originating from, the Russian Federation, meaning that the 1992 Fund might face difficulties in establishing bank accounts from which to pay compensation.

Potential mitigating actions

- 4.1.20 The governing bodies also recalled that, in accordance with the 2022 IMO LEG guidance on the impact of the situation in the Black Sea and the Sea of Azov on insurance or other financial security certificates, Member States should abide by their existing obligations pursuant to IMO Circular 3464, which stated that when receiving a 'blue card' or similar documentation from insurance companies, financial security providers and P&I Clubs outside the International Group, the Member State should verify the financial standing and solvency of such company in order to make sure that prompt and adequate compensation for victims was available.
- 4.1.21 It was noted that flag States were encouraged to comply with the suggestions detailed in IMO document LEG 110/5 by ensuring that tankers under their flag adhere to measures which lawfully prohibited or regulated STS transfers, and that port States were encouraged to ensure enforcement of the safety and liability conventions on such vessels and ensure that STS transfer operations were conducted in accordance with applicable safety requirements in IMO Conventions; should those States become aware of vessels 'going dark' they should consider subjecting such vessels to enhanced inspections and notifying the vessel's flag administration.
- 4.1.22 It was also recalled that the Government of the United Kingdom (UK) had issued a guidance document (UK Maritime Services Prohibition and Oil Price Cap Guidance) for the UK ban on the provision of maritime transportation of, and associated services for, certain oil and oil products. It was also recalled that the guidance contained exceptions to the prohibitions of maritime transportation and associated services for Russian oil and gas products, specifically mentioning an exception for when dealing with an emergency, stating that the prohibitions would not apply to any person performing an act that assisted with the urgent prevention or mitigation of an event likely to have a serious and significant impact on human health or safety, infrastructure or the environment.
- 4.1.23 It was further recalled that the document stated that it was not an offence to provide financial/brokering services or funds globally to anyone who was supplying or delivering by ship, oil and oil products from a place in the Russian Federation to a third country or between third countries, if it was to deal with an emergency, e.g. to clear up an oil spill.
- 4.1.24 The governing bodies recalled that as detailed in IMO Circular Letter 4548 of 7 April 2022, the Russian Federation had stated that it guaranteed fulfilment of all assumed obligations in their entirety under the international merchant shipping instruments it had previously ratified, and confirmed full validity of insurance or other financial securities in respect of liability, including 'blue cards' issued by Russian insurance companies in compliance with the requirements of international conventions.

Statement by the delegation of France

- 4.1.25 The delegation of France made the following statement (original in French):

'This delegation thanks the Secretariat for document IOPC/APR24/4/1 on the potential impact of sanctions on the international liability and compensation regime. France shares the Director's analysis regarding the very concrete implications of the sanctions regime on the IOPC Funds. It also shares his concerns about the risks of an uninsured ship in the event of an oil spill incident.

Clearly, this risk is reaching a very alarming level with the so-called 'dramatic' increase in the number of vessels in the dark fleet, consisting mainly of tankers. This is all the more worrying as the owners of these ships deliberately place themselves outside the rules of maritime safety and pollution prevention, as illustrated by the various manoeuvres carried out to bypass the surveillance of flag States and any controls that might be exercised by

port States.

In addition, as the Director has pointed out, on the one hand, the IOPC Funds cannot intervene to financially cover damage resulting from an act of war, hostilities, civil war or insurrection, and, on the other hand, coverage by the insurance sector is not granted for cargoes that do not have a certificate of compliance with the provisions of the sanctions regime.

France hears the warning message expressed by the Director. It fears the occurrence of an incident at sea involving an oil tanker from the dark fleet. In addition to the appalling damage that this event could cause to human life and crews, goods and the environment, it would affect the credibility of the entire maritime sector, including not only States but also the IMO and this organisation.

Doubts could arise as to our collective ability to resolve the current system failures. This delegation is convinced of the importance of this issue, which in its view is on the same scale as the challenges of complacency that shook our organisations a few years ago, and is calling for unprecedented efforts to address this situation.

The investigation into the *Gulfstream* incident will determine the causes of this incident and may identify possible requirements for strengthening specific instruments and technical cooperation. We are thinking of the port State control of non-conventional vessels, in this case barges that deserve greater attention, and the IMO guidelines on the safety of towed ships that could be updated or even made mandatory.

This delegation wishes to reiterate the absolute necessity for the Member States of this Fund, in particular, to also diligently apply the other international instruments relating to maritime safety and pollution prevention, whether those relate to their responsibilities as port States, coastal States or flag States.

We have actively supported this reminder in this forum and during the adoption of Resolution A.1192 at the 33rd session of the IMO Assembly. We remain at the disposal of interested parties to initiate discussions on how we can better prevent these risks when the time comes. In this respect, this delegation calls for a Resolution of the 1992 Fund Assembly.'

Debate

- 4.1.26 The delegation of the Russian Federation stated that the Secretariat's document was evolving in the direction which tried to portray sanctions introduced by some States as legitimate, which they are not. Moreover, it stated that the Secretariat's document was supporting coercive measures of some States against other States. That delegation also stated that the root cause of concerns expressed were the sanctions and the detrimental effect they had and that the solution to this issue was to remove them.
- 4.1.27 Another delegation stated that it remained concerned regarding the increase in dangerous practices involving the 'dark fleet', and referred to an incident in the Red Sea involving a vessel within the 'dark fleet', noting that if this tanker were to leak, it would lead to another complicated compensation matter. That delegation commented that the incident in Trinidad and Tobago showed what happened when rules were not followed or enforced.
- 4.1.28 That delegation stated that it was also concerned that the increase in smuggled oil was unlikely to be captured in reports for the purposes of received oil to the IOPC Funds, which placed a burden on the organisation, its members and its contributors. That delegation also urged member states to implement the guidance issued by the Price Cap Coalition, which included an alert with concrete

actions to be taken by the industry involved in the trade of oil, to ensure it was safely transported, including calling out suspicious behaviour. That delegation also called upon Member States to implement the IMO Resolution, and for coastal states to monitor their waters for STS transfers and to take appropriate actions if they do not comply with the safety regulations.

- 4.1.29 Several delegations emphasised the importance for Member States to enforce safety standards, and reiterated and expressed their full support for IMO Resolution A.1192(33) adopted by the IMO Assembly in December 2023, which highlighted the ongoing concerns about ships engaging in illegal STS transfer operations by the ‘dark fleet’ or ‘shadow fleet’.
- 4.1.30 One delegation stated that the EU had also announced its 13th package of sanctions, doubling down on anti-circumvention rules by adding companies to the list. That delegation was similarly concerned regarding vessels circumventing sanctions and the subsequent increase in STS operations.
- 4.1.31 Another delegation stated it was deeply concerned with the increase of the so-called ‘dark fleet’, which heightened the risk of oil pollution incidents, and thus increased the financial burden of the IOPC Funds. That delegation reminded the governing bodies of the IMO Resolution adopted at the IMO Assembly in December 2023 which called upon flag States to ensure that ships adhered to the measures for STS transfers, and called upon port States to ensure the enforcement of the safety and liability conventions, including carrying onboard valid state certificates of insurance. That delegation encouraged industry stakeholders to take actions where necessary to secure the safe operation of vessels under the relevant conventions such as SOLAS, MARPOL and the CLC. In particular, that delegation emphasised the importance of obtaining appropriate insurance coverage for the transport of Russian crude oil, and reminded Member States of the situation in the Red Sea, such as the seizure of the *Galaxy Leader* vessel, which it strongly condemned.
- 4.1.32 Noting that the IOPC Funds shall pay no compensation for pollution damage arising from acts of war, hostilities, civil war or insurrection under the 1992 Fund Convention, that delegation urged Member States to recall the Resolution adopted on 10 January 2024 at the UN Security Council, and strongly urged all parties to act in good faith in accordance with that Resolution, in order to prevent oil pollution incidents caused by such illegal actions.

Statement by the delegation of Panama

- 4.1.33 The delegation of Panama made the following statement (original in Spanish):

‘The Republic of Panama wants to thank the Secretariat for having presented this document.

The “dark fleet” and its illegal operations make spills more likely, particularly during illegal and unsupervised transfer operations, which puts the protection of our waters, marine biodiversity and important industries at risk for many countries. In this context, the illegal operations carried out by these vessels also reduce the effectiveness of the application of the international liability and compensation regime. This is due to the difficulty in identifying the vessel responsible for the spill, which significantly increases the financial risks for the IOPC Funds.

As a responsible flag State that has always ensured faithful compliance with international maritime conventions and codes, Panama considers this type of illicit operation unacceptable due to the imminent threat it poses to the safety of international navigation and the protection of the seas and coasts of all countries. This is why we have been implementing measures to monitor our commercial fleet globally. This includes the creation of a fleet monitoring and control centre and the setting up of 20 polygons in sensitive areas to ensure full control of the vessel fleet and to prevent illicit activities. In

addition, we have stringent sanctioning processes in place internally, which have resulted in the fining of 37 and 54 vessels in 2022 and 2023, respectively, and another 79 tankers are in the process of being sanctioned. The aim of all this is to ensure full compliance with international agreements on safety of navigation, protection, and prevention of pollution of the marine environment.

Chair, we are pleased to inform that our fleet is 93% compliant in terms of position reporting through the LRIT system. Moreover, as the first Registry to implement the LRIT compliance test, we have upgraded the requirements to obtain the LRIT Compliance Test Certificate and have opted for the use of QR codes to verify their veracity on the spot.

Finally, we regret what happened in Trinidad and Tobago and agree that we must reinforce and continue to work on more rigorous and stricter applications of international instruments and controls as a team to eradicate all these malpractices.'

1992 Fund Administrative Council and Supplementary Fund Assembly

4.1.34 The 1992 Fund Administrative Council and the Supplementary Fund Assembly took note of the information contained in document [IOPC/APR24/4/1](#), noting that the document concerned the impact of sanctions upon the compensation regime, not the merits of sanctions and that more needed to be done by anyone engaged in oil transportation to ensure the highest levels of safety. It was specifically noted that most of the States that spoke were members of the Supplementary Fund who were concerned about the potential consequences of an incident affecting a Supplementary Fund Member State and the impact on contributors to the Supplementary Fund.

4.1.35 The 1992 Fund Administrative Council and the Supplementary Fund Assembly instructed the Director to continue to monitor the situation and to report back at the next sessions of the governing bodies.

4.2	Risk of uninsured and unsafe ships Document IOPC/APR24/4/WP.1	92AC		SAES
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4.2.1 The Chair of the 1992 Fund Administrative Council reminded the governing bodies that during the discussions of the Executive Committee on the incident in Trinidad and Tobago earlier that day, several delegations had expressed concerns regarding the circumstances surrounding that incident, in particular that, despite the efforts of the Secretariat and the Government of Trinidad and Tobago, the identity of the owner had still not been ascertained, and that, even if found, it was unlikely that the vessel involved was insured. The Executive Committee had noted that cases such as this one raised serious concern and undermined the integrity of the international liability and compensation regime.

4.2.2 Several delegations had supported further discussion of the wider issues related to the risk of uninsured and unsafe ships within the 1992 Fund Administrative Council.

4.2.3 Taking into account the 1992 Fund Executive Committee's concerns and the related discussion by the 1992 Fund Administrative Council and Supplementary Fund Assembly on the potential impact of sanctions on the international liability and compensation regime, set out in section 4.1 above, the governing bodies were invited to comment on the issue and consider, what, if anything, could be done to address the concerns raised within the forum of the IOPC Funds.

Debate

4.2.4 One delegation underlined its strong concerns regarding the increasing transport of oil by uninsured and unsafe ships and the occurrence of pollution incidents in which the cargo and carrier cannot be identified. That delegation suggested that the governing bodies could each adopt a draft Resolution to address the concerns raised and serve as a reminder to Member States of the importance of

their obligations and liabilities. That delegation proposed a number of points that could be included in such a Resolution, including highlighting the importance of:

- all steps being taken to ensure compliance with safety and environmental standards;
- the enforcement of the safety and liability conventions including carrying onboard valid certificates of insurance;
- the cooperation of the IOPC Funds and the States affected when investigating the details of an incident; and
- the identification of the persons involved in an incident.

4.2.5 That delegation also proposed that the Resolution could instruct the Director to develop internal procedures for the Secretariat and guidelines for Member States to follow upon the occurrence of an incident of this nature. Finally, that delegation proposed that the text should strongly encourage the Director to continue his efforts to protect the interests of the IOPC Funds.

4.2.6 Several delegations reiterated their strong concerns relating to the increasing number of cases involving the transportation of oil by uninsured and unsafe ships and emphasised the impact such incidents can have on the IOPC Funds and the wider international liability and compensation regime.

4.2.7 Some delegations, while recognising the fundamental mission of the organisation to provide prompt and sufficient compensation, also stressed the importance of addressing non-compliance with international rules and regulations in order to protect the order and legitimacy of the IOPC Funds' system. Those States expressed their support for a Resolution that would encourage States to fulfil their responsibilities in that respect.

4.2.8 All delegations that spoke supported the drafting of a Resolution by the Director covering the points proposed in paragraph 4.2.4. However, some delegations expressed doubt that it would be possible to adopt a text within the current session, given the importance of the subject matter and the need to consult with their Administrations.

1992 Fund Administrative Council and Supplementary Fund Assembly Decision

4.2.9 The governing bodies instructed the Director to prepare draft Resolutions for the 1992 Fund and the Supplementary Fund on the issue of uninsured and unsafe ships, for consideration later in the session.

Consideration of draft Resolutions

4.2.10 The governing bodies noted the information contained in document [IOPC/APR24/4/WP.1](#), and the two draft Resolutions contained in Annexes I and II to that document for the 1992 Fund and Supplementary Fund respectively. The draft Resolutions presented are reproduced at Annex III to this document.

4.2.11 The vast majority of delegations present at the meeting contributed to the debate on this subject and all agreed that the risk of uninsured and unsafe ships was an important issue. Those delegations also all agreed that a Resolution for each Fund, clarifying the concerns of Member States and setting out measures to address the key issues resulting from incidents involving such ships, should be adopted.

4.2.12 All delegations that spoke expressed their appreciation to the delegation that had proposed the preparation of the draft Resolution during the initial debate and thanked the Director and the Secretariat for having prepared draft texts accordingly. An overwhelming majority confirmed that

the contents of the Resolution should be broadly along the lines of the texts prepared.

- 4.2.13 Many delegations commented on the importance of addressing this issue swiftly giving the rising number of reported relevant cases and several delegations were prepared to adopt the Resolution, subject to some amendments, at the current session.
- 4.2.14 However, despite the agreed urgency of the matter, given the importance of the subject, a sizeable majority of delegations requested more time to consider the text of the Resolution, to conduct consultations and discuss specific amendments to the text. A number of specific points were briefly referred to during the discussions, including:
- the importance of ensuring certain points made within the Resolution were balanced and aligned with IMO, particularly with regards to the references to the 1992 Civil Liability Convention, of the reference to IMO Resolution A.1192(33) and to the issue of fraudulent registration of ships;
 - the careful consideration of references to criminal investigations and other areas that may fall under the jurisdiction of Member States; and
 - the consistency and clarity of certain terms used in the document, such as 'unsafe' and 'insufficiently insured'.
- 4.2.15 One delegation referred to its previous interventions on the matter and objected to the inclusion of references to the Audit Body in the draft Resolution text due to the controversial judgements that had previously been made by the Audit Body.
- 4.2.16 The observer delegation of IMO expressed its appreciation to the governing bodies for drawing attention to the issue of uninsured and unsafe ships. It responded to the proposals by a number of delegations that the IOPC Funds should liaise closely with IMO on the content of the Resolutions and confirmed its willingness to provide assistance and further information as appropriate.
- 4.2.17 A large number of delegations confirmed their support for the proposed instruction within the Resolutions to the Director to develop, in consultation with the Audit Body, an internal procedure to be followed by the IOPC Funds' Secretariat in order to gather necessary information to determine the applicability of the 1992 Civil Liability Convention, the 1992 Fund Convention and the Supplementary Fund Protocol and the parties involved.
- 4.2.18 They also supported the proposed instruction to the Director to develop, in consultation with the Audit Body, guidance for Member States for investigating the circumstances surrounding an oil pollution incident, in order to identify ships and persons involved, including, but not limited to, shipowners and their insurers.
- 4.2.19 Whilst the large majority of delegations considered that any decision on the adoption of the text of the Resolution should be postponed until the November 2024 sessions of the governing bodies, many delegations, recognising the urgent nature of the issue, proposed that the Director should commence the development of both the internal procedure and the guidance for States immediately following this session, with a view to publishing those documents, together with revised texts of the Resolutions, for the consideration of Member States in advance of the November 2024 sessions. Several delegations suggested that this would facilitate discussions and the adoption of the Resolution at that meeting.
- 4.2.20 The Director clarified that, it was his understanding that information on the internal procedure would be presented for information rather than for the approval of the governing bodies and that the guidance would be designed to assist States in the event of an incident involving irregular practices, rather than being specific rules or procedures to be adopted that may contradict national

policies.

- 4.2.21 The Chair of the Audit Body confirmed that the Audit Body members would be happy to support the work to develop both documents as required.
- 4.2.22 One delegation expressed its disappointment that the Resolution could not be adopted at the current session, but was pleased to see the full support of Member States for the Resolution in principle.
- 4.2.23 The Chair of the 1992 Fund Administrative Council encouraged States to facilitate the work of the Secretariat by submitting any comments and suggestions for revisions to the Resolutions promptly. It was noted that such suggestions should be sent by email to conference@iopcfunds.org, no later than 13 September 2024.

1992 Fund Administrative Council and Supplementary Fund Assembly Decision

- 4.2.24 The governing bodies instructed the Director to re-issue the draft 1992 Fund and Supplementary Fund Resolutions on the risk of uninsured and unsafe ships for consideration at the November 2024 sessions of the governing bodies.
- 4.2.25 The Director was also instructed to circulate comments and suggestions from delegations received to enable States to consider the proposals and facilitate discussion in November 2024 with a view to adopting a final text of the Resolutions at that meeting.
- 4.2.26 The governing bodies decided to instruct the Director to begin to develop, in consultation with the Audit Body, an internal procedure to be followed by the IOPC Funds' Secretariat which it would follow in order to gather necessary information to determine the applicability of the 1992 Civil Liability Convention, the 1992 Fund Convention and the Supplementary Fund Protocol and the parties involved. The Director was instructed to report on the development of the procedure at the November 2024 sessions.
- 4.2.27 The governing bodies also decided to instruct the Director to begin to develop, in consultation with the Audit Body, guidance for Member States for investigating the circumstances surrounding an oil pollution incident, in order to identify ships and persons involved, including, but not limited to, shipowners and their insurers. The Director was instructed to report on the development of the procedure at the November 2024 sessions.

5 Treaty matters

5.1	2010 HNS Convention Document IOPC/APR24/5/1	92AC		
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- 5.1.1 The 1992 Fund Administrative Council noted the information contained in document [IOPC/APR24/5/1](#) regarding the 2010 HNS Convention.
- 5.1.2 The 1992 Fund Administrative Council was pleased to note that Slovakia had become the most recent State to deposit an instrument of accession to the 2010 HNS Protocol, bringing the number of Contracting States to eight, joining Canada, Denmark, Estonia, France, Norway, South Africa and Türkiye.
- 5.1.3 It was noted that, with this eighth contracting State, the current total of contributing cargo reported under the General Account was some 17.5 million tonnes, out of the 40 million tonnes required to meet the criteria for the entry into force of the Convention.
- 5.1.4 It was noted that the reported LNG cargo total was 22.5 million tonnes, exceeding the 20 million

tonnes which is required in order to open that Account when the Convention enters into force.

- 5.1.5 It was also noted that, in accordance with Resolution 1 of the International Conference on the revision of the HNS Convention which adopted the 2010 HNS Protocol, the IOPC Funds had continued to carry out the tasks necessary to set up the International Hazardous and Noxious Substances Fund (HNS Fund) and make preparations for the first session of the HNS Fund Assembly.
- 5.1.6 The 1992 Fund Secretariat also reported that during 2023, it had continued to take opportunities to promote the entry into force of the 2010 HNS Convention, to engage with interested States and other key stakeholders, and to share information with industry representatives through the delivery of training and outreach activities. An example was given of the Secretariat's recent engagement with Nigeria, who had provided a draft HNS contributing cargo report to be checked by the Secretariat as part of its preparatory work ahead of its accession to the Convention.
- 5.1.7 The 1992 Fund Administrative Council recalled that the 1992 Fund Secretariat maintains the website www.hnsconvention.org, and that the site includes the HNS Finder tool, an online database that allows users to search the list of all HNS as defined by the 2010 HNS Convention.
- 5.1.8 It was also noted that the 1992 Fund Secretariat continues to engage with interested States to develop a set of guidelines for HNS reporting and contributions and to offer support for all areas of implementation of the 2010 HNS Convention.
- 5.1.9 The Administrative Council recalled that during the HNS workshop organised by Canada in cooperation with IMO and the IOPC Funds on 3 and 4 April 2023, it was agreed that, to facilitate the entry into force of the 2010 HNS Convention, as well as the effective functioning of the HNS Fund once established, an efficient and jointly approved system for reporting HNS contributing cargo was to be developed.
- 5.1.10 The 1992 Fund Administrative Council noted that a meeting was held in The Hague in January 2024, between Belgium, Germany and the Netherlands, with the participation of France and the IOPC Funds. It was noted that the purpose of the meeting was to discuss the States' latest progress towards ratification of the 2010 HNS Protocol and that the Secretariat had offered clarifications on the options available for a practical and effective implementation of the reporting requirements under the Protocol.
- 5.1.11 The 1992 Fund Secretariat reported that it regularly provided online answers and support to States and companies in connection with their work on the HNS reporting requirements. It was noted that a number of States had indicated that they were open to discussing clarifications on the definition of 'Receiver' in Article 1.4 and other changes to the current HNS Reporting Guidelines. It was noted that other States had clarified that they wanted to keep the Agent/Principal option in Article 1.4(a) open.
- 5.1.12 In order to allow for further discussions on that matter, it was noted that the Secretariat had organised, in cooperation with IMO, a workshop on the 2010 HNS Convention, focussing particularly on reporting matters. It was noted that the workshop would take place immediately after the closure of the IOPC Funds' meeting, on 1 and 2 May 2024, and that a summary report would be sent to the participants and published on the HNS Convention website.
- 5.1.13 The Administrative Council noted that, in order to facilitate the reporting of HNS cargoes, the development of an in-house reporting and financial structure, similar to the system developed for oil reporting used by the IOPC Funds, was continuing. It was noted that relevant IT companies had already been contacted to develop a project scope and requirements, with a planned delivery in 2025.
- 5.1.14 It was also noted that other activities such as the Claims Manual, the website improvements and

documents for the first session of the HNS Fund Assembly were ongoing, and that updates on those will be reported to the 1992 Fund Assembly in due course.

Debate

- 5.1.15 The delegation of the Netherlands thanked the Secretariat for the updated information provided and expressed its appreciation for the new features introduced to the HNS Convention website, which it considered would provide both governments and HNS receivers with access to relevant information.
- 5.1.16 That delegation confirmed its commitment to the 2010 HNS Convention and reported that it was taking the final steps in its preparations for the implementation of the Convention, alongside its neighbouring States of Belgium and Germany. It referred to the meeting it had organised at The Hague in January this year, previously discussed by the Secretariat, which it had found useful. That delegation thanked the Director of the IOPC Funds for joining the meeting.
- 5.1.17 That delegation reported that the relevant package of legislation had been adopted in March 2024 and that its intention remained to accede to the Protocol towards the end of 2024 or beginning of 2025, together with Belgium and Germany. That delegation also explained that they had carried out tests of the reporting process in 2023 and 2024 and noted the increase of companies since the first test, which they considered demonstrated an increase in knowledge of the Convention and improved understanding of the obligations under that Convention among industry. It reported that to support these, the Dutch Government had established a dedicated website to facilitate the communication between the industry and the Government.
- 5.1.18 Finally, the delegation of the Netherlands thanked both IMO and the IOPC Funds for organising the May 2024 HNS Workshop since it considered such events instrumental in encouraging further States to accede to and implement the 2010 HNS Convention.
- 5.1.19 The delegation of Belgium indicated that it remained committed to becoming a contracting State to the Convention with the Netherlands and Germany and thanked the Secretariat for its ongoing support with their preparations for entry into force. That delegation reported that it had undertaken its first data collection in March 2024 which provided a number of lessons regarding that process.
- 5.1.20 Canada expressed its congratulations to Slovakia, stated that it looked forward to the accession to the Convention by further States in the near future and confirmed its availability, as an existing contracting State, to discuss issues of implementation and share its experience with interested parties.
- 5.1.21 The delegation of Nigeria expressed its congratulations to the Secretariat for its online training to the Nigerian Maritime Administration and Safety Agency (NIMASA) in 2023, and expressed its hope to organise a further training session in person in the near future.
- 5.1.22 The observer delegation of IMO informed the Administrative Council that the 111th session of the IMO Legal Committee, which had met the week prior to the sessions of the IOPC Funds governing bodies, had provided encouraging indications that a number of States were about to accede to the Protocol. It is expected that the criteria for entry into force will be met in 2025, with entry into force now expected in 2027.
- 5.1.23 That delegation noted that the first HNS Fund Assembly would then take place and that the IMO and IOPC Funds' Secretariats would work together on preparing the necessary rules and regulations

for the consideration of the Assembly.

1992 Fund Administrative Council

- 5.1.24 The 1992 Fund Administrative Council commended and thanked the Secretariat for its continued efforts to prepare and assist States for the entry into force of the 2010 HNS Convention and noted that the Director would report on progress at the next session of the 1992 Fund Assembly.

6 Financial policies and procedures

6.1 Appointment of the External Auditor Document IOPC/APR24/6/1	92AC		SAES
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- 6.1.1 The governing bodies took note of the information contained in document [IOPC/APR24/6/1](#) on the appointment of the External Auditor, which was submitted by the Audit Body and presented by Mr Volker Schöfisch, Chair of the Audit Body.
- 6.1.2 The governing bodies noted that the term of office of the current External Auditor to the IOPC Funds, BDO International LLP (BDO), would come to an end following its report on the 2025 Financial Statements to the regular sessions of the IOPC Funds' governing bodies in 2026.
- 6.1.3 The governing bodies also noted that the management of the selection process of the External Auditor fell within the mandate of the Audit Body. The governing bodies recalled that they had previously approved the process and timetable for the external audit tender for the appointment of a new IOPC Funds' External Auditor for the period 2026-2029, as set out in document [IOPC/NOV23/6/4](#).
- 6.1.4 The governing bodies noted that the Audit Body had identified three commercial firms to be invited to tender (Azets, Macalvins and Mazars in Switzerland) and that the Director had received one nomination from a Member State, the Russian Federation.
- 6.1.5 The governing bodies also noted that given the sanctions and restrictions in place at the time, the Audit Body and the Secretariat had discussed the practical matters involved in accepting the nomination made by the Russian Federation. The governing bodies further noted that the practical matters discussed included, but were not limited to, the potential impact on existing banking and other advisor relationships, and the enhanced compliance-related requirements. Based on these discussions, it was determined that the appointment of the nominee of the Russian Federation as the IOPC Funds' External Auditor could have a potential negative effect on the ability of the IOPC Funds to perform its core duties. Therefore, the Audit Body decided not to invite the nominee of the Russian Federation to tender.
- 6.1.6 The governing bodies recalled that at their November 2023 sessions, they had approved the key factors to be considered in the evaluation of candidates for the position of External Auditor of the IOPC Funds.
- 6.1.7 The governing bodies noted that progress had been made in line with the timetable which had been reported to the governing bodies during their meeting in November 2023.
- 6.1.8 The governing bodies took note of the timetable of the audit tender evaluation process in paragraph 2.3 of document [IOPC/APR24/6/1](#), and the factors for evaluation of candidates for the position of External Auditor of the IOPC Funds contained at the Annex of document [IOPC/APR24/6/1](#).

Debate

- 6.1.9 The delegation of the Russian Federation stated that in its view, the IOPC Funds were becoming

more politicised, the most vivid example being that the Audit Body had decided not to invite the nominee of the Russian Federation to tender, and had relied not on its mandate and on professional expertise of the nominee, but on political considerations which contradicted the rules of the IOPC Funds and the task set before it.

- 6.1.10 That delegation stated that it had examined the criteria for selection of the External Auditor and that the reasons given by the Chair of the Audit Body for not including the nominee of the Russian Federation were not within the factors for evaluation of candidates for the position, as listed in the Annex to document [IOPC/APR24/6/1](#).
- 6.1.11 The delegation noted that the nominee (the Accounts Chamber of the Russian Federation) was the Russian Federation's supreme audit body, and had functional and organisational independence from the Government, as enshrined within Article 5 of the Lima Declaration, signed in 1977 at the Congress of the International Organization of the Supreme Audit Institutions (INTOSAI), of which the Accounts Chamber of the Russian Federation was a member.
- 6.1.12 That delegation stated that no employees of the Accounts Chamber were subject to any international sanctions, including restrictions on travel for official purposes, to any country of the world.
- 6.1.13 The delegation also stated that the Accounts Chamber is the External Auditor for two United Nations organisations, namely the United Nations Industrial Development Organization (UNIDO) and the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO), and had carried out all the necessary audit procedures provided for by the Financial Rules and Regulations of the audited organisations as well as international auditing standards. The delegation further stated that the appointment of the Accounts Chamber to the post of External Auditor in these organisations had taken place through competitive and transparent tender procedures, and there had been no restrictions on participation in the competition nor to the audit itself, but that in this instance the nominee had not even been permitted to tender, for purely political reasons.
- 6.1.14 The delegation also stated that, in its view, the participation of the Accounts Chamber in the tender process for the position of External Auditor did not infringe upon the rules of the IOPC Funds' tender procedures, and that the issues raised by the Audit Body regarding the sanctions imposed were groundless and politicised, and did not apply to the Accounts Chamber whose inspectors had all competencies and experience required and were members of the UN Board of External Auditors. That delegation stated that, in its view, it was a clear violation of the process for selecting candidates for the position of External Auditor, and it therefore refused to recognise any of the winning candidates.
- 6.1.15 In response, the Chair of the 1992 Fund Administrative Council stated that, as he had understood from the document and report of the Chair of the Audit Body, the decision not to include the nominee of the Russian Federation had been undertaken on a factual basis, and that the problem was not necessarily that members of the Russian Federation's Accounts Chamber could be under sanctions, but that the Secretariat's banks may be reluctant to be in contact with the Accounts Chamber of a country under sanctions.
- 6.1.16 Confirming that view, the Chair of the Audit Body stated that the IOPC Funds received contributions from bank accounts not only in Europe, but across the world and that it was possible that the work of the IOPC Funds would become more difficult due to current sanctions, if the Accounts Chamber of the Russian Federation was appointed as External Auditor. Therefore, the decision had been taken not to include this nominee.
- 6.1.17 The delegation of the Russian Federation stated that the issues raised were not factual but hypothetical, and that the members of the Accounts Chamber had not faced any issues with travel

or with banks, and that it was unfair not to allow the nominee to participate in the tender process, which was a different issue to a nominee losing the tender process, having been included initially.

1992 Fund Administrative Council and Supplementary Fund Assembly

- 6.1.18 The governing bodies noted the information reported by the Audit Body on the audit tender evaluation process and timetable of actions for the Appointment of the External Auditor, and the intervention by the delegation of the Russian Federation, noting that no decision was required at this stage.

7 Secretariat and administrative matters

7.1	Guide to persistent and contributing oils Document IOPC/APR24/7/1	92AC	SAES
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- 7.1.1 The governing bodies took note of the information contained in document [IOPC/APR24/7/1](#) in respect of the guide to persistent and contributing oils (the Guide). It was recalled that the Guide was not intended to provide an authoritative definitive list of all persistent and non-persistent oils, but rather a useful guidance document.
- 7.1.2 The governing bodies noted that the Guide had not been reviewed for a number of years and that the Director had engaged the services of external experts to review it. It was further noted that, following the results of that review, the Guide had been updated, as set out at the Annex to document [IOPC/APR24/7/1](#).
- 7.1.3 The governing bodies also noted that a small number of minor editorial changes had been identified after the publication of the document.
- 7.1.4 The governing bodies further noted that if the updated text of the Guide was endorsed by the governing bodies, it would be made available on the websites of both the IOPC Funds and the HNS Convention in English, French and Spanish.
- 7.1.5 The governing bodies also noted that, as a result of reviewing the Guide, Biofuels and Energy-rich fuels had been added as non-contributing oils to the list of contributing oil and non-contributing oil (the List) which accompanies the form for reporting receipts of contributing oil, contained at the Annex to the Internal Regulations of the 1992 Fund and the Supplementary Fund. It was also noted that the current version of the American Society for Testing and Materials (ASTM) standard, referred to in Article 1.3(b) of the 1992 Fund Convention, had been added to the footnotes of the List.
- 7.1.6 The governing bodies further noted that consequential amendments to the Internal Regulations of the 1992 Fund and the Supplementary Fund were proposed in document [IOPC/APR24/7/3](#).

Debate

- 7.1.7 Several delegations expressed appreciation for the efforts made by the Secretariat to revise the Guide and the List which they considered would provide Member States and contributors with information to facilitate the oil reporting process. Those delegations supported the proposal to endorse the updated text of the Guide and consequential amendments to the List.
- 7.1.8 One delegation stated that it considered the amendments to the List to be appropriate since the chemical compositions of the Biofuels and Energy-rich fuels were similar to those of methanol and

kerosene, which were regarded as non-contributing oils.

1992 Fund Administrative Council and Supplementary Fund Assembly decision

- 7.1.9 The 1992 Fund Administrative Council and the Supplementary Fund Assembly endorsed the updated text of the Guide, as set out at the Annex to document [IOPC/APR24/7/1](#), subject to minor editorials made by the Secretariat after the meeting.
- 7.1.10 The 1992 Fund Administrative Council and the Supplementary Fund Assembly noted that consequential amendments would also be made to the List, contained in the explanatory notes to the form for reporting receipts of contributing oil, which is annexed to the Internal Regulations of each Fund.
- 7.1.11 The governing bodies also noted that both the Guide and the List would be made available for the use of Member States and contributors, and would continue to be reviewed and updated by the Secretariat as necessary.

7.2	European Union General Data Protection Regulation Document IOPC/APR24/7/2	92AC		SAES
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- 7.2.1 The 1992 Fund Administrative Council and Supplementary Fund Assembly took note of document [IOPC/APR24/7/2](#), which contained information on the application of the General Data Protection Regulation (GDPR) of the European Union (EU) and Directive 2016/680 (the Directive) to the IOPC Funds, and on the Secretariat's engagement towards the implementation of the GDPR and the Directive.
- 7.2.2 The governing bodies recalled that the Secretariat had sought clarification from the UK Government on the application of the GDPR and the Directive in light of the existing Headquarters Agreement, and that the reply indicated that the GDPR applied to the IOPC Funds and that the IOPC Funds could have its own position as to its application. The governing bodies also recalled that the Secretariat believed that the GDPR would not apply to the IOPC Funds, based on the inviolability of archives stipulated in Article 4 of the Headquarters Agreement for the 1992 Fund but nevertheless, the Secretariat believed that the same principles as the GDPR should be applied to protect the data held by the IOPC Funds.
- 7.2.3 The governing bodies further recalled that the Secretariat had retained the services of a data protection lawyer to provide advice as to the application of the GDPR and the Directive, and generally advise on the policies and procedures to be implemented by the IOPC Funds, and had 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.
- 7.2.4 It was recalled that the Secretariat had identified personal data held by the IOPC Funds and had also drafted a Data Protection Policy; Data Privacy Notices for claimants; General Data Privacy Notice for all other persons who have had dealings with the IOPC Funds; and a Data Classification and Retention Policy. It was noted that the Secretariat had also considered the provisions necessary to be inserted into various types of contracts which the IOPC Funds conclude, including the experts' contracts which are normally concluded with insurers and experts in the claims-handling process.
- 7.2.5 The governing bodies recalled that the Secretariat had also engaged an IT support team to assist with the implementation of the Microsoft Purview Information Protection (MPIP) suite of IT programs, which enabled a phased approach to be adopted, and which identified sensitive information and defined the security and controls to be applied to the data.
- 7.2.6 It was noted that with the assistance of the expert engaged to implement the principles of the GDPR, the staff of the IOPC Funds had received preliminary training on the concept of data protection, which included training relating to specific scenarios which might occur in the lifetime

of data usage within the IOPC Funds, and which would be expanded upon with further department-specific training using the MPIP when fully installed, to ensure each individual was aware of their duties and responsibilities under the IOPC Funds' data protection system.

- 7.2.7 It was also noted that the Secretariat had continued to make substantial progress with the tasks required for implementing the principles of the GDPR, and had completed the design and implementation of an IT training platform upon which staff had been trained in the last quarter of 2023 and first quarter of 2024, in readiness for the full implementation of the system and subsequent adoption of the data protection and retention policies.

1992 Fund Administrative Council and Supplementary Fund Assembly

- 7.2.8 The 1992 Fund Administrative Council and the Supplementary Fund Assembly took note of the information provided on the GDPR, and noted that whilst the IOPC Funds were not under direct obligation to comply with the GDPR, the protection of personal information dealt with by the organisation was very important, with IT systems playing a crucial role. The 1992 Fund Administrative Council and the Supplementary Fund Assembly also noted that the Director would report any further developments at future sessions of the governing bodies.

7.3	Amendments to Internal Regulations Document IOPC/APR24/7/3	92AC		SAES
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- 7.3.1 The governing bodies took note of the information contained in document [IOPC/APR24/7/3](#).
- 7.3.2 It was recalled that at the March 2022 sessions of the governing bodies, the Director had decided that the role of Deputy Director should continue as a combined role (document [IOPC/MAR22/9/2](#), paragraph 7.1.16). It was noted that, as a result of this change to the structure of the Secretariat, an amendment was required to 1992 Fund and Supplementary Fund Internal Regulation 7 in respect of the Settlement of Claims. The governing bodies noted the proposed amendments to the Regulation as set out at Annex I of document [IOPC/APR24/7/3](#).
- 7.3.3 It was further recalled that, following a review of the Guide to contributing oils (document [IOPC/APR24/7/1](#)), amendments were required to the list of contributing and non-contributing oil (the List) attached to the form for reporting contributing oil, which is annexed to the Internal Regulations of each Fund. The governing bodies further noted the proposed amendments to the List as set out at Annex II of document [IOPC/APR24/7/3](#).

Debate

- 7.3.4 Several delegations expressed their support of the proposed amendment to the 1992 Fund and Supplementary Fund Internal Regulation 7, and the proposed amendments to the List attached to the form for reporting receipts of contributing oil annexed to the Internal Regulations of the 1992 Fund and Supplementary Fund.
- 7.3.5 One delegation suggested that a comprehensive review of the Internal Regulations could be undertaken by the Director to ensure all Regulations were updated, such as Regulation 12.
- 7.3.6 The Director informed the governing bodies that the Internal Regulations were reviewed on a regular basis and were working well in practice, but that a future review would be kept in mind.

1992 Fund Administrative Council decision

- 7.3.7 The 1992 Fund Administrative Council decided to amend Internal Regulation 7 of the 1992 Fund, in respect of the settlement of claims, as set out at Annex IV to this document.
- 7.3.8 The 1992 Fund Administrative Council decided to amend the List attached to the form for reporting

receipts of contributing oil, which is annexed to the Internal Regulations of the 1992 Fund, as set out at Annex V to this document.

Supplementary Fund Assembly decision

- 7.3.9 The Supplementary Fund Assembly noted the decision of the 1992 Fund Administrative Council and decided to amend Internal Regulation 7 of the Supplementary Fund in respect of the settlement of claims, as set out at Annex IV to this document.
- 7.3.10 The Supplementary Fund Assembly noted the decision of the 1992 Fund Administrative Council and decided to amend the List attached to the form for reporting receipts of contributing oil, which is annexed to the Internal Regulations of the Supplementary Fund, as set out at Annex V to this document.

8 Other matters

8.1	Any other business	92AC		SAES
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Format of meetings

- 8.1.1 One delegation recalled discussions at the 129th session of the IMO Council relating to hybrid meeting capabilities and the decision taken by the IMO Council to extend the trial period for holding hybrid meetings to enable assessment of the current planned enhancements to the facilities. That delegation noted that a decision would be taken at the 132nd session of the IMO Council in July 2024 with regards to hybrid meetings, and requested that the Director follow that decision, and consider introducing hybrid capability for the IOPC Funds' meetings, noting that it would bring increased benefits to Member States participating in meetings of the IOPC Funds.
- 8.1.2 The Director confirmed that, as previously instructed by the governing bodies, he would be monitoring the situation and would report on the outcome of the IMO trials at the November 2024 sessions.

Other matters

- 8.1.3 No other items were raised under this agenda item.

9 Adoption of the Record of Decisions

1992 Fund Administrative Council, 1992 Fund Executive Committee and Supplementary Fund Assembly decision

The draft Record of Decisions of the April 2024 sessions of the IOPC Funds' governing bodies, as contained in documents [IOPC/APR24/9/WP.1](#) and [IOPC/APR24/9/WP.1/1](#), was adopted, subject to certain amendments.

ANNEX I

1.1 Member States present at the sessions

		1992 Fund Administrative Council	1992 Fund Executive Committee	Supplementary Fund Assembly
1	Algeria	•	•	
2	Angola	•		
3	Antigua and Barbuda	•		
4	Argentina	•		
5	Australia	•		•
6	Bahamas	•	•	
7	Belgium	•		•
8	Bulgaria	•		
9	Cameroon	•		
10	Canada	•	•	•
11	China ^{<1>}	•		
12	Colombia	•	•	
13	Cook Islands	•		
14	Cyprus	•	•	
15	Denmark	•	•	•
16	Dominican Republic	•		
17	Ecuador	•		
18	Finland	•		•
19	France	•		•
20	Georgia	•		
21	Germany	•		•
22	Ghana	•		
23	Greece	•		•
24	Italy	•	•	•
25	Jamaica	•		
26	Japan	•		•

^{<1>} The 1992 Fund Convention applies to the Hong Kong Special Administrative Region only.

		1992 Fund Administrative Council	1992 Fund Executive Committee	Supplementary Fund Assembly
27	Latvia	•		•
28	Liberia	•		
29	Madagascar	•		
30	Malaysia	•		
31	Malta	•		
32	Marshall Islands	•		
33	Mexico	•		
34	Morocco	•		•
35	Namibia	•		
36	Netherlands	•		•
37	New Zealand	•	•	•
38	Nigeria	•		
39	Norway	•		•
40	Oman	•		
41	Panama	•		
42	Philippines	•		
43	Poland	•	•	•
44	Portugal	•		•
45	Qatar	•		
46	Republic of Korea	•	•	•
47	Russian Federation	•		
48	San Marino	•		
49	Seychelles	•		
50	Singapore	•		
51	South Africa	•	•	
52	Spain	•	•	•
53	Sweden	•		•
54	Thailand	•	•	
55	Trinidad and Tobago	•		

		1992 Fund Administrative Council	1992 Fund Executive Committee	Supplementary Fund Assembly
56	Türkiye	•		•
57	United Arab Emirates	•		
58	United Kingdom	•	•	•
59	Uruguay	•		
60	Venezuela (Bolivarian Republic of)	•		

1.2 States represented as observers

		1992 Fund	Supplementary Fund
1	Brazil	•	•

1.3 Intergovernmental organisations

		1992 Fund	Supplementary Fund
1	European Commission	•	•
2	International Maritime Organization (IMO)	•	•

1.4 International non-governmental organisations

		1992 Fund	Supplementary Fund
1	BIMCO	•	•
2	Cedre	•	•
3	Comité Maritime International (CMI)	•	•
4	International Association of Classification Societies Ltd (IACS)	•	•
5	International Chamber of Shipping (ICS)	•	•
6	International Group of P&I Associations	•	•
7	International Union of Marine Insurance (IUMI)	•	•

8	INTERTANKO	•	•
9	IТОPF	•	•
10	Oil Companies International Marine Forum (OCIMF)	•	•
11	World Liquid Gas Association (WLGA)	•	•

* * *

ANNEX II

Incident in Trinidad and Tobago (*Gulfstream*)

Statement by the Republic of Trinidad and Tobago

I bring you greetings as the Head of Delegation for the Republic of Trinidad and Tobago, a Party to the 1992 Civil Liability Convention and the 1992 Fund Convention. By way of introduction allow me to introduce myself, I am Stuart Young, Minister of Energy and Energy Industries and Minister in the Office of the Prime Minister of the Government of the Republic of Trinidad and Tobago. As part of my ministerial portfolio I have the responsibility to oversee the management of the Energy Sector of Trinidad and Tobago, which includes the overall management of National Oil Spills in accordance with the National Oil Spill Contingency Plan of Trinidad and Tobago.

I would like this statement to be recorded in your final decision.

By way of brief introduction, Trinidad and Tobago is a small twin island state at the southernmost tip of the Caribbean chain of islands. We are seven miles off the coast of Venezuela. The land size of both of our islands is approximately 5 131 km²; of that total, Tobago is approximately 300 km². It is essential to note that Tobago's domestic economy is completely dependent on tourism and in particular, its pristine white coral sand beaches and crystal blue waters.

This unfortunate and tragic oil spill hit the island of Tobago without warning on 7 February 2024 and immediately threatened the lives and livelihood of the people of Tobago. The area where this overturned and unmanned vessel ran aground in Tobago is literally a few kilometers away from the most important beaches in Tobago for tourism. Had the tides and currents not favoured us this oil spill could have destroyed the economy and livelihood of Tobago. We had no warning, we had no owner come forward, we had no one take responsibility for this vessel and the outflow of hydrocarbons onto our reef and 15 km of coastline. This literally was a 'thief in the night' that has battered and assaulted us and is costing us millions of US dollars through absolutely no fault of ours or anyone associated with Trinidad and Tobago. The vessel had no connection or business with Trinidad and Tobago.

The importance of this matter and our submission to you prompted the Cabinet of Trinidad and Tobago to task me with the heavy and important responsibility of appearing before you to make our case, to plead our case, for your assistance and coverage in not only recovering the rising costs of dealing with this tragic oil spill but also in tracking and locating those responsible for this disaster and holding them accountable. I immediately give you the assurance that we will work closely with you to find those responsible so that

ultimately the 1992 Fund will be able to recover costs from them. The State will fully cooperate with the 1992 Fund to recover all coverage provided to Trinidad and Tobago.

As you may all be aware, Trinidad and Tobago submitted a document IOPC/APR24/3/6/1 at the invitation of the IOPC Funds' Secretariat due to the unfortunate oil spill incident that impacted the island of Tobago.

I am respectfully presenting the request of the people of Trinidad and Tobago to our fellow Member States of the 1992 Fund and asking that you grant the Director of the IOPC Funds authorisation to access the 1992 Fund to pay reasonable compensation for the severe financial losses incurred to respond to this spill and to put in place the necessary preventative measures. Without the Fund's coverage we will struggle as the significant costs being incurred were not budgeted for and will put us under strain.

The 'vessel' and oil spill

It was on the 7 February 2024, when various ministries and agencies of the Government of the Republic of Trinidad and Tobago (Trinidad and Tobago) first became aware of oil spill impacts to the Atlantic shoreline of the island of Tobago and to the marine environment caused by a capsized and grounded barge named *Gulfstream*, lodged just off the coast of Cove Estate. We are aware that this name is a former name of the said vessel, but its current name is yet to be definitively determined. Approximately 15 km of coastline in Tobago was impacted, on the Atlantic side of the island. The incident affected beaches, rivers, mangrove areas, rocky areas, hotels, fishers and wildlife, and even caused the temporary closure of some schools.

Clean-up operations were coordinated under the direction of the Ministry of Energy and Energy Industries (MEEI) and the Tobago Emergency Management Agency (TEMA), the disaster management agency on the island of Tobago. Both the Tobago Oil Spill Contingency Plan and the National Oil Spill Contingency Plan were immediately activated.

The MEEI secured the services of the State-owned national oil company, Heritage Petroleum Company Limited (HPCL), to assist with shoreline clean-up in the majority of coastal areas, while TEMA coordinated shoreline clean-up in other shoreline areas utilising various oil spill response contractors. Through HPCL, Oil Spill Response Limited (OSRL) was mobilised to provide technical assistance for our response. The shoreline clean-up operations utilised a combination of mechanical equipment, oil spill contractors, government clean-up crews, and volunteers. Generally, at peak, about 200 personnel daily were used for the clean-up.

I personally visited Tobago along with my cabinet colleague, the Minister of Works and Transport, on 9 February 2024 and met with the Chief Secretary of the Tobago House of Assembly to get a first-hand account of the effects and responses to this disaster. A week later, the Honourable Prime Minister of Trinidad and Tobago led a delegation which included the Minister of Works and Transport and myself to Tobago to get a briefing and to speak to the nation about the works taking place to contain the oil spill, clean it up and to deal with the ill effects, so important and critical was this incident to us nationally.

TEMA initially hired contractors to contain the spill from the wreckage. As this was unsuccessful, thereafter, the MEEI coordinated these operations when the international salvage contractor T&T Salvage LLC/QT Environmental Inc. was engaged.

Attempts to determine ownership of the ship/vessel

Remote operated vehicle footage and underwater photography of the wreck found the name *Gulfstream* embossed on the starboard bow, in an attempt to determine the name of the vessel and the vessel specifications. Based on a search conducted of vessels with the name *Gulfstream* and matching the dimensions and description, vessel specifications were obtained by the MEEI's salvage contractor T&T Salvage LLC from the United States Coast Guard, which indicated that the vessel named *Gulfstream* was manufactured by Kelso Marine in the USA, and formerly traded along the seacoast of the USA, but over time underwent many modifications, in particular, to the cargo tanks. The length and width of the vessel are comparable with the original dimensions of the original *Gulfstream* barge. The barge reportedly has a capacity of 60 000 barrels of cargo, and had an alleged consignment of 35 000 barrels of Bunker Fuel C oil which it appears was bound for the Co-Operative Republic of Guyana (Guyana). It is possible that the tank barge is now going by the name *Culie Boy*, allegedly registered in the shipping register of Zanzibar and flying the flag of the United Republic of Tanzania (Tanzania). However, the Tanzanian authorities have advised that the registration certificate bearing the flag as Tanzanian is fraudulent. The name of the barge is therefore unconfirmed. The Tanzanian Government has confirmed that a vessel, a tug named *Solo Creed* which is believed to have towed the barge, is on their registry. The vessel is currently undergoing de-inventory and it has been determined that the vessel has 12 cargo tanks with attendant ballast tanks which had varying amounts of oil in them. To date, despite all reasonable attempts by us, we have been unable to locate the owner(s) of this vessel and the tug that was towing it prior to this disaster. We have engaged an international satellite company to assist us in locating the tug. But, to date they were not able to do so.

Analysis of the oil, collected directly from the vessel, was conducted by the Institute of Marine Affairs (IMA), a government scientific agency of the Ministry of Planning and Development using Gas Chromatography – Mass Spectrometry (GC-MS) analysis. The analysis indicated that the oil was indeed Bunker Fuel C and was persistent. We are going to seek to find out if any refineries in the region have a match to this fuel to assist us in finding those responsible.

The Republic of Trinidad and Tobago is currently in pursuit of the *Solo Creed*, the tug that is believed was towing the barge at all ports across the region, and worldwide. This tug is believed to be flying the flag of the United Republic of Tanzania. This initiative stems from the information shared by the Guyana Maritime Authority (GMA) regarding an arrival notification they received for the cargo on the barge being towed by the *Solo Creed*.

Official correspondence has been dispatched through the Ministry of Foreign and CARICOM Affairs (MoFCA) to Panama and Tanzania seeking any relevant information regarding the *Solo Creed* and its associated barge. Panama has advised that based on their research the *Solo Creed* flies the flag of Tanzania. We are awaiting responses from Tanzania and an additional response from Panama as to whether the *Solo Creed* departed Panamanian waters in January 2024.

Some days after the incident, the maritime authority of Trinidad and Tobago, the Maritime Services Division (MSD) of the Ministry of Works and Transport (MOWT) was approached by a Nigerian lawyer representing the purported owner of the barge responsible for the oil spill off the coast of Tobago. The lawyer conveyed that his client lacks the financial means to travel to Trinidad and Tobago and is besieged by creditors seeking repayment for investments made in the barge, which was uninsured. MSD is currently scrutinising the validity of these claims, having initiated inquiries through the MoFCA to the Nigerian Government. Further, the government of Nigeria has advised that the attorney is registered as a legal practitioner and member of the Nigerian Bar Association. The Nigerian Government further advised that with respect to the Nigerian citizenship of the purported owner of the capsized vessel, they have engaged the relevant authorities and will convey any information provided on this to the Government of the Republic of Trinidad and Tobago. We are awaiting responses. I believe that this letter is a ruse meant to misdirect us in our attempt to find those who are responsible.

The MSD has written to the International Maritime Organization (IMO) for the provision of a consultant to assist with our investigation. IMO indicated that they are actively engaged in the process of identifying one. We are awaiting positive feedback on this request.

The Trinidad and Tobago Coast Guard (TTCG) has been working closely with the Guyana Coast Guard, the Caribbean Community Implementation Agency for Crime and Security (CARICOM IMPACS), and IR Consilium who is working with CARICOM IMPACS in an effort to locate the tug involved in the oil spill in Tobago.

We have been utilising all reasonable means to track, trace, identify and locate those who are responsible for this incident. To date, what has become obvious is that those responsible are avoiding us and no one is legitimately taking responsibility for this vessel which was carrying hydrocarbons when it got into difficulty, capsized and ended up on a reef in Tobago.

Dealing with the oil spill

Initial estimates of the cost of the response to the oil spill, inclusive of oil removal from the wreck so far, are conservatively in the region of USD 35 million (TTD 238 million). So far it is estimated that USD 12.5 million (TTD 85 million) has been spent as of 6 April 2024. Further costs and claims for economic losses are expected. We have receipts/invoices and supporting evidence to substantiate our claim.

Bulk oil clean-up operations were completed in March 2024 and the majority of shoreline clean-up operations was completed in April 2024. Based on the advice of ITOPF, there are still some areas that are yet to be cleaned to acceptable criteria utilising mainly low pressure high volume water flushing of rocky areas which is expected to take a few more months. In addition, the waste management of collected oil and contaminated beach sand which is stored temporarily at the Studley Park Landfill, Tobago, needs to be addressed likely utilising incineration for liquid waste and bioremediation for oil-contaminated sand. Over 50 000 barrels of liquid waste and over 20 000 cubic yards (about 16 000 cubic metres) of beach material was collected and stored at Studley Park. The oil removal from the wreck is expected to be completed by mid-May 2024, after which it will be transported to Trinidad. The de-inventory process involves the pumping of the oil to land, storage in frac tanks, transfer to road tanker wagons, then transport to the Port of Scarborough in Tobago and offloading to a bunkering vessel which has a capacity of 25 000 barrels and will transport the oil to a 400 000-barrel storage tank at the Paria Fuel Trading Company in Pointe-a-Pierre, Trinidad.

The Republic of Trinidad and Tobago reported this incident to the IOPC Funds on 22 February 2024 and on 26 February 2024, the IOPC Funds' Secretariat mobilised ITOPF to Tobago providing technical advice to Trinidad and Tobago on oil spill response measures. Representatives of the IOPC Funds' Secretariat visited Trinidad and Tobago in March 2024. I would like to sincerely thank the Secretariat for all of the

assistance and guidance provided to date and to also thank ITOPF and its personnel for the invaluable assistance and guidance provided at 'ground zero'. I thank both the Deputy Director and the Claims Manager for taking the time and having sufficient interest to come to Tobago to personally visit and support us.

Trinidad and Tobago intends to take **any and all necessary** legal action against the owner of the barge, the owner of the cargo and/or the owner of the tug that was towing the barge in order to recover monies spent on the oil spill prevention and clean-up efforts. I also give our assurance to you, the 1992 Fund, that we will work with you to recover your indemnification of our costs against those responsible.

Trinidad and Tobago will look into the utilisation of the Bunker Fuel C oil that was collected from the vessel in order to defray some costs, if this is in fact possible.

Trinidad and Tobago's position

As indicated, Trinidad and Tobago is a Party to the 1992 Civil Liability and Fund Conventions. Trinidad and Tobago is also up-to-date with oil reporting to the IOPC Funds' Secretariat. The last oil report filed was for 2023. The oil was sampled from the beach, in the water close to the wreck and from Tank 6 starboard side. The samples were analysed by the IMA using GC-MS. The samples from the beach and the water indicated that the oil is Intermediate Fuel Oil. However, the sample taken directly from the vessel showed that the oil is Bunker Fuel C oil. The variation suggests that the beach sample was weathered and the water sample had some of its chemical components removed. As such, the oil can be deemed to qualify as persistent oil. The schematics for the vessel *Gulfstream* manufactured by Kelso Marine Inc. were obtained from the United States Coast Guard by T&T Salvage LLC. The barge which spilled the Bunker Fuel C oil has 12 cargo tanks. As of 23 April 2024, 8 out of 12 cargo tanks were hot-tapped and gauged and the total volume estimated is 27 000 barrels on-board the vessel *Gulfstream*, which was reported to be carrying 35 000 barrels of Bunker Fuel C oil just prior to the incident with 8 150 barrels of oil removed from the wreck.

Therefore, it is believed that the vessel was in the business of the carriage of oil as cargo and thereby operating as a tanker. As such, **it is believed that the vessel qualifies as a 'ship' as defined by Article I(1) of the 1992 CLC**. As you would be aware, the 1992 Fund has considered similar types of situations in the past and found that similar vessels qualified as a 'ship' as per the 1992 CLC and I implore you to so find in the present circumstances.

Access to the 1992 Fund

Through you Chair, the 1992 Fund Executive Committee is invited to strongly consider and accept the submission of Trinidad and Tobago that this incident involving the vessel called *Gulfstream*, is an incident that could occur in any 1992 Fund Member State, especially in these times, and should qualify for accessing the 1992 Fund. It is submitted that the vessel qualifies as a 'ship' and the 'oil' is persistent oil within the definitions of Article 1(l) and Article 1(5) respectively of the 1992 CLC. The barge was engaged in the carriage of persistent oil and was en-route to complete a Bunker Fuel C transaction allegedly with a company from another 1992 Fund Member State. Trinidad and Tobago is in good and regular standing with the IOPC Funds. Trinidad and Tobago is up-to-date on its oil reporting requirements and its contributions to the IOPC Funds over the years when the only refinery in Trinidad and Tobago was in operation up until 2018. Trinidad and Tobago welcomed the presence and recommendations from ITOPF throughout the response. As such, Trinidad and Tobago would expect Member States to recognise Trinidad and Tobago as a Member State deserving of access to the IOPC Funds to compensate the State for this major oil spill incident.

Members, it is our respectful submission that the causes of this disaster are in no way the responsibility of Trinidad and Tobago, we are not at fault in any way whatsoever. We have done all that can be reasonably expected to date to locate the owner(s) of the capsized ship that was carrying this oil as well as the tug and will continue to do so to hold them responsible. The costs associated with containing, cleaning up and removing the oil from the ship are significant for us in the range of approximately USD 35 million. We have followed the advice of the IOPC Funds and ITOPF and are grateful for same. Accordingly, in conclusion, I look forward to your confirmation that the 1992 Civil Liability and Fund Conventions apply to this incident and your decision authorising the Director to make payments of compensation in respect of our claims arising from this incident. I thank you and remain available to address any questions you may have.

Stuart R. Young, M.P.

Minister of Energy and Energy Industries and Minister in the Office of the Prime Minister, Government of the Republic of Trinidad and Tobago

29 April 2024

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ANNEX III

DRAFT 1992 FUND ASSEMBLY RESOLUTION

Raising awareness of the risk of uninsured and unsafe ships

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

RECALLING that, under both the 1992 Civil Liability Convention and the 1992 Fund Convention, there are fundamental obligations for a State Party to ensure that a ship trading under its flag or entering or leaving a port in its territory has the required insurance or other financial security,

RECALLING FURTHER that failure to meet these treaty obligations may result in State liability,

NOTING with regret and great concern the increasing trade of oil now being conducted by unsafe and uninsured or insufficiently insured ships, effectively undermining the safety and environmental standards developed by the International Maritime Organization (IMO) as well as the international liability and compensation regime based on the 1992 Civil Liability Convention, the 1992 Fund Convention and the 2003 Supplementary Fund Protocol,

NOTING FURTHER that recently there have been oil spill incidents in which the spill sources are unclear, the responsible shipowner is not identified, or the ship is not sufficiently insured,

NOTING WITH CONCERN that under the 1992 Fund Convention, the 1992 Fund may have to pay compensation to victims of oil pollution in the affected Member State without any contribution from the shipowner or its insurer,

RECOGNISING that the shared liability between the shipping and the oil industries is crucial for the effective and efficient functioning of the international liability and compensation regime,

CONSCIOUS that this situation could continue in the future if no action is taken to prevent it,

NOTING WITH REGRET that, even though this issue has been discussed by the 1992 Fund Assembly and in the IMO Legal Committee on several occasions and is addressed in IMO Assembly Resolution A.1192(33), some oil trading continues to be conducted using unsafe and uninsured or insufficiently insured ships,

RECOGNISING the need to raise awareness of the current situation and for States and all parties concerned to do their utmost to prevent any future trading of oil by uninsured or insufficiently insured ships or ships that are in serious breach of the safety and environmental standards contained in the relevant IMO Conventions,

- 1 **URGES** all states to take the necessary steps to enforce the safety and environmental standards contained in the relevant IMO Conventions and to enforce the insurance requirements applicable under the 1992 Civil Liability and the 1992 Fund Conventions to the ships under their flags and those ships entering or leaving a port in their territories,
- 2 **REMINDS** each State affected by a spill that the IOPC Funds may not be liable to pay compensation if the person, including a State, suffering the damage has not taken all reasonable steps to pursue the legal remedies available to them,
- 3 **URGES FURTHER** those States involved in an oil pollution incident caused by an uninsured or insufficiently insured ship or a ship significantly breaching the safety and environmental

standards contained in the relevant IMO Conventions to cooperate and assist each other in investigations (including criminal investigations) into the causes of such incidents and on the persons involved (including the identity of the shipowner) as well as into the reasons why ships were operating without sufficient insurance coverage or without complying with safety and environmental standards,

- 4 **INSTRUCTS** the Director, in consultation with the Audit Body, to develop an internal procedure to be followed by the IOPC Funds' Secretariat in order to gather necessary information to determine the applicability of the 1992 Civil Liability Convention, the 1992 Fund Convention and the Supplementary Fund Protocol and the parties involved,
- 5 **FURTHER INSTRUCTS** the Director, in consultation with the Audit Body, to develop guidance for Member States for investigating the circumstances surrounding an oil pollution incident, in order to identify ships and persons involved, including, but not limited to, shipowners and their insurers,
- 6 **ALSO INSTRUCTS** the Director to continue to protect the interests of the IOPC Funds, to promote the use of reliable insurers to ensure that the international liability and compensation regime is able to function as intended and to pursue recourse action in the event of incidents occurring involving the IOPC Funds in which the owner/insurer of the ship does not fulfil its obligations under the 1992 Civil Liability Convention.

DRAFT

DRAFT SUPPLEMENTARY FUND ASSEMBLY RESOLUTION

Raising awareness of the risk of uninsured and unsafe ships

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

RECALLING that, under the 1992 Civil Liability Convention, the 1992 Fund Convention and the 2003 Supplementary Fund Protocol, there are fundamental obligations for a State Party to ensure that a ship trading under its flag or entering or leaving a port in its territory has the required insurance or other financial security,

RECALLING FURTHER that failure to meet these treaty obligations may result in State liability,

BEARING IN MIND that, pursuant to Article 6(2) of the Supplementary Fund Protocol, a claim made against the 1992 Fund shall be regarded as a claim made by the same claimant against the Supplementary Fund,

NOTING with regret and great concern the increasing trade of oil now being conducted by unsafe and uninsured or insufficiently insured ships, effectively undermining the safety and environmental standards developed by the International Maritime Organization (IMO) as well as the international liability and compensation regime based on the 1992 Civil Liability Convention, the 1992 Fund Convention and the 2003 Supplementary Fund Protocol,

NOTING FURTHER that recently there have been oil spill incidents in which the spill sources are unclear, the responsible shipowner is not identified, or the ship is not sufficiently insured,

NOTING WITH CONCERN that under the 1992 Fund Convention and the 2003 Supplementary Fund Protocol, the 1992 Fund and the Supplementary Fund may have to pay compensation to victims of oil pollution in the affected Member State without any contribution from the shipowner or its insurer,

RECOGNISING that the shared liability between the shipping and the oil industries is crucial for the effective and efficient functioning of the international liability and compensation regime,

CONSCIOUS that this situation could continue in the future if no action is taken to prevent it,

NOTING WITH REGRET that, even though this issue has been discussed by the 1992 and Supplementary Fund Assemblies and in the IMO Legal Committee on several occasions and is addressed in IMO Assembly Resolution A.1192(33), some oil trading continues to be conducted using unsafe and uninsured or insufficiently insured ships,

RECOGNISING the need to raise awareness of the current situation and for States and all parties concerned to do their utmost to prevent any future trading of oil by uninsured or insufficiently insured ships or ships that are in serious breach of the safety and environmental standards contained in the relevant IMO Conventions,

- 1 **URGES** all States to take the necessary steps to enforce the safety and environmental standards contained in the relevant IMO Conventions and to enforce the insurance requirements applicable under the 1992 Civil Liability, the 1992 Fund Convention and the 2003 Supplementary Fund Protocol to the ships under their flags and those ships entering or leaving a port in their territories,

- 2 **REMINDS** each State affected by a spill that the IOPC Funds may not be liable to pay compensation if the person, including a State, suffering the damage has not taken all reasonable steps to pursue the legal remedies available to them,
- 3 **URGES FURTHER** those States involved in an oil pollution incident caused by an uninsured or insufficiently insured ship or a ship significantly breaching the safety and environmental standards contained in the relevant IMO Conventions to cooperate and assist each other in investigations (including criminal investigations) into the causes of such incidents and on the persons involved (including the identity of the shipowner) as well as into the reasons why ships were operating without sufficient insurance coverage or without complying with safety and environmental standards,
- 4 **INSTRUCTS** the Director, in consultation with the Audit Body, to develop an internal procedure to be followed by the IOPC Funds' Secretariat in order to gather necessary information to determine the applicability of the 1992 Civil Liability Convention, the 1992 Fund Convention and the Supplementary Fund Protocol and the parties involved,
- 5 **FURTHER INSTRUCTS** the Director, in consultation with the Audit Body, to develop guidance for Member States for investigating the circumstances surrounding an oil pollution incident, in order to identify ships and persons involved, including, but not limited to, shipowners and their insurers,
- 6 **ALSO INSTRUCTS** the Director to continue to protect the interests of the IOPC Funds, to promote the use of reliable insurers to ensure that the international liability and compensation regime is able to function as intended and to pursue recourse action in the event of incidents occurring involving the IOPC Funds in which the owner/insurer of the ship does not fulfil its obligations under the 1992 Civil Liability Convention.

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ANNEX IV

INTERNAL REGULATIONS OF THE 1992 FUND AND SUPPLEMENTARY FUND

Regulation 7

Settlement of Claims

The Director may authorise another officer or other officers to make final or partial settlement of claims or to make provisional payments. Such authority shall: (a) in respect of the Deputy Director/Head of the Claims Department be limited to approvals not exceeding £500 000 for a particular claim; and (b) in respect of other officers: (i) be given only in respect of claims arising out of a specific incident and only to an officer who is responsible for dealing with claims arising out of that incident; and (ii) be limited to approvals not exceeding £75 000 for a particular claim. The conditions and extent of such delegation shall be laid down in Administrative Instructions issued by the Director.

Any settlements made under Internal Regulation 7.13(a) shall be reported to the Director and those made under Regulation 7.13(b) to the Deputy Director/Head of the Claims Department.

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ANNEX V

INTERNAL REGULATIONS OF THE 1992 FUND AND SUPPLEMENTARY FUND

CONTRIBUTING OIL

'Contributing oil' means crude oil and fuel oil defined as below.

'Crude oil' means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation. It also includes crude oils from which certain distillate fractions have been removed (sometimes referred to as 'topped crudes') or to which certain distillate fractions have been added (sometimes referred to as 'spiked' or 'reconstituted' crudes).

'Fuel oil' means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the 'American Society for Testing and Materials' (ASTM) Specification for Number Four Fuel Oil (Designation D396-69)^{***}, or heavier.

The following list of contributing and non-contributing oil is intended as a guide for contributors.

Contributing Oil	Non-Contributing Oil
<p>Crude Oils</p> <ul style="list-style-type: none"> • All naturally occurring crude oils* • Condensate • Topped crudes • Spiked crudes • Reconstituted crudes <p>Finished Products</p> <ul style="list-style-type: none"> • No. 4 fuel (ASTM) • Navy special fuel • Light fuel oil • No. 5 fuel (ASTM) (light) • Medium fuel oil • No. 5 fuel (ASTM) (heavy) • Bunker C fuel oil • Heavy fuel oil • No. 6 fuel oil (ASTM) • Blended fuel oils by viscosity or sulphur content • Bituminous emulsions and fuel oil emulsions** <p>Intermediate or Process Stocks</p> <ul style="list-style-type: none"> • Fuel oil blend stocks 	<p>Crude Oils</p> <ul style="list-style-type: none"> • Natural gas liquids • Condensate* • Casinghead naphtha • Natural gasoline • Cohasset-panuke <p>Finished Products</p> <ul style="list-style-type: none"> • LNG and LPG • Aviation gasolines—Motor gasoline (petrol, essence) • White spirit • Kerosene • Aviation kerosene—Jet 1 A and No. 1 fuel (ASTM) • Gas oil • Heating oil • No. 2 fuel (ASTM) (lubricating oil) • Marine diesel • Fuel blends containing biofuels • Energy-rich fuels and their blends <p>Intermediate or Process Stocks</p> <ul style="list-style-type: none"> • Straight run naphtha • Light cracked naphtha • Heavy cracked naphtha • Platformate • Reformate • Steam-cracked naphtha • Polymers • Isomers • Alkylates • Catalytic cycle oil • Reformer feed • Steam cracker feed • Gas oil blend stocks • Catalytic cracker feedstock • Visbreaker feedstock • Aromatic tar

- * To be considered as 'non-contributing oil' if more than 50% by volume distils at a temperature of 340°C and at least 95% by volume distils at a temperature of 370°C, when tested by the ASTM Method D86/78 or any subsequent revision thereof.
 - ** Quantity of emulsion received should be reported with no allowance for its water content.
 - *** The version currently listed as being active for this standard is ASTM D396-21.
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