

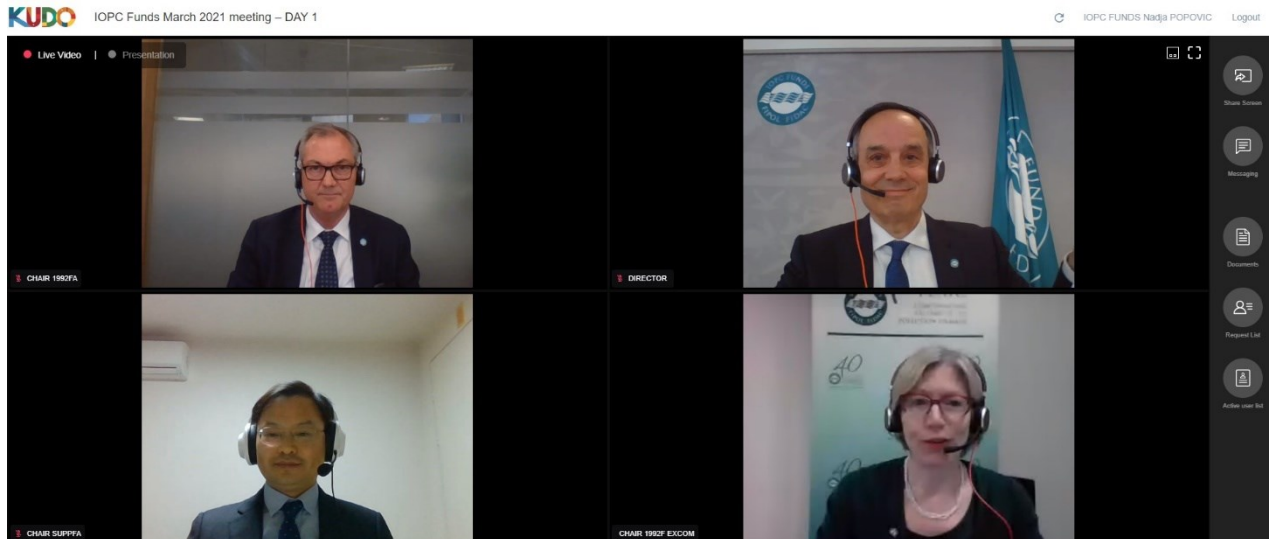


International Oil Pollution
Compensation Funds

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

Fondos internacionales
de indemnización de daños
debidos a contaminación por
hidrocarburos

The March 2021 sessions of the governing bodies – In brief 1 April 2021



The governing bodies of the International Oil Pollution Compensation Funds (IOPC Funds) held remote sessions from Monday 29 to Wednesday 31 March 2021 via the e-conferencing platform KUDO. Seventy-seven States, representing 73 Member States of the 1992 Fund, 24 Member States of the Supplementary Fund and four observer States, as well as 14 observer organisations, attended sessions of the 1992 Fund Assembly, the 1992 Fund Executive Committee and the Supplementary Fund Assembly. A series of procedural decisions were taken, amending or temporarily suspending the Rules of Procedure, to allow the sessions to be conducted remotely and facilitate discussion of meeting items.

1992 Fund Executive Committee (75th session)

Two new incidents and recent developments in respect of two ongoing incidents involving the 1992 Fund were reported to the 1992 Fund Executive Committee as follows:

NEW INCIDENT: *MT Harcourt* (Nigeria, November 2020)

The *MT Harcourt*, moored alongside the Elcrest Terminal in the Gbetiokun oil field, Delta State, Nigeria, suffered an explosion in a ballast water tank on 2 November 2020. There were no casualties, however, approximately 31 barrels of crude oil were reported to have spilled. According to the P&I Club's surveyors who visited on site, the clean-up operations organised by the Terminal were successful. A claim has been filed by 12 riverine communities for approximately USD 28 million against the shipowner and master, in the Federal High Court, Warri, Nigeria, but no proceedings have yet been commenced against the 1992 Fund. Nigeria is a Party to the 1992 Fund Convention and the shipowner is a party to the Small Tanker Oil Pollution Indemnification Agreement (STOPIA) 2006. However, it is unlikely that the losses will exceed the STOPIA limit (SDR 20 million) or that the Fund will be called upon to pay compensation in this incident. The Director will nevertheless continue to monitor developments in this incident.

NEW INCIDENT: Incident in Israel (February 2021)

On 19 February 2021, the Government of Israel contacted the 1992 Fund requesting assistance with a mystery spill, which resulted in tar balls being washed up along the Israeli coastline. The Israeli Ministry of Environment organised a full response to the spill. After an investigation the Israeli authorities believe that the oil was released from a tanker which they have identified. The 1992 Fund instructed a technical expert to travel to Israel to take oil samples for analysis. At the time of the session of the Executive Committee the results of these tests were still awaited. Since the investigation is still in its early stages and due to the uncertainties in identifying the oil, and the vessel which caused the oil spill, it is not clear at this stage whether the Conventions apply and whether the 1992 Fund will be involved in this incident.

Agia Zoni II (Greece, September 2017)

The 1992 Fund has received 421 claims amounting to EUR 98.58 million and USD 175 000 and has paid 186 claims amounting to EUR 14.87 million in compensation in respect of this incident. Several investigations into the cause of the incident have been carried out. Since the investigation by the Public Prosecutor remains pending, the Director remains of the view that it would not be appropriate to make any further advance payments to the representatives of the salvor/one of the clean-up contracting companies at this time.

On 31 December 2020, the Claims Submission Office (CSO) in Piraeus, Greece was closed. All claimants with outstanding claims were notified in advance of the closure and the Director reassured the Executive Committee that the CSO closure had no impact on the speed of assessment of claims which were still ongoing, with good progress continuing to be made.

Bow Jubail (Netherlands, June 2018)

The Court of Appeal in the Hague delivered its judgment on 27 October 2020, confirming the decision of the Rotterdam District Court holding that the shipowner had not sufficiently substantiated that the tanks of the *Bow Jubail* did not contain residues of persistent oil at the time of the incident and therefore, the Bunkers Convention 2001, and the Convention on Limitation of Liability for Maritime Claims, 1976, as modified by the 1996 Protocol (LLMC 76/96), would not apply.

The shipowner filed for cassation against the judgment to the Supreme Court of the Netherlands on several grounds, mainly on the undue burden of proof imposed on the shipowner. The 1992 Fund has applied to join the appeal proceedings in the Supreme Court in order to request clarification from the Court on the question of the legal test to decide whether there were residues on board the *Bow Jubail*. The Supreme Court will decide whether the 1992 Fund should be allowed to join the proceedings at this stage under the procedural laws of the Netherlands.

1992 Fund Assembly (25th session) and Supplementary Fund Assembly (17th session)

During their simultaneous sessions, the governing bodies took several decisions and took note of the information provided in relation to treaty matters, financial policies and procedures and secretariat and administrative matters.

Farewell to outgoing Chair of the 1992 Fund Assembly

The Chair of the 1992 Fund Assembly, Mr Gaute Sivertsen (Norway), informed the governing bodies that he would be stepping down as Chair at the end of the current session after 10 years in the post, as he intended to submit his candidacy for the position of the Director in the forthcoming election. Mr Sivertsen expressed that it had been an honour and privilege to serve as Chair of the 1992 Fund Assembly for the last 10 years, which had given him the opportunity to work closely with three Audit Bodies, the Director and Secretariat. He also expressed that he had the pleasure of working with all the Member States. On behalf of himself and the Secretariat, the Director thanked Mr Sivertsen for his help, advice and friendship over the years and commented

that he had been an exceptional Chair. Many delegations thanked Mr Sivertsen for presiding over the discussions of the Assembly for the last decade and wished him well in his future projects.

Appointment of the Director - Procedures

The second term of the Director of the IOPC Funds will expire on 31 December 2021 and therefore, the post of Director will become vacant on 1 January 2022. A circular will be issued in April 2021 inviting 1992 Fund Member States to submit nominations for candidates and at its regular session in November 2021, the 1992 Fund Assembly will elect a new Director. The 1992 Fund Assembly decided that in the event that it is possible to hold an in-person meeting in full at that time, the appointment of the Director should take place in person, in accordance with established practice. However, since, depending on the progression of the COVID-19 pandemic, the November meeting may be held partly or fully remotely, the Assembly also considered a number of alternative options for ballot procedures. After a lengthy debate, the Assembly decided to continue its discussions in respect of the alternative options at an extraordinary session of the Assembly to be held in July 2021.

Secretariat Matters

The Director reported that he had invited Mr Robert Owen (IT/Office Manager) to join the Management Team to provide advice on IT/office-related matters. He explained that the IT expertise required to maintain business operations while working remotely and the increasing importance of cybersecurity made the IT function crucial in the activities of the organisations and warranted a separate IT department. As a result, the Director has decided to include Mr Owen in the Management Team on a permanent basis and appoint him as Head of the IT Department. In light of this and other recent staff changes, the 1992 Fund Assembly and Supplementary Fund Assembly decided to amend the relevant Internal and Financial Regulations relating to the delegation of authority and the management of monies accordingly.

Information Services

Since demand for remote activities and training events has inevitably increased following the global COVID-19 pandemic and restrictions on gatherings and travel have continued into 2021, the Secretariat has begun to deliver remote training and information events and is also planning to run the 2021 Short Course as an online event in June 2021. The course will be open to a maximum number of 15 participants nominated by 1992 Fund Member States and a circular will be issued in April 2021 confirming the dates and programme of the remote course and containing the nomination form and further details on how to apply. The Secretariat is also exploring whether the Induction Course could be provided online and is in the process of developing a series of short webinars, covering the key areas which form the bases of the IOPC Funds and the work of the organisations. With regard to publications, the 2020 Annual Report of the IOPC Funds has recently been published and is available to download or request in hard copy via the IOPC Funds' website.

2010 HNS Convention

The IOPC Funds continues to work in close cooperation with IMO to provide assistance to those States considering ratification and to prepare for the entry into force of the 2010 HNS Convention. At the time of the sessions, the number of Contracting States to the Convention remained at five (Canada, Denmark, Norway, South Africa and Turkey). However, a number of States reported significant progress towards implementation and ratification of the Convention to the 1992 Fund Assembly, in particular, Belgium, Estonia, France, Germany and the Netherlands. The Secretariat also informed the Assembly that meetings had continued with the group of external organisations to work on a draft HNS manual and that the group had agreed to split its work into thematic sub-groups to examine the technical and legal aspects specific to the HNS Convention and develop suggestions for possible draft texts. It was further noted that once the group of experts had prepared a draft HNS Claims Manual, it was the intention of the Secretariat to make it available for comments to any interested delegations before its consideration by the first HNS Fund Assembly.

Election of new Chair of the 1992 Fund Assembly

The 1992 Fund Assembly elected, by acclamation, Ambassador Antonio Bandini (Italy) to hold office until the next regular session of the Assembly. Ambassador Bandini thanked the 1992 Fund Member States for the confidence shown in him and expressed that it was an honour for him to serve as Chair of the 1992 Fund Assembly and that he looked forward to continuing the excellent work carried out by his predecessor.

Future meetings

The governing bodies noted that the next regular sessions of the IOPC Funds' governing bodies had been rescheduled to Monday, 1 November to Friday, 5 November 2021, due to a revision in the IMO meeting programme. They also noted that further extraordinary sessions would be held on 22 and 23 July 2021.

Note: This is a summary of key aspects of the sessions held and does not reflect the sessions in full. A comprehensive Record of Decisions may be obtained via the Document Services section of the IOPC Funds' website at www.iopcfunds.org.