

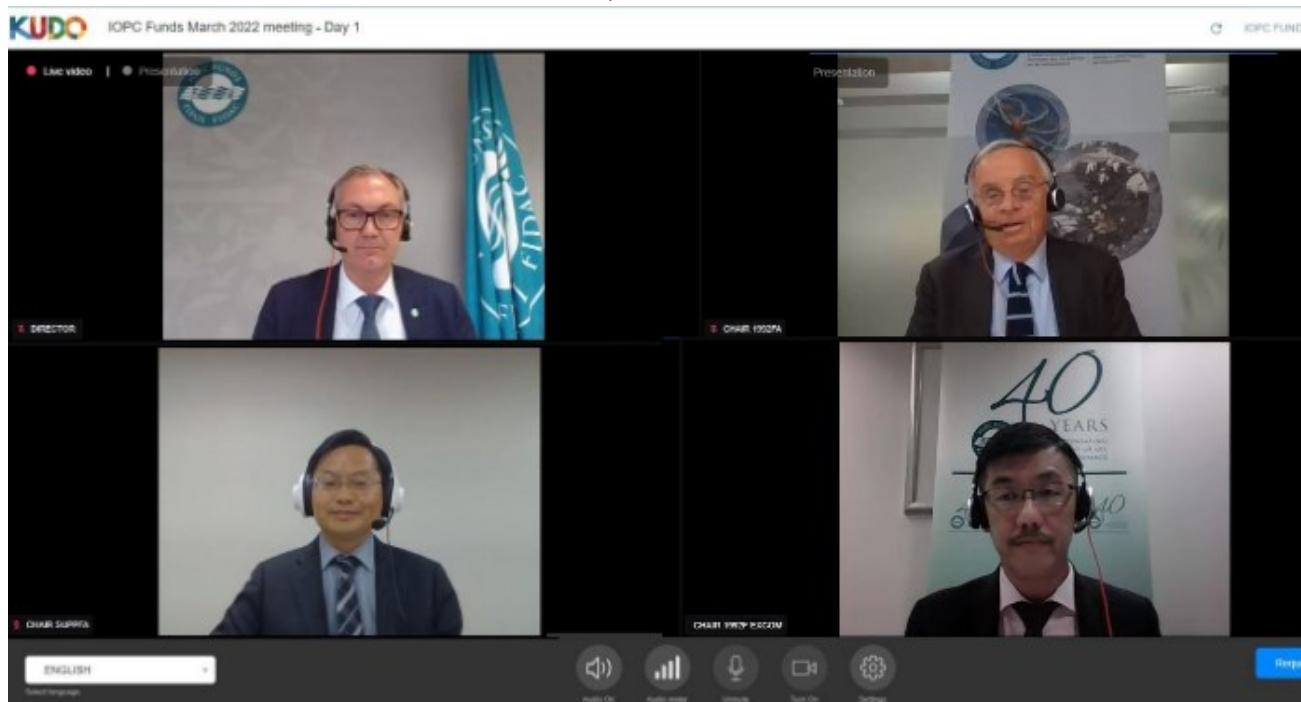


International Oil Pollution
Compensation Funds

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 2022 sessions of the governing bodies – In brief 1 April 2022



The governing bodies of the International Oil Pollution Compensation Funds (IOPC Funds) held sessions from Tuesday 29 to Wednesday 30 March 2022 via the e-conferencing platform KUDO. These were the first sessions since the new Director, Gaute Sivertsen, had taken up his post. Sixty-nine States, representing 64 Member States of the 1992 Fund, 25 Member States of the Supplementary Fund and five observer States, as well as 18 observer organisations, attended sessions of the 1992 Fund Administrative Council, 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 (78th session)

Recent developments were reported to the 1992 Fund Executive Committee in respect of five of the 13 incidents currently involving the IOPC Funds. The Executive Committee noted in particular the latest information relating to the incident in Israel, the *Bow Jubail* and the *Trident Star* incidents, as follows:

Incident in Israel (February 2021)

In 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. An investigation undertaken by the Israeli Ministry of Environmental Protection failed to conclusively identify the tanker responsible for the spill. Since the 1992 Fund Convention also applies to spills of persistent oil even if the ship from which the oil is released cannot be identified, provided it is shown that the oil originated from a ship as defined in the 1992 Civil Liability Convention (CLC), the 1992 CLC and Fund Convention apply to this incident and the Director has been authorised to make compensation payments for admissible claims. At the time of the March session, 27 claims for

compensation had been submitted totalling ILS 8.5 million (£2 million), with further claims expected. A local firm with a long history of assisting P&I Clubs has been engaged to act as a focal point in order to help potential claimants and facilitate the submission and processing of claims. The IOPC Funds Director travelled to Israel at the beginning of March 2022 and had held very positive meetings with the Israeli authorities including the Minister of Environmental Protection, the Administration of Shipping and Ports, the Marine Environment Protection Division of the Ministry of Environmental Protection and the Fund's focal point in Israel.

Bow Jubail (Netherlands, June 2018)

On 23 June 2018, the oil and chemical tanker *Bow Jubail* collided with a jetty in the Port of Rotterdam, the Kingdom of the Netherlands, resulting in a spill of fuel oil which caused pollution damage. It remains to be decided whether this incident is covered under the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention 2001) or if the 1992 Civil Liability and Fund Conventions apply. The 1992 Fund has a financial interest in this case, since if a final judgment were to decide that the 1992 Civil Liability and Fund Conventions apply, the 1992 Fund would pay compensation. However, if the Bunkers Convention 2001 applies, then the Fund would not be involved. In a ruling on 24 December 2021, the Supreme Court in the Netherlands decided to grant the Fund's subsidiary application to be admitted as an interested party in the proceedings, based on the civil procedural law of the Netherlands. The Fund's Dutch lawyers prepared a reply to the Court's decision, which was submitted on 14 March 2022. The Director will continue to monitor this incident and report the latest developments to the 1992 Fund Executive Committee at its next session.

Trident Star (Malaysia, August 2016)

On 24 August 2016, the *Trident Star* had spilled an unconfirmed quantity of marine fuel oil into the water at the ATT Tanjung Bin (ATB) oil terminal, Port of Tanjung Pelepas (PTP), during loading operations. Since the liability limit applicable to the *Trident Star* under the 1992 CLC, USD 6.5 million, was reached, the 1992 Fund made payments to claimants. However, since the Small Tanker Oil Pollution Indemnification Agreement (STOPIA) 2006 applies to this case, the shipowner's insurer has reimbursed the 1992 Fund for any amounts paid. The last claims submitted in this case have now been settled and corresponding legal actions have been withdrawn. It was therefore reported to the Executive Committee that this incident would now be considered closed.

1992 Fund Administrative Council (21st session acting on behalf of the 26th extraordinary session of the 1992 Fund Assembly) and Supplementary Fund Assembly (10th extraordinary session)

During their simultaneous sessions, the governing bodies noted developments reported by the Director and took a number of decisions as follows.

Secretariat matters

Since the Mr Ranjit Pillai, Deputy Director/Head of Finance and Administration, Mr Ranjit Pillai, is due to retire in June 2022, the Director announced that he had made a number of decisions relating to the structure of the Secretariat. Mrs Liliana Monsalve (Colombia) will be taking over the role of Deputy Director upon Mr Pillai's retirement, effective 1 June 2022, combining that position with her current role as Head of the Claims Department. A new Administration Department, comprising the four functional areas of Finance, Human Resources, IT and Office Management, will be created and will be overseen by Mr Robert Owen as Head of Administration. A new post of Chief of Finance will head the Finance Section within that Department and will be held by the existing Finance Manager, Claire Montgomery. The Policy Officer, Mr Yuji Okugawa has also now taken over the responsibilities of the Oil Reporting Administrator. In light of these changes to the Secretariat, the 1992 Fund Administrative Council made a number of consequential amendments to the Internal and Financial Regulations of the 1992 Fund.

Review of non-governmental organisations with observer status

Following a full and thorough review, the governing bodies approved the continuance of observer status of each of the 17 international non-governmental organisations currently holding that status (see the [Observers page](#) of the website for details).

2010 HNS Convention

In January 2022, Estonia became the sixth State to accede to the 2010 HNS Protocol, bringing this important treaty one step closer to entering into force. The Secretariat reported to the 1992 Fund Administrative Council on the work it had been carrying out, in close cooperation with IMO, to promote the ratification and implementation of the Convention and to prepare for its entry into force. This includes meetings with external organisations as they work to develop a draft HNS Claims Manual. Canada announced its plans, as a Contracting State, to organise a workshop in matters relating to the HNS Convention later in 2022 and France shared information on its progress towards national implementation of the treaty. The European Chemical Industry Association (Cefic) shared a position paper in which it confirms its support for the 2010 HNS Convention as well as its commitment to work with States to implement, as far as possible, a uniform approach to reporting. 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 Convention and both Secretariats will collaborate with Canada to deliver the planned workshop in 2022.

Guidance on the impact of the situation in the Black Sea and the Sea of Azov on insurance or other financial security certificates

A draft IMO Legal Committee circular agreed by the Committee the week prior to the Funds' sessions on the Guidance on the impact of the situation in the Black Sea and the Sea of Azov on insurance or other financial security certificates, relating to the conflict in Ukraine was circulated to the governing bodies. The circular lists IMO instruments which will be affected by the conflict in Ukraine, including the 1969 and 1992 Civil Liability Conventions. In particular it states that the absence of insurance or other financial security in accordance with the requirements of the conventions may lead to insufficient compensation for States and victims of pollution and other incidents. It may also expose the IOPC Funds and its contributors to the risk of having to pay all of the compensation for oil spills from tankers because there is not sufficient insurance to cover the shipowner's liability. With this in mind, the circular set out a number of action points for States. The governing bodies fully endorsed those action points and encouraged Member States to adhere to the recommendations in the circular. The Director was also instructed to monitor the situation and report back at the next meeting in October 2022.

Farewell to the out-going Deputy Director, Mr Ranjit Pillai

The March 2022 meeting the governing bodies was the last for Mr Ranjit Pillai (Deputy Director/Head of Finance and Administration) before he retires in June 2022. Mr Pillai, had held the position of Head of Finance for 25 years and had also served as Deputy Director since 2012. The Chairs of the governing bodies, a number of Member States and the Chair of the Audit Body, express their gratitude and appreciation to Mr Pillai for his invaluable contribution to the work of the organisation and commended him for his dedication and diplomacy. Given that the current sessions were held remotely, the Chair of the 1992 Fund Administrative Council proposed that the opportunity should be taken at the next sessions of the governing bodies to be held in-person to properly mark Mr Pillai's departure.

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.