



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 October 2022 sessions of the governing bodies – In brief

31 October 2022



The governing bodies of the International Oil Pollution Compensation Funds (IOPC Funds) held sessions from Tuesday 25 to Friday 28 October 2022 at the headquarters of the International Maritime Organization (IMO) in London. Sixty-three 1992 Fund Member States, including 23 Supplementary Fund Member States, and 13 observer organisations, attended sessions of the 1992 Fund Administrative Council<sup><1></sup>, the 1992 Fund Executive Committee and the Supplementary Fund Assembly. This was the first meeting of the IOPC Funds' governing bodies to be held fully in-person since 2019.

### **1992 Fund Executive Committee (79th session)**

Information was provided to the 1992 Fund Executive Committee on all open incidents involving the IOPC Funds. In particular, recent developments in the following incidents were reported.

### **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

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<1> From this point forward, references to the '1992 Fund Administrative Council' should be taken to read '22nd session of the 1992 Fund Administrative Council, acting on behalf of the 27th session of the 1992 Fund Assembly'.

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 October 2022 meeting, it was reported that a total of 33 claims had been submitted for clean-up operations, property damage and economic losses, totalling ILS 13.8 million (£3.3 million). Some 25 claims have been assessed. The remaining claims submitted are being assessed and more claims are expected in the near future.

#### ***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 submitted a reply to the Court's decision, requesting it to reverse its decision that the 1992 Fund Convention is no basis for intervention in limitation proceedings and that the intervention of the Fund should be based on national law instead. The Fund also submitted that the Court of Appeal was obliged to summon the Fund as an interested party to the proceedings but had failed to do so. The Fund joined the complaints of the shipowner in the principal appeal in cassation against the decision of the Court of Appeal that it is not the Bunker Convention 2001 but the 1992 CLC that applies to the incident. The case has now been transferred to the Advocate General for their opinion. After the opinion has been delivered, it will take several months before the Supreme Court gives its decision in the case, making it unlikely that there will be a decision before the end of 2022.

#### ***Agia Zoni II (Greece, September 2017)***

The assessment of the 423 claims filed against the 1992 Fund in this incident has continued. 415 of those claims have been approved and 189 have been paid. Further offers of compensation and advance payments have been made to a number of claimants whose responses are awaited. The results of the investigation into the cause of the incident by the Public Prosecutor remain pending. It is not known when the Public Prosecutor will conclude the investigation, which is awaited to determine the cause of the incident. It is also not known whether the District Attorney will decide to pursue criminal charges against the owner and clean-up contractor. During the session of the 1992 Fund Executive Committee the delegation of Greece provided further information relating to the progress of the Public Prosecutor's investigation. Several delegations emphasised the importance of the prompt investigation of an incident and stressed the importance of having adequate insurance in place to sustain the international liability and compensation regime. The Director will continue to monitor this incident and report the latest developments to the Committee at its next session.

#### ***Hebei Spirit (Republic of Korea, December 2007)***

Since all the outstanding claims arising from the *Hebei Spirit* incident have now been settled and all the legal actions have been finalised, it was reported that this incident was now considered closed. A meeting was held by the 1992 Fund on 15 and 16 June 2022 in Seoul (Republic of Korea) with all the parties involved in the handling of the claims arising from the incident to discuss the case and the lessons to be learned. A document reporting on the conclusions of this 'wash-up' meeting was presented to the 1992 Fund Administrative Council (document IOPC/OCT22/4/3). The Director took the opportunity to thank the Government of the Republic of Korea and the Skuld Club for their assistance and cooperation, which were paramount in resolving the *Hebei Spirit* incident. He thanked the *Hebei Spirit* Centre staff, the experts engaged by the Skuld Club and the 1992 Fund, and the Secretariat staff for their excellent work in resolving this incident which involved handling a significantly large and varied number of claims.

During the wash-up meeting in Seoul, the Government of Republic of Korea had presented dedicated plaques to the IOPC Funds Secretariat, the former Director of the IOPC Funds, Mr José Maura, and the Skuld Club, in recognition of their role in the handling of the incident. The Government also took the opportunity of the IOPC Funds meeting in London to present a plaque to the Director of the IOPC Funds at the time of the incident, Mr Willem Oosterveen, who had attended on site in the early days of the incident and played a key role in the management of the case from the outset.

### **Other incidents**

The Secretariat also provided information in respect of the *Prestige* (Spain 2002), *Solar 1* (Philippines 2006), *Redferm* (Nigeria, March 2009), *Haekup Pacific* (Republic of Korea, April 2010), *Alfa I* (Greece, March 2012), *Nesa R3* (Oman, June 2013), *Nathan E. Stewart* (Canada, October 2016) and *MT Harcourt* (Nigeria, November 2020) incidents.

### **1992 Fund Administrative Council (22nd session) and Supplementary Fund Assembly (19th session)**

During their simultaneous sessions, the governing bodies took several decisions and noted a wide range of information provided in relation to compensation matters, treaty matters, financial policies and procedures and Secretariat and administrative matters.

### **Election of Chairs of the governing bodies**

The 1992 Fund Administrative Council reappointed Ambassador Antonio Bandini (Italy) as Chair of the 1992 Fund Assembly and Professor Tomotaka Fujita (Japan) and Mr Siphon Mbatha (South Africa) as First and Second Vice-Chair respectively.

The Supplementary Fund Assembly reappointed Mr Sungbum Kim (Republic of Korea) as Chair and Mr Andrew Angel (United Kingdom) and Mr Emre Dinçer (Türkiye) as First and Second Vice Chair respectively. However, Mr Kim informed the Assembly that he would be stepping down from his post at the end of the session. As such, the Supplementary Fund Assembly appointed a new Chair, Mr François Marier (Canada), to take up the position at the end of the session until the next regular session of the Assembly.

### **Election of members of the 1992 Fund Executive Committee**

In accordance with 1992 Fund Resolution N°5, the 1992 Fund Administrative Council elected the following States as members of the 1992 Fund Executive Committee to hold office until the end of the next regular session of the 1992 Fund Assembly:

Algeria	Denmark (Vice-Chair, Ms Karen Andersen)	Republic of Korea
Bahamas	France	Singapore (Chair, Mr Samuel Soo)
Canada	Jamaica	South Africa
Colombia	Japan	Thailand
Cyprus	New Zealand	United Kingdom

### **Budgetary matters and assessment of contributions**

The 1992 Fund Assembly made the following decisions relating to the 2023 budget and 2022 contributions:

- To adopt an administrative budget for the 1992 Fund of £5 093 705 for 2023;
- To levy contributions to the General Fund for the sum of £5.5 million in 2022, payable by 1 March 2023;
- To levy 2022 contributions of £3 million to the Incident in Israel Major Claims Fund, payable by 1 March 2023;
- To reimburse £7.3 million to contributors to the *Hebei Spirit* Major Claims Fund by 1 March 2023;
- To maintain the working capital of the 1992 Fund at £15 million.

The Supplementary Fund Assembly adopted an administrative budget for 2023 of £54 510 and decided to maintain the working capital of the General Fund at £1 million.

### **Report of the joint Audit Body and appointment of External Auditor**

The joint Audit Body presented its annual report to the governing bodies, setting out the work it had undertaken since the November 2021 meeting of the IOPC Funds, describing in detail its areas of focus in line with its agreed work programme and making a number of recommendations, in particular with regards to the selection process for the External Auditor. Noting the recommendation of the Audit Body in that regard, the governing bodies approved the re-appointment of BDO International as External Auditor for the IOPC Funds for a further two-year term.

### **Measures to encourage the submission of oil reports**

At the time of the meeting, 26 Member States of the 1992 Fund had yet to submit reports on contributing oil received in 2021 and a number of those States had reports outstanding for several years. For the Supplementary Fund, one State had yet to submit its 2021 report and another had only partially submitted its report. This issue remains a significant concern to the governing bodies and, as instructed at previous sessions, the Director has, together with the Audit Body, explored ways to incentivise States to submit outstanding reports. As a result, he submitted a proposal at the October 2022 meeting, which was approved by the governing bodies, to prepare a draft Resolution, in consultation with the Audit Body, to enable him to issue invoices to contributors based on estimates if no oil reports were submitted.

### **2010 HNS Convention**

At the time of the sessions, the number of Contracting States to the 2010 HNS Convention remained at six (Canada, Denmark, Estonia, Norway, South Africa and Turkiye). An action plan of tasks to be undertaken by the 1992 Fund Secretariat in relation to the preparations for the entry into force of the 2010 HNS Convention is now established and being worked towards by the relevant members of the Secretariat. Details of the progress made on specific tasks as well as a number of actions planned for 2023 were reported to the governing bodies. The HNS Finder, which facilitates the identification of HNS that would be considered contributing cargo, has been updated, meetings with external organisations have continued to be held as they work to develop a draft HNS Convention claims manual and various outreach and training activities have been delivered, both in person and online. The 1992 Fund Administrative Council approved an additional budget appropriation of £135 000 to cover the costs of the activities to be conducted under the action plan, and in particular the tasks required to assist States with the reporting and contributions issues relating to the HNS Convention. The development of a viable reporting and contributions system has been highlighted as a priority since it is considered key to facilitating the ratification of the Convention by further States.

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. The workshop on the 2010 HNS Convention, which was due to take place on 31 October and 1 November 2022, has been postponed due to practical reasons and will now take place on 3 and 4 April 2023. Further information can be found at [hnsconvention.org](https://hnsconvention.org)

### ***Other decisions***

The governing bodies also took decisions regarding the following:

- the approval of the 2021 Financial Statements of the 1992 Fund and Supplementary Fund;
- a transfer within the 1992 Fund budget from 'Personnel' to cover travel costs in 2022;
- the appointment of a new member of the joint Investment Advisory Body and the amendment of its mandate to take into account changes to the Secretariat structure;
- the amendment of the Financial Regulations relating to the tenure of the External Auditor;
- amendments to the Rules of Procedure to clarify who should chair the governing bodies during elections for the position of Chair.

They also noted information reported in respect of:

- the payment of contributions to the IOPC Funds;
- the report of the joint Investment Advisory Body;
- the application of the European Union General Data Protection Regulation;
- the outreach activities and information services delivered since 2021 and those planned for 2023.

#### **Farewell to the outgoing Supplementary Fund Assembly Chair, Mr Sungbum Kim**

Since the Chair of the Supplementary Fund Assembly had informed the governing bodies that he would be stepping down from his position at the end of the current session after 11 years in his post, the governing bodies took the opportunity to thank Mr Kim for his excellent leadership. Words of appreciation were expressed by the Chair of the 1992 Fund Administrative Council, the first Vice Chair of the Supplementary Fund Assembly, the delegation of the Republic of Korea, Chair of the Audit Body and the Director, who all referred to his professionalism and dedication to the organisation.

#### **Presentation of gifts in recognition of service to the IOPC Funds**

Since the October 2022 sessions were the first to be held in person since the departure of the previous Director, Mr José Maura, the governing bodies took the opportunity to invite him to join the meeting and the Director presented him with the gift of a painting and an inscribed glass ornament in recognition of his 25 years' service to the organisation. The former Deputy Director and Head of Finance and Administration, Mr Ranjit Pillai, who had retired from the organisation in June 2022 after 25 years' service, was also presented with a gift and the outgoing member of the joint Investment Advisory Body, Mr Brian Turner, was also invited to receive a gift in recognition of his 20 years' service.

#### **Dates and format of future meetings**

It was decided that the next sessions of the governing bodies would be held during the weeks of 22 May and 6 November 2023. Following the experience gained from holding remote meetings in recent years and the introduction on a trial basis of hybrid meetings by IMO, the Director reported that he would explore the possible options to adapt the current in-person format of IOPC Funds meetings to enable remote participation, taking into account the specific activities and requirements of the governing bodies and the experience of IMO. A proposal will be presented at the May 2023 meeting, which will be held in person, but with a passive streaming facility.

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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](http://www.iopcfunds.org).