

ASSEMBLY
1st session
Agenda item 34

RECORD OF DECISIONS OF THE 1ST SESSION OF THE ASSEMBLY

(held from 24 to 28 June 1996)

Opening of the session

The 1st session of the Assembly of the organisation established under the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, as amended by the 1992 Protocol thereto (1992 Fund), was opened by the Director of the Legal Affairs and External Relations Division of IMO, Mr Magnus Göransson, on behalf of the Secretary-General of the International Maritime Organization (IMO), Mr William O'Neil.

The following Member States were present:

Denmark	Japan	Sweden
France	Mexico	United Kingdom
Germany	Norway	

The Assembly took note of the information given by the Director that all Contracting States participating had submitted credentials which were in order.

Procedural Matters

1 Adoption of the Agenda

The Assembly adopted the Agenda as contained in document 92FUND/A.1/1.

2 Election of the Chairman and two Vice-Chairmen

2.1 The Assembly elected the following delegates to hold office until the next regular session of the Assembly:

Chairman:	Mr C Coppolani (France)
First Vice-Chairman:	Professor H Tanikawa (Japan)
Second Vice-Chairman:	Mr P Gómez-Flores (Mexico)

2.2 The Chairman, on behalf of himself and the two Vice-Chairmen, thanked the Assembly for the confidence shown in them.

3 Non-contracting States to be invited as observers

3.1 The Assembly decided that the following categories of States should be invited to send observers to sessions of the Assembly, and that the Rules of Procedure should be worded accordingly (cf agenda item 5):

- (a) States which have signed the 1992 Fund Convention or which have deposited the appropriate instrument in respect of that Convention, but for which that Convention is not yet in force;
- (b) States which have notified the 1992 Fund that they are considering accession to the 1992 Fund Convention;
- (c) States which are Members of the 1971 Fund but not of the 1992 Fund; and
- (d) States which would be invited to send observers to meetings of the Assembly of the 1971 Fund, in accordance with the latter's Rules of Procedure.

3.2 The following non-Contracting States were therefore granted observer status with the 1992 Fund, in accordance with the decision reflected in paragraph 3.1 above. Those States marked with an asterisk were represented at this session.

States which have deposited instruments of ratification, acceptance, approval or accession to the 1992 Fund Convention:

Australia*	Greece*	Marshall Islands
Bahrain	Liberia*	Spain*
Finland*		

Other States which have signed the 1992 Fund Convention:

Monaco*	Morocco*	Poland*
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Other States which are Members of the 1971 Fund but not of the 1992 Fund:

Albania	Ghana	Qatar
Algeria	Iceland	Republic of Korea*
Bahamas	India	Russian Federation*
Barbados	Indonesia*	Saint Kitts and Nevis
Belgium*	Ireland	Seychelles
Benin*	Italy*	Sierra Leone
Brunei Darussalam	Kenya	Slovenia*
Cameroon	Kuwait*	Sri Lanka
Canada*	Malaysia	Syrian Arab Republic*
Côte d'Ivoire	Maldives	Tonga
Croatia	Malta	Tunisia*
Cyprus*	Mauritania	Tuvalu
Djibouti	Mauritius	United Arab Emirates*
Estonia	Netherlands*	Vanuatu
Fiji*	Nigeria*	Venezuela*
Gabon	Papua New Guinea	Yugoslavia
Gambia	Portugal*	

States which have observer status with the 1971 Fund:

Argentina	Ecuador	Philippines
Brazil*	Egypt	Saudi Arabia*
Chile*	Islamic Republic of Iran	Switzerland
China*	Jamaica	United States
Colombia	Latvia*	
Democratic People's Republic of Korea	Panama*	
	Peru*	

4 Intergovernmental and international non-governmental organisations to be invited as observers

4.1 The Assembly decided that the following categories of organisations should be invited to send observers to sessions of the Assembly, and that the Rules of Procedure should be worded accordingly (cf agenda item 5):

- (a) the 1971 Fund;
- (b) the United Nations;
- (c) the International Maritime Organization;
- (d) any other specialised agency of the United Nations whose interests and those of the 1992 Fund are of common concern;
- (e) any other intergovernmental organisation and any international non-governmental organisation which the Assembly has decided to admit to its meetings in accordance with Article 18.10 of the 1992 Fund Convention.

4.2 The following intergovernmental and international non-governmental organisations were therefore granted observer status with the 1992 Fund, in accordance with the decision reflected in paragraph 4.1 above. Those organisations marked with an asterisk were represented at this session.

Intergovernmental organisations:

International Oil Pollution Compensation Fund 1971 (1971 Fund)*
 United Nations
 International Maritime Organization (IMO)*
 United Nations Environment Programme (UNEP)
 Baltic Marine Environment Protection Commission (Helsinki Commission)
 European Community
 International Institute for the Unification of Private Law (UNIDROIT)
 Regional Marine Pollution Emergency Response Centre for the
 Mediterranean Sea (REMPEC)

International non-governmental organisations:

Advisory Committee on Pollution of the Sea (ACOPS)
 Baltic and International Maritime Council (BIMCO)
 Comité Maritime International (CMI)*
 Cristal Limited*
 Federation of European Tank Storage Associations (FETSA)
 Friends of the Earth International (FOEI)
 International Association of Independent Tanker Owners (INTERTANKO)*

International Chamber of Shipping (ICS)
International Group of P & I Clubs
International Salvage Union (ISU)
International Tanker Owners Pollution Federation Limited (ITOPF)*
International Union for the Conservation of Nature and Natural Resources (IUCN)
Oil Companies International Marine Forum (OCIMF)*

4.3 It was noted that the Assembly might later wish to consider admitting other organisations as observers, in connection with the preparatory work for setting up the HNS Fund which would be undertaken by the Director (cf agenda item 33.1).

4.4 The Assembly adopted the guidelines on relations between the 1992 Fund and intergovernmental organisations and international non-governmental organisations, as proposed by the Director of the 1971 Fund in the Annex to document 92FUND/A.1/4.

4.5 It was noted that the guidelines, as adopted, would be published in document 92FUND/A.1/34/1.

5 Adoption of Rules of Procedure

5.1 The Assembly adopted the Rules of Procedure for the Assembly as proposed by the Director of the 1971 Fund in document 92FUND/A.1/5, subject to the amendments set out in paragraphs 5.2-5.8 below.

Rule 12 - Publicity

5.2 As the Assembly did not decide at this session to establish a claims subsidiary body (cf agenda item 18), it was agreed that it was premature to consider the question of whether meetings of such a body should be held in private or in public. It was therefore decided that the text of Rule 12 which appeared in brackets in the draft Rules of Procedure should be retained, and that the Rule should read as follows:

"Sessions of the Assembly shall be held in public unless the Assembly decides otherwise.
Meetings of subsidiary bodies of the Assembly shall be held in private unless the Assembly decides otherwise in any particular case."

5.3 The Assembly decided that the question of whether meetings of a claims subsidiary body should be held in public or in private, and any consequential amendments to Rule 12, should be considered by the Assembly when such a body was established.

Rule 17 - Documentation

5.4 Many delegations were of the view that there should be deadlines for distributing documentation to be considered at any session of the Assembly, in order to allow them time for necessary consultations. Other delegations were willing to adopt a more flexible approach, provided that documents were sent as early as possible.

5.5 It was decided that the text of Rule 17 should be worded as in the present Rules of Procedure of the 1971 Fund and therefore read as follows:

"The provisional agenda together with supporting documents for each session shall normally be communicated by the Director to the Members at least forty-five days before regular sessions and thirty days before extraordinary sessions."

5.6 It was recognised, however, that different considerations applied to documentation issued in connection with incidents, where the most up-to-date information would be needed to allow informed decisions to be made, and in order not to delay the settlement of claims. The Assembly noted that the 1971 Fund Assembly decided at its 2nd extraordinary session to instruct the Director of the 1971 Fund to study which guidelines should apply for the distribution of documents to sessions of the Executive Committee, and to report to the Assembly of the 1971 Fund at its 19th session, in October 1996.

Rule 55 – Appointment of Director

5.7 Following the appointment of the first Director of the 1992 Fund (cf agenda item 9), the Assembly decided that it was not necessary to make any amendments to the proposed text of Rule 55. It was therefore decided that the text of Rule 55 which appeared in brackets in the draft Rules of Procedure should be retained, and that the Rule should read as follows:

"For the appointment of the Director, the Assembly shall vote by secret ballot in a private meeting."

5.8 It was noted that the Rules of Procedure for the Assembly of the 1992 Fund, as adopted, would be published in document 92FUND/A.1/34/2.

General questions

6 General principles

6.1 The Assembly recalled that the 1992 International Conference which had adopted the two Protocols amending the 1969 Civil Liability Convention and the 1971 Fund Convention had also adopted a Resolution (Resolution 2) which invited the Assembly of the 1971 Fund to instruct its Director to perform duties under the 1992 Fund Convention (in addition to his functions under the 1971 Fund Convention), to encourage the early entry into force of the 1992 Protocol to the Fund Convention, and to make the necessary preparations for the first session of the Assembly of the organisation which would be established under that Protocol (the 1992 Fund). It was also recalled that the Resolution requested that the Director should enter into negotiations with the 1992 Fund with a view to reaching a mutually advantageous arrangement enabling both Funds to share a single Secretariat, headed by the Director.

6.2 It was noted that the Assembly of the 1971 Fund had instructed its Director to make the necessary preparations for the entry into force of the 1992 Fund Convention and to carry out the appropriate studies for this purpose. It was also noted the Director of the 1971 Fund had based his studies and resulting proposals on certain assumptions, as set out in document 92FUND/A.1/6.

6.3 The Assembly recalled that the 1971 Fund Assembly had expressed the view that the 1971 Fund and the 1992 Fund should be administered by a joint Secretariat headed by one Director, at least so long as the States with major receipts of contributing oil were Parties to the 1971 Fund Convention. It was also recalled that, at its 18th session, the 1971 Fund Assembly had endorsed in general proposals made by the Director of the 1971 Fund in respect of a number of issues relating to the structure and operation of the 1992 Fund. It was noted that the 1971 Fund Assembly had recognised that any positions it took in respect of the structure or operation of the 1992 Fund were only proposals and that any decisions on those issues would have to be taken by the 1992 Fund Assembly. It was further noted that the proposals presented by the Director of the 1971 Fund to the Assembly of the 1992 Fund had been based on the considerations of the 1971 Fund Assembly.

6.4 It was noted that, in view of the very close link which would exist between the 1971 Fund and the 1992 Fund, the 1971 Fund Assembly would be called upon to take certain decisions in the light of the

decisions taken by the 1992 Fund Assembly at its 1st session, and that for this reason, the Assembly of the 1971 Fund would hold an extraordinary session during the same week as the 1st session of the 1992 Fund Assembly.

Secretariat and Headquarters matters

7 Headquarters State

The Assembly decided that the headquarters of the 1992 Fund should be located in the United Kingdom.

8 Secretariat of the 1992 Fund

8.1 The Assembly recalled that it was provided in Article 36 quater (a) of the 1992 Fund Convention that, during the period in which both the 1971 Fund Convention and the 1992 Fund Convention were in force, the Secretariat of the 1971 Fund, headed by the Director of the 1971 Fund, might also function as the Secretariat and the Director of the 1992 Fund. It was also recalled that, in Resolution 2 adopted by the 1992 International Conference, the Assembly of the 1971 Fund had been requested to authorise and instruct its Director to perform, in addition to his functions under the 1971 Fund Convention, duties under the 1992 Fund Convention, provided that the interests of the Parties to the 1971 Fund Convention were not unduly affected. It was further recalled that the 1971 Fund Assembly had, at its 18th session, taken the view that the two Organisations should have a joint Secretariat headed by the 1971 Fund's Director.

8.2 The Assembly decided, subject to the agreement of the 1971 Fund Assembly, that the 1992 Fund and the 1971 Fund should have a joint Secretariat. The Assembly therefore requested the 1971 Fund Assembly to authorise the Secretariat of the 1971 Fund to administer also the 1992 Fund for the time being.

8.3 It was noted that the 1971 Fund Assembly decided at its 2nd extraordinary session to authorise the Secretariat of the 1971 Fund to administer also the 1992 Fund.

8.4 The Assembly considered the question of when there should be a transition from the 1992 Fund being administered by the 1971 Fund Secretariat to a situation when the 1992 Fund would have its own Secretariat. It was noted that the situation of the two Organisations would change when the States with the major oil receipts ceased to be Parties to the 1971 Fund Convention by denouncing it, pursuant to Article 31 of the 1992 Protocol to that Convention. The Assembly noted that it was expected that the requirements for the compulsory denunciation of the 1969 Civil Liability Convention and the 1971 Fund Convention would be fulfilled during the autumn of 1996, and that the denunciations would then take effect within 18 months, ie in the spring of 1998. It was further noted that, when the denunciations took effect, the 1992 Fund would become the more important of the two Funds, in terms of receipts of contributing oil, and that there would no longer be any States which were Members of both Organisations. The Assembly noted that, at its 18th session, the 1971 Fund Assembly had taken the view that this question should be considered at a later stage, for example at the end of the transitional period (ie when the compulsory denunciations had taken effect and the Member States of the 1992 Fund were no longer Members of the 1971 Fund). Some delegations expressed the view that consideration of this question should not be delayed.

8.5 The Assembly instructed the Director to study the question of Secretariat functions after the expiry of the transitional period, and to report to the Assembly at an extraordinary session, to be held in October 1996 (cf agenda item 32).

8.6 The Assembly recalled that, in Resolution 2 adopted by the 1992 International Conference, it had been recommended that the 1992 Fund should "ensure, in its Staff Rules and Regulations, that personnel employed by the 1971 Fund on the date when the 1971 Fund Convention ceases to be in force will receive treatment no less favourable, as regards the terms and conditions of their service, as a result of the change of legal personality of the organization".

8.7 The Assembly adopted a Resolution (1992 Fund Resolution N°1, reproduced in Annex I) to the effect that, when the 1992 Fund established its own Secretariat, the personnel employed by the 1971 Fund would, if they so wished, be entitled to employment with the 1992 Fund Secretariat and that the terms and conditions of their service would be no less favourable than during their employment with the 1971 Fund.

9 Appointment of Director

9.1 The Assembly requested the 1971 Fund Assembly to authorise the Director of the 1971 Fund to perform the function of Director of the 1992 Fund while the 1971 and 1992 Fund Conventions were both in force.

9.2 It was noted that the 1971 Fund Assembly decided at its 2nd extraordinary session to authorise its Director to perform that function.

9.3 The Assembly appointed Mr Måns Jacobsson (Sweden), the present Director of the 1971 Fund, as Director of the 1992 Fund. It was decided that this appointment should take effect immediately, and that the term of office should expire on 31 December 1999, ie the same date as his contract as 1971 Fund Director would expire.

9.4 Mr Måns Jacobsson, the Director of the 1971 Fund, accepted his appointment as Director also of the 1992 Fund, and expressed his gratitude for the renewed confidence shown in him through this appointment. He assured the Assembly, on behalf of all members of the joint Secretariat of the two Organisations, that they would make their best endeavours to serve the Member States of the 1992 Fund as well as those of the 1971 Fund. The Director stated that it would be an essential task of the joint Secretariat to ensure that the international compensation system was operated in such a way that it continued to meet the needs of society in respect of compensation for oil pollution damage. He expressed the view that it was crucial for the 1992 Fund that it should enjoy the same strong support from governments and public bodies, as well as from the various private interests involved in oil spills, as the 1971 Fund enjoyed.

9.5 The former Director of the 1971 Fund, Dr Reinhard Ganten (Germany), expressed his hope that the 1992 Fund would prosper under the directorship of Mr Jacobsson, as the 1971 Fund had done.

9.6 It was noted that the 1971 Fund Assembly decided at its 2nd extraordinary session that the contract of the present Director of the 1971 Fund would be revised, in order to permit him to carry out functions under the 1992 Fund Convention, but that it would maintain the expiry date of 31 December 1999.

10 Adoption of Staff Regulations

10.1 The Assembly noted that, in the light of the decision that the Secretariat and the Director of the 1971 Fund should act also as Secretariat and Director of the 1992 Fund, the Director and other staff members would be employed only by the 1971 Fund, and that there was therefore no need for a separate set of Staff Regulations for the 1992 Fund.

10.2 It was noted that the 1971 Fund Assembly decided at its 2nd extraordinary session to adopt revised Staff Regulations of the 1971 Fund to allow staff members to act also for the 1992 Fund.

10.3 The Assembly noted that the 1992 Fund would have to adopt its own Staff Regulations when establishing its own Secretariat.

11 Sharing of joint administrative costs with the 1971 Fund

11.1 The Assembly proposed to the 1971 Fund Assembly that the costs of running the joint Secretariat should, for the period 30 May to 31 December 1996, be distributed with $\frac{3}{4}$ to be paid by the 1971 Fund and $\frac{1}{4}$ by the 1992 Fund, and that the distribution for subsequent periods should be decided yearly by the Assemblies of the two Funds.

11.2 It was noted that the 1971 Fund Assembly at its 2nd extraordinary session agreed to the distribution of joint administrative costs as set out in paragraph 11.1.

12 Headquarters Agreement

12.1 The Assembly took note of the Headquarters Agreement with the United Kingdom Government which had been agreed on a provisional basis on behalf of the 1992 Fund by the Director of the 1971 Fund, acting as representative of the nine Member States of the 1992 Fund, and which had come into force on 30 May 1996 (document 92FUND/A.1/12).

12.2 The Assembly approved the Headquarters Agreement between the 1992 Fund and the United Kingdom Government. The Assembly noted that the text of the Agreement would be published in document 92FUND/A.1/34/3.

13 Co-operation agreement with the International Maritime Organization

13.1 The Assembly approved the text of a draft Agreement for co-operation between the 1992 Fund and IMO (as contained in Annex II to document 92FUND/A.1/13), which was based on the corresponding Agreement between the 1971 Fund and IMO.

13.2 The representative of IMO informed the Assembly that the draft Agreement would be considered by the IMO Council in November 1996, but would be subject to the approval of the IMO Assembly at its next session, to be held in November 1997.

14 Lease agreement with the International Maritime Organization

14.1 The Assembly noted that the premises of the 1971 Fund within the headquarters of IMO were subject to an Agreement, licence to occupy and sublease with IMO, expiring on 31 October 2002. The Assembly authorised the Director to agree with the Secretary-General of IMO on the text of letters which would be exchanged in order to extend the application of these documents to cover also the activities of the 1992 Fund.

14.2 It was noted that the question of the lease agreement with IMO would have to be re-examined when the 1992 Fund established its own Secretariat.

Contribution questions

15 Submission of oil reports

15.1 The Assembly noted that experience within the 1971 Fund had shown that a number of States did not submit their oil reports by the due date, and that, for the purpose of establishing the tonnage to be used when calculating the levy per tonne, the Secretariat estimated (on the basis of previous years' reports, if any) the quantities of oil received in States which had not reported. It also noted the concerns expressed by the External Auditor of the 1971 Fund in this regard.

15.2 The Assembly adopted a Resolution (1992 Fund Resolution N°2, reproduced in Annex II) to the effect that it would be imperative for the smooth operation of the 1992 Fund that Member States fulfilled their obligations under the 1992 Fund Convention and the Internal Regulations (Internal Regulation 4 adopted by the Assembly: cf agenda item 23) to submit their reports on contributing oil at the time and in the manner prescribed.

15.3 The Assembly considered the question of imposing sanctions on those States which did not submit their oil reports to the Secretariat in time. It noted the provision in Article 15.4 of the 1992 Fund Convention whereby if a financial loss to the 1992 Fund resulted from a State not fulfilling its obligation to submit oil reports, that State would be liable to compensate the Fund accordingly. The Director was instructed to study what other mechanisms could be adopted to impose sanctions on States for the non-submissions of oil reports, and to report to the Assembly at an extraordinary session, to be held in October 1996 (cf agenda item 32).

15.4 It was recognised that it would probably be necessary for the 1992 Fund to use estimates as referred to in paragraph 15.1 when determining whether contributions in respect of a particular State exceeded 27.5% of the total levy, ie the threshold for determining whether the capping procedure under Article 36 ter of the 1992 Fund Convention should be applied. The Assembly decided that no adjustment should be made to these calculations, even if the quantities given in the reports submitted after the invoices had been calculated were to be considerably higher than predicted, resulting in the capped State no longer representing more than 27.5% of the total quantity of contributing oil actually reported.

16 Levying of contributions

16.1 The Assembly noted that a system of "deferred invoicing" was adopted by the Assembly of the 1971 Fund at its 2nd extraordinary session. It was noted that under such a system, the 1971 Fund Assembly would fix the total amount to be levied in annual contributions for a given calendar year, but that, at the same time, the Assembly would decide that only a specific lower total amount should be invoiced for payment by 1 February in the following year, the remaining amount, or a part thereof, to be invoiced later in the year if it should prove to be necessary (document 92FUND/A.1/16).

16.2 The Assembly decided to introduce a deferred invoicing system as proposed by the Director of the 1971 Fund. It was decided that the deferred invoicing system could be applied both to the General Fund and to Major Claims Funds, but it was considered that deferred invoicing would normally be applied only in respect of Major Claims Funds. In order to achieve greatest flexibility, the Director was authorised to decide on whether to issue the invoices for all or part of the additional amount authorised by the Assembly. The Assembly further decided that deferred invoices should not be issued more than once per calendar year. It was stressed that, at the time of the first invoicing, contributors should be advised of the maximum amount for which a deferred invoice might be issued that year. The Director indicated that, if it should prove unnecessary to issue deferred invoices in a given year, he would notify contributors accordingly.

16.3 The Assembly took the view that any amounts due in respect of deferred invoices should be considered as an integral part of the levy of the year in which the Assembly determined the total amount of the annual contributions.

16.4 It was decided that General Fund contributions in respect of contributors in a State which became a Member of the 1992 Fund during a particular year should be calculated on a *pro rata* basis for the deferred levy as well as for the first levy of that year's annual contributions, with the same pro rating for each levy.

16.5 It was stressed by a number of delegations that the introduction of a deferred invoicing system should not be applied in such a way that the 1992 Fund would not have sufficient funds for the prompt payment of claims for compensation.

17 Capping of contributions

17.1 The Assembly considered a number of questions arising from the application of the provisions in Article 36 ter of the 1992 Fund Convention on the capping of contributions (document 92FUND/A.1/17).

17.2 The Assembly decided that the capping system should apply separately for a given year to each levy for the general fund and to each levy for a major claims fund. It was agreed that the assessments should be made in such a way that the basic levy and the additional capping levy (or capping deduction, in respect of contributors in a capped State) were shown separately in the Fund's accounts and on the invoices sent to contributors.

17.3 It was decided that the Director should make the decision – at the time of invoicing – of whether to cap contributions, since this would make it possible to base the decision on more complete figures on oil receipts than if the decision were taken by the Assembly.

17.4 The Assembly decided that the capping procedure should not apply in respect of decisions to levy contributions taken by the Assembly after the date on which the Director received from Member States reports on contributing oil where the reported quantity received in all Member States (ie those States for which the 1992 Fund Convention has entered into force) together exceeded 750 million tonnes. It was noted in this context that the timing of a decision by the Assembly to levy contributions could affect whether or not the capping procedure would be applied.

Compensation matters

18 Consideration of claims for compensation

18.1 The Assembly considered the consequences of the 1992 Fund Convention not providing for an Executive Committee, and discussed the structure for the handling of claims for compensation. It was noted that in recent years the Executive Committee of the 1971 Fund had played a vital role in the consideration of claims. The Assembly took the view that it would not be practicable to set up separate working groups to deal with claims arising out of each major incident, as had been suggested at the 1984 International Conference which adopted the 1984 Protocol to the Fund Convention.

18.2 The Assembly decided that claims for compensation under the 1992 Fund Convention should be handled within a three-layer framework of the Director, a claims subsidiary body and the Assembly. It was considered that this framework for claims handling would speed up settlements when no questions of principle were involved, while Member States would retain their role as policy makers.

18.3 The Assembly decided that the 1992 Fund should have a claims subsidiary body to deal with claims for compensation. It was generally agreed that this body should consider new issues of principle and general policy questions as they arose (and not in the abstract), and take decisions on claims referred to it by the Director. It was also generally agreed that the claims subsidiary body would be able to extend the Director's general authority in respect of a given incident, and make recommendations to the Assembly, for example on questions of principle of great importance.

18.4 The Assembly decided that the composition and structure of the claims subsidiary body should correspond largely to the composition and structure of the Executive Committee of the 1971 Fund. It was agreed that the body should be established at the first session of the Assembly after the number of 1992 Fund Member States reached 25, and that it should be composed of 12-15 Member States, elected by the Assembly in accordance with certain criteria to be decided by the Assembly at its extraordinary session in October 1996 (cf agenda item 32). It was noted that these criteria should respect the requirements laid down in Article 18.9 of the 1992 Fund Convention.

18.5 The Assembly considered whether to elect substitute members of the claims subsidiary body. It was suggested that such substitute members could be called upon to take the place of a State on the claims subsidiary body when decisions had to be taken in respect of incidents which had occurred in the State which was a member of the subsidiary body. It was generally agreed that the interested member of the claims subsidiary body would not be excluded from the discussions of that particular incident. The Assembly noted that the election of substitute members might provide a solution to the problem of establishing a quorum. Attention was drawn to the fact that, under Rule (vi) of the Rules of Procedure of the Executive Committee of the 1971 Fund, a member of the Executive Committee (or a public authority of that State) had no right to vote when its claim was being considered by the Committee.

18.6 The Director was instructed to study the composition, mandate and Rules of Procedure of the claims subsidiary body, including the possibility of electing substitute members, and to report to the Assembly at an extraordinary session, to be held in October 1996 (cf agenda item 32).

18.7 It was decided that, since the claims subsidiary body would take decisions of great importance for claimants, and that these decisions would also have consequences for the level of contributions required, credentials should be required for the representatives of those Member States which were members of the subsidiary body.

18.8 It was decided that for the time being the Director should be given authority to settle claims up to the same limits as those laid down in the 1971 Fund's Internal Regulations, ie he would be entitled to make final settlement of any claim if he estimated that the total cost to the 1992 Fund of satisfying all claims arising out of the relevant incident was not likely to exceed 2.5 million SDR (approximately £2.4 million), and that he would be entitled, in any case, to make final settlement of claims from individuals and small businesses up to an aggregate amount of 666 667 SDR (approximately £645 000) in respect of any one incident (Internal Regulation 7.4 adopted by the Assembly: cf agenda item 23). The Assembly decided that these limits should be reviewed at its extraordinary session in October 1996, when it would be possible for the Assembly to consider whether, in the light of developments, there was a need for an extension of the Director's authority.

19 Criteria for the admissibility of claims for compensation

19.1 The Assembly was of the view that it would be essential to ensure consistency between the decisions of the 1992 Fund and those of the 1971 Fund on the admissibility of claims for compensation, in particular because one incident might involve both Funds. The Assembly considered that it would be inappropriate and confusing for claimants if claims of a certain type were rejected by one Organisation but accepted by the other, and made reference to Article 36 quater (d) of the 1992 Fund Convention which

provided that "The Assembly of the [1992] Fund shall endeavour not to take decisions which are incompatible with decisions taken by the Assembly of the 1971 Fund."

19.2 The Assembly adopted a Resolution (1992 Fund Resolution N°3, reproduced in Annex III) to the effect that the report of the 7th Intersessional Working Group of the 1971 Fund should form the basis of the 1992 Fund's policy on the criteria for the admissibility of claims, that the criteria laid down thitherto by the Executive Committee of the 1971 Fund should be applied also by the 1992 Fund, and that the 1992 Fund should endeavour to ensure consistency, as far as possible, between the decisions of the 1992 Fund and those of the 1971 Fund on the admissibility of claims.

19.3 As regards the admissibility of claims in respect of situations not covered by the criteria adopted so far within the 1971 Fund, the Assembly considered that consistency of decisions between the two Organisations could be achieved through consultations between their competent bodies.

20 Claims Manual

20.1 The Assembly took the view that, subject to the agreement of the 1971 Fund Assembly, the 1992 Fund and the 1971 Fund should issue together a Claims Manual, based on the present (4th) edition of the Claims Manual of the 1971 Fund adopted by its Executive Committee at its 43rd session, and published in June 1995. It was further considered that, subject to such agreement, the text should be revised to reflect the amendments to the Civil Liability Convention and the Fund Convention in the 1992 Protocols thereto, but that it would otherwise remain in its present form, with the information on the criteria for the admissibility of claims unchanged.

20.2 It was noted that the 1971 Fund Assembly at its 2nd extraordinary session agreed to the publication of a joint Claims Manual.

20.3 The Director informed the Assembly that he intended to submit a draft text of a joint Claims Manual for consideration by the Assemblies of the two Funds at their sessions in October 1996 (cf agenda item 32).

21 Application of the 1992 Fund Convention to the EEZ

21.1 The Assembly noted that the geographical scope of application of the 1992 Fund Convention included the exclusive economic zone (EEZ) established under the United Nations Convention on the Law of the Sea. It was recognised that in order to determine the geographical scope of application of the 1992 Fund Convention in respect of a given Member State, it was necessary for the 1992 Fund to know whether that State had established an EEZ or designated an area under Article 3(a)(ii) of that Convention.

21.2 The Assembly adopted a Resolution (1992 Fund Resolution N°4, reproduced in Annex IV) to the effect that States which established an EEZ or designated an area under Article 3(a)(ii) of the 1992 Fund Convention before ratifying the 1992 Fund Convention were invited to notify the Secretary-General of the IMO accordingly when they deposited their instruments of ratification in respect of that Convention, and that States which established an EEZ or designated an area after ratification were invited to notify the Director accordingly.

21.3 It was considered by the Assembly that the relevant date for determining whether the 1992 Fund Convention would apply to pollution damage within the EEZ (or an area determined under Article 3(a)(ii) of the 1992 Fund Convention) of a given State should be whether the EEZ (or area) was established (or determined) before the incident in question occurred.

21.4 The Assembly considered the question of how the 1992 Fund should act in the event of there being a dispute between two States (only one of which was a Member of the 1992 Fund) as regards the delimitation of their respective EEZs and oil pollution damage being caused in the disputed area. The Assembly took the view that the matter should be considered by the 1992 Fund as and when such a situation arose.

22 Sharing of joint costs in respect of incidents involving both the 1971 Fund and the 1992 Fund

22.1 The Assembly considered how costs incurred in handling incidents involving both the 1992 Fund and the 1971 Fund should be shared between the two Organisations. The Assembly took the view that, subject to the agreement of the 1971 Fund Assembly, a certain flexibility should be allowed in the apportionment of costs incurred in the handling of such incidents, but that normally such costs should be shared on the basis of the ultimate liabilities of the two Funds in respect of the incident in question. The Assembly also considered that the Director should be authorised to use other methods in cases where he deemed this more equitable, for example if, following the joint examination of claims, the amount of compensation payable in respect of an incident was ultimately reduced to such a level that the 1992 Fund would not be called upon to pay compensation.

22.2 It was noted that the 1971 Fund Assembly agreed at its 2nd extraordinary session to the sharing of joint costs in respect of incidents as set out in paragraph 22.1 above.

Operational questions

23 Adoption of Internal Regulations

23.1 The Assembly adopted the Internal Regulations as proposed by the Director of the 1971 Fund in documents 92FUND/A.1/23 and 92FUND/A.1/23/Add.1, subject to the following amendments.

Regulation 4.2, oil reporting form and explanatory notes – Oil reports

23.2 A number of delegations considered that government authorities should not be required to 'certify' or 'countersign' the reports on contributing oil, and therefore proposed that the wording on this point should be amended.

23.3 It was decided that the text of Regulation 4.2 should read as follows:

"The reports shall be completed by the contributors concerned, taking into account the explanatory notes attached to the form referred to in Internal Regulation 4.1. The reports shall be signed by a competent officer of the entity which received the oil and by a Government official."

23.4 The Assembly decided that the subheading of the first page of the oil report form should read "Signature of Report", and that the last paragraph on that page should read:

"The form should also be signed by a responsible official of the Government or competent Government authority to indicate that the Government or authority is satisfied that the information contained therein is correct and complete."

23.5 It was decided that, on the oil reporting form itself, the box in which the government ministry or agency was requested to sign should be headed "For completion by reporting Government Official".

Regulations 7.4, 7.5 and 7.8 – Claims handling procedure

23.6 As the Assembly did not decide at this session to establish a claims subsidiary body (cf agenda item 18), it was decided that, for the time being, the regulations regarding the claims handling procedure should follow those of the 1971 Fund.

23.7 It was therefore decided that the texts of Regulations 7.4, 7.5 and 7.8 which appeared in brackets in the draft Internal Regulations should be retained, and that these Regulations should read as follows:

"7.4 Where the Director is satisfied that the 1992 Fund is liable under the 1992 Fund Convention to pay compensation for pollution damage, he may, without the prior approval of the Assembly, make final settlement of any claim, if he estimates that the total cost to the 1992 Fund of satisfying all claims arising out of the relevant incident is not likely to exceed 2.5 million SDRs. The Director may in any case make final settlement of claims from individuals and small businesses up to an aggregate amount of 666 667 SDRs in respect of any one incident. The relevant date for conversion shall be the date of the incident in question."

"7.5 The Assembly may authorise the Director to settle claims in respect of a particular incident beyond the limit established in Regulation 7.4."

"7.8 All agreements to submit claims to arbitration under Internal Regulation 7.3 and all claims settled under Internal Regulation 7.4 or 7.5 shall be reported by the Director at the next session of the Assembly."

23.8 The Assembly decided that the question of the claims handling procedures, and any consequential amendments to the Internal Regulations, should be considered by the Assembly when a claims handling body was established.

23.9 The Assembly noted that the Internal Regulations of the 1992 Fund, as adopted, would be published in document 92FUND/A.1/34/4.

24 Adoption of Financial Regulations

24.1 The Assembly adopted the Financial Regulations as proposed by the Director of the 1971 Fund in document 92FUND/A.1/24, subject to the following amendments.

Regulations 1.7, 4.4 and 13.5 – References to subsidiary bodies

24.2 As the Assembly did not decide at this session to establish a claims subsidiary body (cf agenda item 18), it was decided that, for the time being, the regulations regarding subsidiary bodies should follow those of the 1971 Fund.

24.3 It was therefore decided that the texts of Regulations 1.7, 4.4 and 13.5 which appeared in brackets in the draft Financial Regulations should be retained, and that these Regulations should read as follows:

"1.7 "Assembly" means the Assembly referred to in Article 17 of the 1992 Fund Convention or, where appropriate, a subsidiary body established by the Assembly in accordance with Article 18.9 of the 1992 Fund Convention."

"4.4 After the periods set out in Article 6 of the 1992 Fund Convention for bringing actions in respect of a particular incident have lapsed and all claims and expenses arising out of that incident have been settled, the Assembly or, where appropriate, a subsidiary body established by the Assembly in accordance with Article 18.9 of the 1992 Fund Convention shall assess the situation. If there remains a substantial amount which has been reserved in accordance with Financial Regulation 4.3, the Assembly or, where appropriate, subsidiary body shall decide whether such amount shall be reimbursed pro rata to the persons who made contributions with respect to that incident in accordance with Article 12.2(b) of the 1992 Fund Convention, or whether such amount shall be credited pro rata to the accounts of these persons. The same shall apply if, after the settlement of all claims known to the 1992 Fund, the Assembly or, where appropriate, subsidiary body is satisfied that no more claims in respect of that incident will be made against the 1992 Fund and no more expenses will have to be met."

"13.5 The Assembly or, where appropriate, a subsidiary body established by the Assembly in accordance with Article 18.9 of the 1992 Fund Convention, may request the External Auditor to perform certain specific examinations and issue separate reports on the results."

24.4 The Assembly decided that the text of Regulations 1.7, 4.4 and 13.5 should be reconsidered by the Assembly when a claims handling body was established.

24.5 The Assembly noted that the Financial Regulations of the 1992 Fund as adopted would be published in document 92FUND/A.1/34/5.

25 Appointment of auditors

25.1 The Assembly took the view that the same person should act as External Auditor for both the 1992 Fund and the 1971 Fund.

25.2 The Assembly appointed the Comptroller and Auditor General of the United Kingdom as External Auditor of the 1992 Fund. It was decided that the first appointment would be for the period 30 May 1996 to 31 December 1998 (so that the expiry of the terms of office in respect of the two Organisations should coincide), commencing with the audit of the first financial period, and that appointments thereafter should be for periods of four years.

Financial matters

26 Budget for 1996

26.1 The Assembly adopted the budget of the 1992 Fund for the period 30 May to 31 December 1996, with a total administrative expenditure of £338 508, as proposed by the Director of the 1971 Fund in the Annex to document 92FUND/A.1/26.

26.2 It was noted that a draft budget for 1997 would be submitted by the Director to an extraordinary session of the Assembly, to be held in October 1996.

27 Working capital

27.1 The Assembly noted that, in accordance with the Financial Regulations (Regulation 7.1(b) adopted by the Assembly: cf agenda item 24), the 1992 Fund should maintain a working capital at such a level as the Assembly may decide from time to time.

27.2 In the light of the Assembly's decision to postpone the first levy of contributions until an extraordinary session (cf agenda item 28), to be held in October 1996, by which time the Assembly would be in a better position to assess an appropriate level for contributions, the Assembly decided, for the same reason, to postpone its decision on the level of the 1992 Fund's working capital.

28 Assessment of Annual Contributions

28.1 The Assembly took the view that it would be preferable to postpone the first levy of contributions to the 1992 Fund until an extraordinary session of the Assembly, to be held in October 1996 (cf agenda item 32). It was recognised that this approach would delay the 1992 Fund's financial independence, and that the 1992 Fund would therefore be obliged to take up loans.

28.2 The Assembly requested the 1971 Fund Assembly to authorise the Director of the 1971 Fund to make the necessary funds available to the 1992 Fund, as required, to cover the 1992 Fund's administrative expenses and payments of compensation during its first eight months of operation (ie until contributions were received in February 1997).

28.3 It was noted that the 1971 Fund Assembly at its 2nd extraordinary session authorised the Director of the 1971 Fund to make the necessary funds available to the 1992 Fund, to the extent that this could be done without prejudice to the operations of the 1971 Fund. It was further noted that the 1971 Fund Assembly decided that the 1992 Fund would be invoiced on 1 February 1997 in respect of funds made available for the 1992 Fund's administrative expenses, for immediate payment, and that funds made available for the payment of claims under the 1992 Fund Convention would be invoiced, with interest, on the same date.

28.4 In the light of the decision of the Assembly of the 1971 Fund, the Assembly decided to postpone the first levy of contributions until its extraordinary session, to be held in October 1996 (cf agenda item 32).

28.5 The Assembly considered that the contributions should be payable by the same date as the contributions to the 1971 Fund (ie normally by 1 February) and that contributors in States which were Members of both the 1971 Fund and the 1992 Fund should receive only one invoice covering both Organisations.

*General administrative matters***29 Annual reports**

29.1 The Assembly considered that, in view of the close link that would exist between the 1992 Fund and the 1971 Fund, it would be preferable that the 1992 Fund and the 1971 Fund should, at least for such time as the two Organisations were administered by a joint Secretariat, issue joint Annual Reports. The Assembly proposed, subject to the agreement of the 1971 Fund Assembly, the publication of such a joint Annual Report, and that in respect of 1996 the Report should cover the activities of the 1992 Fund for the period 30 May to 31 December 1996 and the activities of the 1971 Fund for the calendar year 1996.

29.2 It was noted that the 1971 Fund Assembly agreed at its 2nd extraordinary session to the proposal of the 1992 Fund to publish joint Annual Reports for the two Organisations.

30 Other administrative matters

30.1 The Assembly decided that, in order to make a clear distinction between the two Organisations established under the 1971 and 1992 Fund Conventions, the following terminology should be used:

	1971 Fund Convention	1992 Fund Convention
Full Name	International Oil Pollution Compensation Fund 1971	International Oil Pollution Compensation Fund 1992
Abbreviated Expression	1971 Fund <i>or</i> IOPC Fund 1971	1992 Fund <i>or</i> IOPC Fund 1992

30.2 In circumstances where it would be necessary or appropriate to refer to the 1971 Fund and 1992 Fund together, the Assembly decided that the following terminology should be used:

	Joint Reference
Full Name	International Oil Pollution Compensation Funds <i>or</i> International Oil Pollution Compensation Funds 1971 and 1992
Abbreviated Expression	IOPC Funds <i>or</i> IOPC Funds 1971 and 1992 <i>or</i> 1971/1992 Funds

30.3 The Assembly decided that it would be preferable if the same logo (both in design and colour) were to be used by the 1992 Fund and the 1971 Fund, and therefore requested the Assembly of the 1971 Fund to allow the use of that Organisation's logo by the 1992 Fund.

30.4 It was noted that the 1971 Fund Assembly agreed at its 2nd extraordinary session to the use of the same logo for the 1992 Fund and the 1971 Fund.

Treaty questions

31 Compulsory denunciation of the 1969 Civil Liability Convention and 1971 Fund Convention

31.1 The Assembly noted that it was likely that the requirements for the compulsory denunciation of the 1969 Civil Liability Convention and the 1971 Fund Convention would be fulfilled during the autumn of 1996 - ie a total quantity of 750 million tonnes of contributing oil represented by the States which have deposited instruments of ratification in respect of the 1992 Protocol to the Fund Convention. It was also noted that States Parties to the 1992 Protocol to the Fund Convention, as well as States which have deposited their instruments of ratification in respect of that Protocol, would then have to denounce the 1969 Civil Liability Convention and the 1971 Fund Convention within six months of the date when that quantity of contributing oil was reached, with effect 18 months after the date on which the instrument of ratification which triggered the compulsory denunciation had been deposited.

31.2 The Director drew the attention of delegations to the fact that, if a State which had ratified the 1992 Protocol to the Fund Convention did not denounce the 1969 Civil Liability Convention and the 1971 Fund Convention at the expiry of the above-mentioned six-month period, it would be deemed to have denounced the 1992 Protocol to the Fund Convention at the expiry of that period and would consequently cease to be Member of the 1992 Fund twelve months later.

31.3 The Assembly invited observer delegations to keep the Secretariat informed of progress being made in their respective States towards ratification of the 1992 Protocols.

Other matters

32 Date of next session

32.1 The Assembly decided to hold an extraordinary session during the week of 21 to 25 October 1996 in London, when the 19th session of the Assembly of the 1971 Fund would be held.

32.2 It was also decided that, subject to the agreement of the 1971 Fund Assembly, future regular sessions of the Assembly should if possible be held at the same time as those of the 1971 Fund Assembly, ie in September/October each year.

32.3 The Director indicated that it might in future be difficult within one week to complete the work of the Assembly of both the 1992 Fund and the 1971 Fund, as well as the work of the Executive Committee of the 1971 Fund. He suggested that it might therefore be necessary to set aside more than five days in the autumn of 1997 for these meetings.

33 Any other business

33.1 International Convention on liability and compensation for damage in connection with the carriage of hazardous and noxious substances by sea

33.1.1 The Assembly took note of the information contained in document 92FUND/A.1/33 concerning the International Convention on liability and compensation for damage in connection with the carriage of hazardous and noxious substances by sea (HNS Convention), which had been adopted on 3 May 1996 by an International Conference convened under the auspices of IMO. It was noted that under the HNS Convention, there would be established a system of compensation similar to that created by the Civil Liability Convention and the Fund Convention and that the financial burden would be shared between the shipping industry and the cargo interests. It was further noted that the primary liability would rest on the shipowner, with additional compensation available from the International Hazardous and Noxious Substances Fund (HNS Fund), financed by the cargo interests, and that the functioning of the HNS Fund under the HNS Convention would follow very closely the operation of the 1992 Fund under the 1992 Fund Convention.

33.1.2 It was noted that, in a Resolution adopted by the Conference (Resolution 1), the Assembly of the 1992 Fund had been invited to assign to the Director of the 1992 Fund, in addition to his functions under the 1992 Fund Convention, the administrative tasks necessary for setting up the HNS Fund in accordance with the HNS Convention, on condition that this did not unduly prejudice the interests of the Member States of the 1992 Fund, including holding negotiations with IMO to enable the HNS Fund to conclude agreements as soon as possible on the necessary premises and support services. The Assembly also noted that the 1992 Fund had been requested to hold negotiations with the host Government, on behalf of the HNS Fund, to ensure that the question of the privileges, immunities and facilities accorded to the HNS

Fund was considered and satisfactorily settled by mutual agreement. It was further noted that it was stated in the Resolution that such tasks would be undertaken by the 1992 Fund on the basis that all expenses incurred would be repaid by the HNS Fund.

33.1.3 The Assembly instructed the Director to carry out the tasks requested by the HNS Conference.

33.2 Audit Committee

33.2.1 The Assembly noted that the Assembly of the 1971 Fund at its 2nd extraordinary session had examined the question of whether to establish an Audit Committee for that Organisation, but had decided to consider the matter further at its session in October 1996.

33.2.2 It was decided that it was premature for the Assembly to consider the establishment of an Audit Committee for the 1992 Fund.

33.3 Dispute settlement

33.3.1 In the light of the increasing number of cases in which the 1971 Fund had become involved in lengthy litigation in respect of incidents involving that Organisation, it was suggested that alternative dispute settlement procedures should be explored.

33.3.2 The Assembly instructed the Director to undertake a study of alternative dispute settlement procedures (such as arbitration), and to report to the Assembly at its extraordinary session, to be held in October 1996.

34 Adoption of the Record of Decisions of the 1st session

The draft Record of Decisions, as contained in document 92FUND/A.1/WP.2, was adopted.

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ANNEX I

Resolution N°1 – Position of members of the 1971 Fund Secretariat

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

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

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

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

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

* * *

ANNEX II

Resolution N°2 – Submission of Oil Reports

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

AWARE of the obligations imposed on Member States to submit reports on receipts of contributing oil in accordance with Article 15.2 of the 1992 Fund Convention,

RECOGNISING that these reports will be crucial for the functioning of the 1992 Fund, as the levying of contributions is based on these reports,

NOTING that these reports will also be essential in determining when the capping provisions of Article 36 ter of the 1992 Fund Convention shall cease to apply,

RECALLING that the experience of the 1971 Fund has been that reports do not always reach the Secretariat on time or in the manner laid down in the Internal Regulations, and that some reports are incomplete,

URGES Member States to take the necessary steps to ensure that the reports on contributing oil received in their territory are submitted in time, using the prescribed forms, and that the reports contain the particulars prescribed in the 1992 Fund Convention and in the Internal Regulations,

AND REQUESTS Member States in which no person is liable to contribute to the 1992 Fund to submit reports certifying that this is the case in respect of the State concerned as prescribed in the Internal Regulations.

* * *

ANNEX III

Resolution N°3 – Admissibility of claims for compensation

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

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

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

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

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

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

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

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

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

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

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

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ANNEX IV

Resolution N°4 – Establishment of EEZ or determined area

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

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

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

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

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

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