



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1992

ASSEMBLY  
10th extraordinary session  
Agenda item 18

92FUND/A/ES.10/18  
2 March 2006  
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## RECORD OF DECISIONS OF THE TENTH EXTRAORDINARY SESSION OF THE ASSEMBLY

(held from 27 February to 2 March 2006)

Chairman:	Mr Jerry Rysanek (Canada)
First Vice-Chairman:	Professor Seiichi Ochiai (Japan)
Second Vice-Chairman:	Mr Edward K Tawiah (Ghana)

*Opening of the session*

*Procedural matters*

### **1 Adoption of the Agenda**

The Assembly adopted the Agenda as contained in document 92FUND/A/ES.10/1.

### **2 Examination of credentials**

- 2.1 The Assembly recalled that, at its March 2005 session, it had decided to establish, at each session, a Credentials Committee composed of five members elected by the Assembly on the proposal of the Chairman to examine the credentials of delegations of Member States and that the Credentials Committee established by it should also examine the credentials in respect of the Executive Committee, provided the session of the Executive Committee was held in conjunction with a session of the Assembly. It was recalled that the Assembly had inserted provisions to this effect in the respective Rules of Procedure.
- 2.2 In accordance with Rule 10 of the Assembly's Rules of Procedure the delegations of Algeria, Australia, Mexico, the Russian Federation and Sweden were appointed members of the Credentials Committee.

2.3 The following Member States were present:

Algeria	Ghana	Philippines
Angola	Greece	Poland
Antigua and Barbuda	India	Portugal
Argentina	Ireland	Qatar
Australia	Italy	Republic of Korea
Bahamas	Japan	Russian Federation
Belgium	Kenya	Saint Vincent and the Grenadines
Cambodia	Liberia	Singapore
Cameroon	Lithuania	South Africa
Canada	Malaysia	Spain
China (Hong Kong Special Administrative Region)	Malta	Sri Lanka
Colombia	Marshall Islands	Sweden
Cyprus	Mexico	Tunisia
Denmark	Morocco	Turkey
Finland	Netherlands	United Arab Emirates
France	Nigeria	United Kingdom
Gabon	Norway	Uruguay
Germany	Panama	Venezuela
	Papua New Guinea	

2.4 After having examined the credentials of the delegations of the members of the Assembly, the Credentials Committee reported in document 92FUND/A/ES.10/2/1 that all except six of the above-mentioned members of the Assembly had submitted credentials which were in order. The Committee reported orally that four of these delegations had subsequently submitted credentials which were in order and that the credentials in respect of Cameroon and Qatar were accepted provisionally pending correction of the deficiencies set out in the report<sup><1></sup>.

2.5 The following non-Member States were represented as observers:

Brazil	Ecuador	Saudi Arabia
Chile	Iran (Islamic Republic of)	
Côte d'Ivoire	Peru	

2.6 The following intergovernmental organisations and international non-governmental organisations were represented as observers:

*Intergovernmental organisations:*

European Commission  
International Maritime Organization (IMO)  
International Oil Pollution Compensation Fund 1971 (1971 Fund)  
International Oil Pollution Compensation Supplementary Fund 2003 (Supplementary Fund)

*International non-governmental organisations:*

International Association of Independent Tanker Owners (INTERTANKO)  
International Chamber of Shipping (ICS)  
International Group of P&I Clubs  
International Tanker Owners Pollution Federation Ltd (ITOPF)  
International Union of Marine Insurers (IUMI)  
Oil Companies International Marine Forum (OCIMF)

<sup><1></sup> Note by Director: These deficiencies had not been rectified when the final version of this Record of Decisions was issued.

*Treaty matters***3 Status of the 1992 Fund Convention and the Supplementary Fund Protocol**

- 3.1 The Assembly took note of the information contained in document 92FUND/A/ES.10/3 concerning the ratification situation in respect of the 1992 Fund Convention and the Supplementary Fund Protocol.
- 3.2 It was noted that at the end of the session there would be 93 Member States of the 1992 Fund and that five more States would become Members by the end of 2006.
- 3.3 It was noted that fourteen 1992 Fund Member States were Members of the Supplementary Fund. It was also noted that the Supplementary Fund Protocol would enter into force for Barbados on 6 March 2006 and for Croatia on 17 May 2006.

**4 Implementation of the 1992 Civil Liability and Fund Conventions into national law**

- 4.1 The Assembly took note of the information contained in documents 92FUND/A/ES.10/4 and 92FUND/A/ES.10/4/Add.1 in respect of the results of the Director's enquiries to all Member States as to whether the 1992 Conventions had been fully implemented into their national law. It was noted that, since the documents had been issued, a reply had been received from Angola stating that the 1992 Conventions had not been implemented into its national law.
- 4.2 The Assembly noted that at the time of the session only 60 replies had been received to the Director's enquiries.
- 4.3 The delegation of Nigeria stated that, as indicated in document 92FUND/A/ES.10/4/Add.1, the 1992 Conventions had not been implemented into the national law of Nigeria and expressed its gratitude to the Secretariat for its assistance at a recent workshop held in Lagos which had contributed immensely to the understanding by those who had attended the workshop, including Government officials, of the work of the IOPC Funds and the importance of the implementation of the Conventions into national law, as well as what should be done to achieve this.
- 4.4 The Assembly instructed the Director to make further efforts to obtain responses to the enquiries from all 1992 Fund Member States which had not already responded.
- 4.5 The Assembly also instructed the Director to contact those States within which the 1992 Conventions had not been implemented into national law as well as States ratifying the 1992 Fund Convention and offer assistance in the preparation of the necessary legislation.

**5 Substandard transportation of oil – Establishment of Working Group**

- 5.1 The Assembly recalled that at its 10th session, held in October 2005, a majority of delegations had supported in principle the idea of setting up a working group to consider economic measures to promote quality shipping (document 92FUND/A.10/37, paragraph 34.4). The Assembly also recalled that at that session it had decided that the next step would be for one or more delegations to develop draft terms of reference for such a Working Group that were clear and precise, for consideration by the Assembly at its next session.
- 5.2 The Assembly considered the draft terms of reference contained in document 92FUND/A/ES.10/5, submitted by the delegations of Canada, Denmark, Finland, France, Germany, Japan, the Netherlands, Norway, Portugal and United Kingdom and the observer delegations of ICS, International Group of P&I Clubs, INTERTANKO and OCIMF and a revised version of the draft (document 92FUND/A/ES.10/WP.2) that had been prepared on 28 February 2006 after informal consultations between interested Member States. The sponsors stressed that the Working Group should not stray into the areas of IMO and that the Group should work on issues under the present Conventions without reopening them. It was also stressed that as with

any working group, this Group worked under the instructions of the Assembly, which would have to decide on the recommendations of the Working Group as well as the time frame.

- 5.3 A number of delegations expressed serious reservations about the establishment of a working group on the basis of the reference to economic measures and some of the proposed tasks of the Working Group, in particular the development of criteria to be applied to ensure that fully effective insurance was in place, the identification of national legislations or policies that prevented the sharing of information between marine insurers, the engagement of classification societies and an examination of the feasibility of differentiated port access based on the quality of ships. Those delegations doubted that the 1992 Fund had the mandate to draw up such terms of reference and considered that some of the proposed work was too open-ended and was of a technical nature, which would overlap with the role and responsibilities of IMO. One delegation suggested that one way around this problem would be to establish a joint IOPC Fund/IMO Working Group.
- 5.4 Several delegations drew attention to the fact that the decision to establish the Working Group had already been made by the 1992 Fund Assembly at its October 2005 session and that the only outstanding issue was to decide the terms of reference of the Group. The point was made that technical issues were not new to the Funds in that the 1971 Fund Convention had required shipowners to comply with a number of IMO Conventions in order to qualify for indemnification from that Fund. One delegation stated that it did not see the need for a joint IOPC Fund/IMO Working Group since the issues under consideration related to insurance and compensation, which were well within the competencies of the Funds.
- 5.5 In the light of the discussion and the legitimate concerns expressed by a number of delegations the Danish delegation submitted revised draft terms of reference as set out in document 92FUND/A/ES.10/WP.3.
- 5.6 Some delegations considered that whilst certain obstacles had been addressed in the revised terms of reference there were a number of proposals made during the discussion that had not been taken into account and that some of the changes that had been made were of a purely cosmetic nature.
- 5.7 In the light of the discussion the Director made a number of suggestions for amending the revised text to address some of the outstanding concerns, including a statement to the effect that the Working Group was only instructed to make proposals, a specific reference to the importance of IMO's participation in the work of the Group and a clear indication that there would be no attempt to re-open a discussion on a revision of the Conventions.
- 5.8 The Assembly decided to establish a Working Group on non-technical measures to promote quality shipping for carriage of oil by sea with the following mandate:
- (a) to develop proposals in respect of non-technical measures and guidelines for Contracting States and the industry to promote quality shipping by ensuring that effective checks and procedures are in place to establish that ships insured and certificated are suitable for the carriage of oil by sea covered under the CLC/Fund regime;
  - (b) to make a proposal to the Assembly's October 2006 session on a time frame for its work;
  - (c) to report on the progress of its work at each regular session of the Assembly;
  - (d) to identify related issues other than those referred to in paragraph 5.9 as it may deem helpful to complete its task within the current Conventions and make the appropriate recommendations to the Assembly; and
  - (e) to make recommendations to the Assembly upon the completion of its work.

- 5.9 The Assembly decided that, in conducting its work, the Working Group should focus on the following:
- (a) consider and make proposals on the development of common criteria to be uniformly applied by Contracting States to ensure that fully effective insurance is in place before States issue CLC Certificates;
  - (b) identify factors that prevent the sharing of information between marine insurers and seek to develop a common policy or other measures that would facilitate such sharing of information;
  - (c) identify practical measures to achieve better and more transparent co-ordination between insurers, shipowners and cargo interests that would promote quality shipping;
  - (d) consider possible measures for the denial or withdrawal of insurance cover in order to improve the safer transportation of oil;
  - (e) consider the feasibility and impact of differentiated insurance rates and premiums that would encourage quality shipping; and
  - (f) examine ways of encouraging and strengthening the participation of classification societies in the promotion of quality shipping.
- 5.10 The Assembly decided that the Working Group should work intersessionally and be open to all governments, inter-governmental and non-governmental organisations, which had the right to participate in the 1992 Fund Assembly. It was also decided that both State representatives and representatives from the industry, eg representatives from shipowners, oil importers, insurance companies and classification societies should be encouraged to participate in the work. The Assembly emphasised that in particular IMO should be encouraged to participate.
- 5.11 The Working Group was instructed to consider non-technical measures and guidelines that may not only be the responsibility of Contracting States but that may also address industry procedures and practices.
- 5.12 The Assembly emphasised that the Working Group should not stray into the areas of competence of the IMO and that the Working Group should not duplicate work which had been undertaken by that Organization. The Assembly stated that the Working Group should bear in mind the work done on quality shipping in other fora, such as the study on insurance carried out within the Organisation for Economic Cooperation and Development (OECD).
- 5.13 The Assembly also emphasised that the Working Group should not consider issues that would require any reopening of discussions regarding a revision of the 1992 Conventions.

*Financial matters*

**6 Joint Audit Body's Review of Claims Handling**

- 6.1 The Assembly recalled that in 2005 a review of the claims settlement procedures had been carried out by the Audit Body, with the aim of enabling the Audit Body to form a view about the efficiency of these procedures. The Assembly also recalled that although the review had not identified any serious past weaknesses or failures by the Funds or the Secretariat, the Audit Body had made a number of recommendations relating to the time taken to handle claims, on interim payments and on the management of claims handling. It further recalled that in the light of these recommendations the governing bodies of the IOPC Funds had, at their sessions in October 2005, instructed the Director to submit a report to their next sessions setting out an action plan that the Secretariat had put in place.

- 6.2 The Assembly took note of the measures taken and to be taken by the Secretariat to address the recommendations of the Audit Body as contained in document 92FUND/A/ES.10/6.
- 6.3 A number of delegations expressed their satisfaction with the Secretariat's action plan and were pleased to note that many of the Audit Body's recommendations had already been implemented. Some delegations considered that it was important not to overburden the Secretariat with too much bureaucracy and that, bearing in mind that the Funds' existing documents already received widespread circulation, further production of documents should be kept to a minimum.
- 6.4 One delegation referred to the enormous amount of claims documentation that had been generated in support of the French Government's claim for clean-up costs arising from the *Erika* incident and expressed its concern that this was not conducive to rapid and efficient claims handling. The Director stated that it was inevitable that any major incident would give rise to such voluminous documentation, which included all relevant receipts and invoices relating to expenditure, although presentation in an electronic format would facilitate claims processing.
- 6.5 One delegation asked whether it would be possible for the Secretariat to include in its incident documents data on the numbers of claims that had remained dormant for more than two months. That delegation also asked whether the new claims database, which was being developed by the Secretariat, would be accessible to Member States. The Director stated that providing information on claims for which no action had been taken for more than two months could involve a lot of work if the information was to be meaningful, but that he would give further thought to the request and report back to the Executive Committee. The Director stated that access to the new database would be restricted to the Secretariat, the P&I insurer involved in the incident, joint experts and claims office staff since the information recorded would to a large extent be confidential.
- 6.6 In response to a statement by one delegation on the need for a database of decisions by the Funds' governing bodies, the Director informed the Assembly that work on such a database was already progressing and that it was hoped that it would be completed some time in 2006.
- 6.7 One delegation noted that costs of legal advisers and other experts often appeared excessive and suggested that such costs needed to be managed carefully in future. That delegation proposed the creation of a database of lawyers in each Member State and the establishment of pre-contracts, including rates to be charged in the event that their services were required in response to a particular incident. The Director stated that a database of lawyers and experts had already been created but that it was not always possible to find experienced lawyers and experts, particularly lawyers in the maritime field, in Member States. He further stated that it was difficult to agree pre-contracts since the Funds could never guarantee that services would be required in a particular State. He also pointed out that the Funds had often found itself competing with shipowners' insurers in securing the services of the most able maritime lawyers.

## **7 Appointment of External Auditor**

- 7.1 The Chairman of the Audit Body, Mr Charles Coppolani, introduced document 92FUND/A/ES.10/7 containing the Audit Body's considerations as regards the issue of the procedure for appointment of the External Auditor of the 1992 Fund, the 1971 Fund and the Supplementary Fund.
- 7.2 In his introduction Mr Coppolani pointed out that, under the 1971 and 1992 Fund Conventions and the Supplementary Fund Protocol, the External Auditor should be appointed by the respective Fund's Assembly. He reminded the Assembly that the Funds' Financial Regulations (Regulation 14.1) provided that the External Auditor should be the Auditor-General (or officer holding the equivalent title) of a Member State, to be appointed in the manner and for the period decided by the Assembly.

- 7.3 It was recalled that the Comptroller and Auditor General of the United Kingdom had been the External Auditor of the 1971 and 1992 Funds since these Organisations were created in 1978 and 1996 respectively, having been reappointed for successive periods of four years, and that his present mandate expired on 31 December 2006. It was also recalled that at its 1st session, held in March 2005, the Supplementary Fund Assembly had appointed the Comptroller and Auditor General of the United Kingdom as the External Auditor for the Supplementary Fund for an initial period up to 31 December 2006 in order that the expiry of the terms of office of the External Auditor of the three Organisations should coincide.
- 7.4 The Assembly recalled that at their October 2006 sessions the governing bodies of the 1992 Fund, the 1971 Fund and the Supplementary Fund would have to appoint the External Auditor of the Funds for a period to be determined by these governing bodies commencing with the financial period 2007.
- 7.5 Mr Coppolani informed the Assembly that it was normal business practice, where an Audit Committee or corresponding body existed, for such a Committee to review the performance of external auditors and to consider questions of reappointment or audit tender and explained that the Committee then reported to the body having the power of appointment.
- 7.6 Mr Coppolani informed the Assembly that the Audit Body was prepared to assume responsibility for making recommendations to the governing bodies with regard to the appointment of the External Auditor. He emphasised that, in the Audit Body's view, the present External Auditor had over the years always carried out his task in an efficient and competent manner, provided good value for money, and had given the Organisations valuable support, eg in respect of the development of better corporate governance. Whilst drawing attention to the fact that the Funds were under no obligation to open the nomination of External Auditor to competition, Mr Coppolani, on behalf of the Audit Body, invited the Assembly to consider whether it would wish to initiate a tendering procedure for the nomination of the External Auditor.
- 7.7 The Assembly noted that since the term of office of the External Auditor expired at the end of 2006, the Audit Body took the view that there would not be sufficient time for the governing bodies to consider proposals on new procedures for the appointment of the External Auditor for the next period.
- 7.8 The Assembly noted the Audit Body's intention to recommend that the present External Auditor be reappointed for a further term. All delegations supported the proposal that the Assembly should reappoint the existing External Auditor at its October 2006 session, although there were some differences of opinion as to whether the appointment should be for the usual four-years or for a shorter period.
- 7.9 Some delegations expressed doubts about using an Auditor from outside the country in which the Funds were located unless there was a specific, compelling reason for change. The view was also expressed that an open competition involving the External Auditors of a large number of Member States was undesirable and that it was important to consider the likely time and cost implications for the Funds.
- 7.10 Some delegations, while stressing that competence was paramount, considered that the rotation of External Auditors was good in principle. One delegation made the point that since the 1992 Fund and the Supplementary Fund should have a common auditor it was important to take into account the composition of the two Funds so as to adhere strictly to Regulation 14.1 of the Funds' Financial Regulations, which required the External Auditor to be from Member States.
- 7.11 Most delegations were in favour of requesting the Audit Body to look at the procedure for the appointment of the External Auditor in future, including the possibility of competitive tender.
- 7.12 The Assembly decided to request the Audit Body to look into the procedure for the appointment of the External Auditor in future, including the possibility of competitive tender, and to report to the Assembly at its October 2006 session.

- 7.13 In response to a question as to whether the Audit Body's mandate needed to be revised the Chairman stated that the existing mandate allowed the Audit Body to make proposals to the Assembly on specific studies.
- 7.14 In response to a question as to whether the Audit Body should consider appointments other than the Director and the External Auditor, the Director stated that the Audit Body could, in his view, consider the procedures for the future appointment of other external persons such as the members of the Investment Advisory Body and the external member of the Audit Body.
- 7.15 It was noted that the Supplementary Fund Assembly and the 1971 Fund Administrative Council had, at their 2nd extraordinary session and 18th session respectively, endorsed the 1992 Fund Assembly's decisions set out in paragraph 7.12 above.

*Secretariat and Headquarters matters*

**8 Contract of the Director-Elect**

- 8.1 The Assembly held a meeting in private pursuant to Rule 12 of the Assembly's Rules of Procedure to consider this agenda item. During the private meeting, covered by paragraphs 8.2 and 8.3 below, only representatives of Member States of the 1992 Fund and of former Member States of the 1971 Fund were present. Except for the Director, the members of the Secretariat did not attend the private meeting, nor did the Director Elect, Mr Willem Oosterveen (Netherlands).
- 8.2 The Assembly decided that Mr Oosterveen's contract should contain the following main elements:
- Salary at the level of Under Secretary-General (USG) in the United Nations Common System +10%, subject to usual post adjustment.
  - Other benefits and allowances applicable to staff under the 1992 Fund's Staff Regulations and Rules.
  - Normal provisions as regards contributions to the Provident Fund to apply, except that Mr Oosterveen would be entitled to withdraw from the Provident Fund up to the aggregate amount of his own contributions to the Provident Fund and the contributions of the 1992 Fund to the extent necessary to pay contributions to his pension scheme in the Netherlands, should he prefer to continue to contribute to that scheme.
  - Hospitality allowance of £11 000 per annum.
  - In the event that the 1992 Fund Assembly decided, at the request of the International Hazardous and Noxious Substances Fund (HNS Fund), that the Secretariat of the 1992 Fund were to act also as Secretariat of the HNS Fund and that the Director of the 1992 Fund were to be also Director of the HNS Fund, this would not result in any amendment in respect of the Director's remuneration and other benefits.
- 8.3 The Chairman was authorised to sign, on behalf of the 1992 Fund, the contract with the Director Elect containing the main elements set out above.

**9 Headquarters Agreement**

- 9.1 The Assembly noted that the Director had entered into consultations with the United Kingdom Government as to whether the Headquarters Agreement between the United Kingdom Government and the 1992 Fund should be revised. It was also noted that the Director had submitted to the United Kingdom Government a draft text of a revised Headquarters Agreement for the 1992 Fund and a draft text of a Headquarters Agreement for the Supplementary Fund. The Assembly further noted that consultations with the United Kingdom Government on the draft



texts were continuing and that whilst representatives of the United Kingdom Government had, at meetings held with the Director in January and February 2006, agreed with the approach proposed by the Director, ie to follow the structure of the Headquarters Agreement between IMO and the United Kingdom Government, certain important substantive issues were still to be resolved, in particular in respect of the exemption of staff from certain taxes.

- 9.2 One delegation made reference to the mention in document 92FUND/A/ES.10/9 of the issue of exemption of staff for certain taxes. That delegation stated that, since the IOPC Funds' staff in respect of salaries and other benefits followed the IMO, it had assumed that the IOPC Funds' staff were treated from a taxation point of view in the same way as the staff of IMO.
- 9.3 The Director stated that under the 1992 Fund's Staff Regulations the salaries, allowances and grants and the conditions of entitlement thereto for all members of the Secretariat conformed whenever appropriate with the United Nations (UN) common system as applied by IMO under its Staff Regulations and Staff Rules. The Director mentioned that when a review was carried out in 2002 of the grading of posts within the 1992 Fund Secretariat, the consultant used was familiar with the UN system and the grading applied by IMO, in order to ensure that the level of post grading in respect of the 1992 Fund Secretariat corresponded to that within IMO for posts with similar levels of responsibility. He informed the Assembly that although all 1992 Fund staff were, like all IMO staff, exempt from income tax on their salaries, there was, however, a difference between the treatment of IMO staff and that of the Fund staff in respect of certain other taxes. He mentioned that whereas under the IMO Headquarters Agreement IMO staff in the professional category (other than British citizens) were exempt also from certain other taxes, in particular local taxes, under the 1992 Fund's Headquarters Agreement only the Director had been granted exemption from such taxes.
- 9.4 The Assembly noted that it would be invited to consider the text of the Headquarters Agreement relating to the 1992 Fund once a provisional agreement on a revised text had been reached between the United Kingdom Government and the Director.

## **10 Credentials for 1992 Fund meetings**

- 10.1 It was recalled that at its 10th session, held in October 2005, the Assembly had noted that the Credentials Committee had identified some inconsistencies during the examination of credentials. It was also recalled that the Assembly had instructed the Director to review the relevant Rules of Procedure and the guidelines given in circular 92FUND/Circ.49, in consultation with those States which had served on the first and second Credentials Committees, in order to clarify certain aspects of both the content of credentials and the procedure for submission, and report to the next session of the Assembly (document 92FUND/A.10/37, paragraphs 3.5 and 3.6).
- 10.2 The Assembly noted that the Director had undertaken such a review, in consultation with the representatives of those States which had served on the first and second Credentials Committees, ie:
- Algeria (Mr. Mohamed Said Semane)
  - Australia (Mr. John Gillies)
  - Germany (Mr. Volker Schöfisch)
  - Republic of Korea (Professor Lee-Sik Chai)
  - Sweden (Mr. Daniel Kjellgren)
  - Uruguay (Captain Carlos Ormaechea)
- 10.3 The Assembly further noted that the results of this review were contained in document 92FUND/A/ES.10/10, which set out in detail the issues which had been encountered by the Credentials Committee and the Director's proposed amendments to Rule 9 of the Rules of Procedure and to the Circular in order to clarify how such issues should be addressed in the future.

- 10.4 A number of delegations indicated that the correct submission of credentials was crucial to the proper functioning of the Organisation and that the amendments to the Rules of Procedure and the Circular proposed by the Director were in general useful. However, some delegations considered that it was important to find pragmatic solutions and that a degree of flexibility was necessary in order to ensure that States were not unnecessarily deprived of their right to participate in meetings whilst other delegations considered that it was important to follow long-standing practice within the United Nations system in order to be sure that credentials were properly authenticated.
- 10.5 The Assembly recalled that at the June 2005 session of the Executive Committee, the Credentials Committee had accepted credentials submitted in the form of telefax provisionally but had noted that for elections no provisional acceptance would be possible and that only an original signed letter would be acceptable (document 92FUND/EXC.29/2/1, paragraphs 1.8 and 1.9). It was also recalled that at the October 2005 sessions, the Credentials Committee had not accepted credentials in the form of telefaxes because elections were to be held.
- 10.6 During the discussion of this issue, some delegations considered that credentials submitted in the form of telefax should not be accepted in view of the risk of forgery whereas other delegations considered telefaxes acceptable. A number of other delegations considered that credentials in the form of telefax should be accepted provided that they were accompanied by an original signed letter or Note Verbale from that State's Embassy or High Commission in London certifying the authenticity of the telefax.
- 10.7 Some delegations expressed the view that, as long as no voting was to take place, credentials in the form of a telefax should be accepted provisionally, provided that an original signed letter was submitted after the meeting, whilst other delegations stated that it was important to be sure that representatives of States were properly authorised by their Governments regardless of whether or not any voting were to take place.
- 10.8 Many delegations considered that a Note Verbale, whilst not an original signed letter, was an official communication on behalf of a Government and that credentials submitted in the form of a Note Verbale should therefore be accepted.
- 10.9 It was generally considered that credentials submitted in the form of email should not be accepted because of the high risk of forgery.
- 10.10 As regards the issue of the submission of credentials issued by an authority other than the Head of State, the Head of Government or the Minister for Foreign Affairs, the Director drew attention to the possibility that some States might find it more convenient for the Government, ie the Head of State or the Head of Government or the Minister for Foreign Affairs, to communicate separately to the Director that a particular authority was authorised to issue credentials for meetings of the IOPC Funds. During the discussion, it was mentioned that, as regards IMO, the Rules of Procedure for some Committees, but not those of the IMO Assembly or the IMO Council, permitted credentials to be issued by the competent minister in addition to those authorities referred to in the 1992 Fund Assembly's Rules of Procedure.
- 10.11 The Director drew the Assembly's attention to the fact that the Headquarters Agreement for the 1992 Fund, unlike that of IMO, did not allow for States to appoint Permanent Representatives to the 1992 Fund and that he did not consider that a system of Permanent Representatives should be established in respect of the IOPC Funds, a view that was shared by the United Kingdom Government. Nevertheless, some delegations indicated that in their view this did not preclude the consideration of a limited system for accreditation of representatives in order to facilitate the submission of credentials.
- 10.12 As regards the question of whether the credentials should state that they gave the person or persons stated therein as representative(s) or alternate(s), the right to take part in the meeting(s) and vote, as stated in the Circular, a number of States endorsed the position of the Credentials Committee in this regard that such rights should normally be considered to be implied.

- 10.13 The Assembly recalled that at its October 2005 session the Credentials Committee had strongly urged States to use the two templates presented in circular 92FUND/Circ.49 when preparing credentials in order to ensure compliance with the existing requirements of the Assembly and that the Assembly had endorsed the position taken by the Credentials Committee in this regard (document 92FUND/A.10/37, paragraphs 3.5 and 3.6).
- 10.14 The Assembly requested the representatives of those States which had been appointed to the current Credentials Committee (cf paragraph 2.2) to consider, in the light of the discussion at the present session and in consultation with the Secretariat, the issue of the submission of credentials and related matters and to report to the Assembly's October 2006 session.

## **11 Insurance cover for staff members**

- 11.1 The Assembly took note of the information contained in document 92FUND/A/ES.10/11 relating to insurance cover for staff performing official duties for the IOPC Funds.
- 11.2 It was noted that the 1992 Fund had insured staff members' rights to compensation under the Staff Regulations and Staff Rules in the event of illness, accident or death attributable to the performance of official duties on behalf of the IOPC Funds. It was further noted that in the light of the increased global risks from terrorism, the 1992 Fund's insurers had advised that they were unable to provide cover for damage caused or contributed to by an act of terrorism involving the use or release or the threat thereof of any nuclear weapon or device or chemical or biological agent and had introduced an exclusion clause to this effect in the 1992 Fund's insurance policy.
- 11.3 The Assembly recalled that at its 9th session, held in October 2004, it had instructed the Director to investigate further whether it would be possible to obtain insurance cover at a reasonable cost for Fund staff members in respect of the events referred to in paragraph 11.2 above (document 92FUND/A.9/31, paragraph 33.2.3). It was also recalled that at the time of the Assembly's 10th session, held in October 2005 the Director had not been able to obtain such cover.
- 11.4 The Assembly noted that since its October 2005 session the 1992 Fund's insurers had informed the Director that it was now possible to provide cover for death, personal injury and illness caused by or contributed to by an act of terrorism involving the use or release or the threat thereof of any nuclear weapon or device or chemical or biological agent.
- 11.5 The Assembly also noted that the Director had purchased additional cover for the 1992 Fund for risks set out in paragraph 11.4 above. It further noted that the premium for this cover for the period 1 February 2006 – 31 May 2006 (the date of expiry of the normal insurance referred to in paragraph 11.2 above) was £3 150.
- 11.6 One delegation asked whether the additional cover referred to in paragraph 11.5 also covered the members of the Audit Body. The Director stated that the issue of cover for members of the Audit Body would be considered by the Audit Body at its next meeting.

### *Compensation matters*

## **12 Technical Guidelines on methods of assessing losses in the fisheries sectors**

- 12.1 The Assembly took note of the information contained in document 92FUND/A/ES.10/12 on the methods of assessing losses in the fisheries sectors. It was recalled that draft Technical Guidelines on methods of assessing losses in the fisheries, mariculture and fish processing sectors, which were intended to assist the 1992 Fund's world-wide network of fishery experts in assessing claims, had been prepared by the Director. It was also recalled that at its 9th session, held in October 2004, the Assembly had decided to establish a correspondence group to review the draft Technical Guidelines and to report to the Assembly with a recommendation on whether they should be published, and if so, in what form. It was further recalled that the Assembly had also

decided that the correspondence group should address the need for more concise guidelines for claimants (document 92FUND/A.10/23, paragraph 2.5).

- 12.2 It was recalled that eight 1992 Fund Member States delegations and one observer delegation had volunteered to join the correspondence group, but that only five respondents had submitted their comments at the time of the Assembly's 10th session, held in October 2005, and that the opinions of the respondents that had submitted comments were divided. It was noted that since the October 2005 session of the Assembly one other delegation had submitted comments on the Guidelines and that two more delegations had expressed an interest in reviewing the draft Guidelines, but had yet to submit their comments to the Secretariat.
- 12.3 The Assembly expressed its gratitude to those delegations that had provided comments on the draft Guidelines.
- 12.4 The Assembly instructed the Director to continue to seek the views of interested delegations, including those who had expressed an interest but had so far not provided any input, on the draft Technical Guidelines for experts for the purpose of making a recommendation to the Assembly on whether, and if so, in what form the Guidelines should be published and whether more precise guidelines should be produced for claimants.
- 12.5 The Assembly also instructed the Director to set a final deadline for comments by 1 July 2006 with a view to making a firm recommendation to the Assembly at its October 2006 session.

*Other matters*

**13 STOPIA and TOPIA**

- 13.1 The Assembly took note of the information contained in document 92FUND/A/ES.10/13 concerning the Small Tanker Oil Pollution Indemnification Agreement (STOPIA) 2006 and the Tanker Oil Pollution Indemnification Agreement (TOPIA) 2006.
- 13.2 It was recalled that at its March 2005 session, the Assembly had noted the offer by the International Group to the 1992 Fund to increase, on a voluntary basis, the limitation amount applicable to small tankers, by means of the Small Tanker Oil Pollution Indemnification Agreement (STOPIA), which came into force on 3 March 2005, the date of the entry into force of the Supplementary Fund Protocol (document 92FUND/A/ES.9/24).
- 13.3 It was further recalled that at the Assembly's October 2005 session the International Group had proposed that if the decision was taken to revise the 1992 Conventions, STOPIA would only apply in States that were parties to the Supplementary Fund Protocol, but that if the decision to revise the Conventions were to be put on hold, the Clubs would then be prepared to:
  - (a) extend the contractually binding STOPIA to all States parties to the 1992 Civil Liability Convention; and
  - (b) apply TOPIA to States parties to the Supplementary Fund Protocol.
- 13.4 It was recalled that the Director had been instructed to collaborate with the International Group of P&I Clubs, acting on behalf of the shipping industry, and the Oil Companies International Marine Forum (OCIMF) before the voluntary agreement package was submitted to the Assembly for consideration at its next session and provide technical and administrative advice with a view to consolidating the package and ensuring that it was legally enforceable (document 92FUND/A.10/37, paragraph 8.31). The Assembly noted that the Director had facilitated meetings between the International Group of P&I Clubs and OCIMF.
- 13.5 The Assembly noted that as a result of these meetings, the International Group had developed a revised STOPIA, to be referred to as Small Tanker Oil Pollution Indemnification Agreement 2006

(STOPIA 2006), and a second agreement, the Tanker Oil Pollution Indemnification Agreement 2006 (TOPIA 2006). It was noted that the International Group had submitted these agreements to the Director on 1 February 2006 and that the agreements had entered into force on 20 February 2006.

- 13.6 The 1992 Fund Assembly focused its attention on STOPIA 2006 since TOPIA 2006 was primarily a matter for the Supplementary Fund Assembly to consider.
- 13.7 The Assembly noted that the 1992 Fund would, in respect of ships covered by STOPIA 2006, continue to be liable to compensate claimants if and to the extent that the total amount of admissible claims exceeded the limitation amount applicable to the ship in question under the 1992 Civil Liability Convention. It further noted that if the incident involved a ship to which STOPIA 2006 applied, the 1992 Fund would be entitled to indemnification by the shipowner of the difference between the shipowner's liability under the 1992 Civil Liability Convention and 20 million SDR. It was also noted that, although the 1992 Fund was not a party to STOPIA 2006, the agreement conferred legally enforceable rights on the 1992 Fund for indemnification from the shipowner involved.
- 13.8 It was noted that the main substantive difference between the original STOPIA and STOPIA 2006 was that the former only applied to pollution damage in Supplementary Fund States, whereas the new agreement would apply also to pollution damage in all other 1992 Fund Member States.
- 13.9 It was also noted that STOPIA 2006 provided that a review should be carried out after 10 years of the experience of pollution damage claims during the period 2006-2016, and thereafter at five-year intervals, in consultation with representatives of oil receivers and the 1992 Fund and the Supplementary Fund, to establish the approximate proportions in which the overall cost of oil pollution claims under the international compensation system had been borne respectively by shipowners and by oil receivers and consider the efficiency, operation and performance of the agreements. It was further noted that the agreements also provided that, if the review were to reveal that either shipowners or oil receivers had borne a proportion exceeding 60% of the overall costs of such claims, measures would be taken for the purpose of maintaining an approximately equal apportionment.
- 13.10 In introducing document 92FUND/A/ES.10/13/1, the observer delegation of the International Group of P&I Clubs expressed his appreciation of the efforts by the Director, OCIMF, ICS and INTERTANKO, as well as the boards of the P&I Clubs in bringing about the entry into force of the voluntary agreements on 20 February 2006. He reminded the Assembly that at the October 2005 session the International Group had offered to extend STOPIA 2006 to all States that were parties to the 1992 Civil Liability Convention and not just to those that were parties to both the Civil Liability and Fund Conventions. He stated that whilst the offer was still on the table, the International Group had begun to have doubts as to whether such an extension was appropriate. It was noted that STOPIA 2006 was primarily intended to bring about a redistribution of cost sharing within the Civil Liability and Fund Convention system and that if the agreement were extended it would be more akin to the earlier stand alone voluntary agreement of TOVALOP. It was also noted that extending STOPIA 2006 to all States Parties to the 1992 Civil Liability Conventions would present practical problems regarding its implementation, particularly in the case of a trans-boundary spill where one State was a party to both the 1992 Civil Liability Convention and the 1992 Fund Convention and the other State was only party to the 1992 Civil Liability Convention. The delegation of the International Group also pointed out that the higher financial limits available under STOPIA 2006 might serve as a disincentive to States becoming parties to the 1992 Fund Convention.
- 13.11 The observer delegation of OCIMF expressed its appreciation to the Director and staff of the Fund Secretariat and the representatives of the International Group for the friendly and co-operative atmosphere in which the discussions on STOPIA and TOPIA had taken place and also expressed its thanks to ICS and INTERTANKO for their assistance in the process. The OCIMF observer delegation emphasised that equal sharing of the financial burden was not a founding principle of

the international compensation regime and that the International Group had put forward STOPIA 2006 and TOPIA 2006 as a compromise solution. That delegation gave its support to the agreements and expressed its hope that the Assembly would do likewise.

- 13.12 A number of delegations, whilst welcoming the coming into force of STOPIA 2006 and TOPIA 2006, stated that they still had reservations regarding their voluntary nature and were still prepared to work towards a revision of the Conventions if the agreements proved unsatisfactory. Some delegations expressed their disappointment that the review period of STOPIA 2006 and TOPIA 2006 had been extended from five to ten years, recognising that this did not affect the enduring rights of States to call for a review of the 1992 Conventions at any time.
- 13.13 The delegation of the International Group explained the reason for the review period having been extended, namely that a five-year period would not give sufficient data to make a review of the cost sharing between the industries concerned meaningful. However, that delegation undertook to provide the Funds on a regular basis with information on costs of oil pollution incidents.
- 13.14 Some delegations recommended that the Assembly be kept informed about the working of the agreements and reviewed their effectiveness after the first five years.
- 13.15 There was no support in the Assembly for extending STOPIA 2006 to States that were only parties to the 1992 Civil Liability Convention, since it was felt that this would act as a disincentive to those States to ratify the 1992 Fund Convention.

#### **14 Co-operation with P&I Clubs**

- 14.1 The Assembly took note of the information contained in document 92FUND/A/ES.10/14 and in particular the proposed text of a revised Memorandum of Understanding between the 1992 Fund/Supplementary Fund and the International Group of P&I Clubs as contained in Annex II to that document.
- 14.2 The Assembly approved the proposed text of the revised Memorandum of Understanding between the 1992 Fund/Supplementary Fund and the International Group of P&I Clubs, which took into account STOPIA 2006 and TOPIA 2006. The Director was authorised to agree with the International Group on minor editorial amendments to the text and sign the Memorandum on behalf of the 1992 Fund.
- 14.3 The Assembly noted the Director's intention to discuss with the Japan Ship Owners' Mutual Protection and Indemnity Association (JPIA) whether there was a need to supplement the new Memorandum of Understanding with the International Group with an exchange of letters between JPIA, on the one hand, and the 1992 Fund and Supplementary Fund, on the other.
- 14.4 It was noted that at its 2nd extraordinary session the Supplementary Fund Assembly had approved the Memorandum of Understanding.

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

- 15.1 The Assembly recalled that, in a Resolution of the Conference which had adopted the International Convention on liability and compensation for damage in connection with the carriage of hazardous and noxious substances by sea (HNS Convention), 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 International Hazardous and Noxious Substances Fund (HNS Fund) in accordance with the HNS Convention. It was also recalled that at its 1st session, the Assembly had instructed the Director to carry out the tasks requested by the HNS Conference (document 92FUND/A.1/34, paragraphs 33.1.1 - 33.1.3), on the basis that all expenses incurred would be repaid by the HNS Fund.

- 15.2 The Assembly noted the developments in respect of the ratification and implementation of the HNS Convention since the 10th session of the Assembly as set out in document 92FUND/A.10/33. It was noted that at the time of the session eight States (Angola, Cyprus, Morocco, the Russian Federation, Saint Kitts and Nevis, Samoa, Slovenia and Tonga) had acceded to the HNS Convention.
- 15.3 The Assembly recalled that at its 10th session in October 2005 it had noted that revised regulations to prevent marine pollution by ships carrying oil or chemicals had been adopted by IMO's Marine Environment Protection Committee (MEPC) at its 52nd session in October 2004. It had also noted that these revised regulations, which included Annexes I and II of the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the Protocol of 1978 relating thereto (MARPOL 73/78) and the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, 1983 (IBC Code), were expected to enter into force on 1 January 2007 under the 'tacit acceptance' procedure, whereby the amendments would enter into force on that date unless at least one third of the States Parties or States Parties having ships totalling at least 50% of the gross tonnage of the world's merchant fleet objected to the amendments by 1 July 2006 (document 92FUND/A.10/37, paragraphs 35.6-35.12).
- 15.4 It was also recalled that the definition of Hazardous and Noxious Substances (HNS) in Article 1.5 of the HNS Convention was largely based on lists of individual substances which were identified in a number of IMO Conventions and Codes designed to ensure maritime safety and prevention of pollution and that, in particular, parts (a)(i) to (a)(iii) of the definition of HNS in Article 1.5 were based on Annexes I and II of MARPOL 73/78 and the IBC Code, respectively.
- 15.5 It was also recalled that it had been suggested at the October 2005 session that if, as expected, the revised Annex II entered into force on 1 January 2007, the reference in Article 1.5(a)(ii) of the HNS Convention to 'noxious liquid substances carried in bulk referred to in appendix II of Annex II to MARPOL 73/78, as amended,...' would be meaningless from that date, as would the reference to '...those substances and mixtures provisionally categorised as falling in pollution category A, B, C or D in accordance with regulation 3(4) of Annex II'.
- 15.6 The Assembly had recalled that, under Article 46.1, the HNS Convention would enter into force 18 months after ratification by at least 12 States, subject to two conditions, one of which was that in the previous calendar year a total of at least 40 million tonnes of cargo consisting of HNS other than oils, liquefied natural gas (LNG) or liquefied petroleum gas (LPG) had been received in States which have ratified the Convention. The Assembly had therefore noted that it was essential that the issue relating to the definition of HNS under Article 1.5(a)(ii) was resolved as quickly as possible, since those substances that qualified as HNS under this part of the definition were likely to form a significant part of such contributing cargo.
- 15.7 The Assembly recalled the Director's proposal for a possible pragmatic solution to this issue contained in paragraph 3.19 of document 92FUND/A.10/33.
- 15.8 During the discussion, several delegations had mentioned that both the Legal Committee and the technical committees of IMO should be involved in any discussion of this issue.
- 15.9 It was noted that, as instructed by the Assembly at its 10th session, the Director had discussed this issue with the Secretary-General of IMO at a meeting held on 27 January 2006, with the aim of finding a practical solution to the issue and also of attempting to avoid similar issues arising in the future. It was further noted that the outcome of this meeting was described in document 92FUND/A/ES.10/15/Rev.1, paragraphs 2.8-2.13.
- 15.10 The Assembly further noted that on 22 February 2006 the Secretary-General had issued a Circular (IMO Circular letter No. 2699) in which he clarified that if, as expected, the revised Annex II to MARPOL 73/78 entered into force on 1 January 2007, the reference to 'noxious liquid substances carried in bulk' in Article 1.5(a)(ii) of the HNS Convention would from that date refer to 'noxious liquid substances as defined in Regulation 1.10 of the revised Annex II which are carried in bulk'.

- 15.11 It was noted that in the Circular, the Secretary-General also indicated that the Legal Committee and the Marine Environment Protection Committee would, at their sessions in April 2006 and October 2006 respectively, be invited to consider adopting a resolution on the issue. It was also noted that the Secretary-General had indicated that, where appropriate, footnotes would be added to new IMO publications to draw attention to the issue.
- 15.12 The representative of IMO stated that, in preparation for the meeting between the Director and the Secretary-General of IMO, staff in IMO's Marine Protection Division responsible for the technical aspects of MARPOL 73/78 had been consulted and had indicated that they did not consider the issue to be a problem, since the text of the HNS Convention referred to MARPOL 73/78 'as amended'. They had also pointed out that the list of noxious liquid substances referred to in Appendix II to Annex II had not disappeared but was instead referred to in Regulation 1.10 of the revised Annex II.
- 15.13 The Assembly recalled that the IOPC Funds had organised a Workshop on 28 and 29 June 2005 which had been intended to facilitate States' preparations for ratification of the HNS Convention and to address the need for the uniform interpretation and application of the Convention.
- 15.14 The Assembly noted that the Secretariat had since produced a revised version of the 'Guide to the Implementation of the HNS Convention', which had been developed to form the basis of that Workshop. It was noted that the Guide together with the PowerPoint presentations given at the Workshop were available on the website dedicated to the implementation of the HNS Convention which the Secretariat had established at [www.hnsconvention.org](http://www.hnsconvention.org).
- 15.15 The Assembly further noted that the Director intended to organise a further Workshop on the HNS Convention, focussing on more practical aspects of the implementation of the HNS Convention, in conjunction with the next session of the Executive Committee, to be held during the week beginning 22 May 2006.
- 15.16 One delegation invited the Director to consider including the following subjects in the agenda of the Workshop: industry perspectives, States' experiences with ratification and reliability of data. The Director invited other delegations to submit suggestions for topics for inclusion in the agenda as soon as possible bearing in mind the limited time available.
- 15.17 The Assembly noted that the Director had participated in a seminar on the HNS Convention organised in Brussels on 21 February 2006 by the European Maritime Safety Agency (EMSA). It was also noted that at that seminar, the representatives of those European States present had given indications of the progress towards ratification in their State. The Director indicated that he intended to seek similar indications from those States participating in the Workshop in May 2006 in order to enable the Secretariat to reach a more informed view as to when the HNS Convention might enter into force.
- 15.18 One delegation enquired what information had been provided in respect of receipts of contributing cargo by those States which had already ratified the HNS Convention. The Director stated that only one of those eight States, Slovenia, had submitted such information and that he intended to use the Workshop in May to seek further information of this nature, as this information was essential in order for the Secretary-General of IMO to be able to determine when the entry-into-force conditions of the HNS Convention had been fulfilled.
- 15.19 The representative of IMO stated that the Secretary-General had issued a Circular reminding States of the requirement in the HNS Convention that States should submit information on contributing cargo receipts when ratifying the HNS Convention and annually thereafter.

## **16 Application of the 1992 Conventions to ship-to-ship oil transfer operations**

- 16.1 The Assembly recalled that at its October 2005 session it had considered the question of whether permanently anchored vessels engaged in ship-to-ship oil transfer operations (STS) fell within the definition of 'ship' under the 1992 Civil Liability and Fund Conventions, as interpreted by the



1992 Fund Assembly, and whether the persistent oil received by such vessels should be considered as received for the purpose of Article 10.1(a) of the 1992 Fund Convention and therefore be taken into account for the levying of contributions. The Assembly also recalled that it had instructed the Director to undertake an in-depth study of the issues involved and report to the Assembly (document 92FUND/A.10/37, paragraph 37.3.7).

- 16.2 The Assembly noted that, in accordance with the Assembly's instructions, the Director had first carried out a global search of vessels engaged in STS oil transfer operations of the type under consideration. It was noted that the search, conducted by Det Norske Veritas Limited (DNV), had identified ten such vessels in different parts of the world as set out in document 92FUND/A/ES.10/16. It was also noted that the search had revealed that the number of vessels could be as high as 20, but that some of the as yet unidentified vessels could be involved in illegal operations.
- 16.3 It was further noted that the study had also revealed that in some cases, the mother vessels were not permanently anchored, but operated as the storage vessel for a period of time before returning to normal trading. It was noted that it was understood that when this took place a replacement vessel took over the duties of the mother vessel. The Assembly noted that DNV had also indicated that some of the identified vessels were listed in international databases as having been scrapped or due to be scrapped.
- 16.4 The Assembly noted the Director's intention to conduct the following further study:
- Confirm the identity and contact details of the owners and operators of these ten vessels and any other vessels that are subsequently identified.
  - Determine the type of operations onboard the identified receiving vessels, for example, blending or processing of the received oil prior to being transferred for onward carriage, including the type and annual quantities of oil that are transferred during these operations.
  - Describe the compliance of these vessels with international conventions (eg MARPOL, SOLAS) and the status of their certification and classification. In the case of vessels operating in territorial waters, describe the restrictions (if any) that are placed on the operations of these vessels by local administrations.
  - Indicate the type of pollution liability insurance carried by these vessels.
- 16.5 The Assembly noted that the Director intended to submit a report on his findings to the next session of the Assembly.
- 16.6 The Spanish delegation stated that a joint document had been prepared by Spain and Mexico for consideration by the Marine Environmental Protection Committee of IMO, which was related to regulations governing safety and protection of the environment in respect of STS oil transfer operations. That delegation further stated that the co-sponsors of that document had proposed amending the revised Annex 1 to MARPOL 73/78 by adding a new chapter 8 setting out in regulatory form the conditions required for ensuring safety and preventing pollution during STS operations. The Spanish delegation also suggested that the 1992 Fund Secretariat might wish to follow the development of this initiative.

## **17 Any other business**

### **17.1 Developments within the European Union on matters of interest to the 1992 Fund**

- 17.1.1 The Assembly took note of the information contained in document 92FUND/A/ES.10/17 regarding the proposal of the Commission of the European Communities for a third package of legislative measures ('Maritime Safety Package III') designed to improve safety at sea following on from the Erika I and Erika II packages in 2000. It was noted in particular that proposals had

been made for a Directive of the European Parliament and the Council on the civil liability and financial guarantees of shipowners (document COM(2005) 593 final) and a Directive on traffic monitoring which deals, *inter alia*, with places of refuge for ships in distress (document COM(2005) 589 final).

17.1.2 The Assembly noted that, in addition, the Maritime Safety Package III included proposals for Directives on compliance with Flag State requirements, on classification societies, on the establishment of fundamental principles governing the investigations of accidents in the maritime sector and on the Port State Control as well as for a Regulation to incorporate into Community law the provisions of the 2002 Protocol to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea.

17.2 Venue for October 2006 and spring 2007 sessions

17.2.1 The Director drew the Assembly's attention to the fact that the IMO building would be closing for refurbishment for 14 months from 1 July 2006 and that as a result, whilst the IOPC Funds would be able to hold its sessions in May 2006 at the IMO building as usual, the October 2006 and spring 2007 sessions would need to be held at an alternative venue.

17.2.2 The Director informed the Assembly that the autumn 2006 meetings of the governing bodies of the IOPC Funds would take place at Inmarsat during the week of 23 October 2006. He stated that the venue had good facilities and that it was reasonably-priced, compared with other venues which had been considered, some of which would cost in the region of £20 000 per day.

17.2.3 The Director informed the Assembly that further details in respect of the venue and general meeting arrangements would be provided nearer the time.

17.3 Premises of the IOPC Funds' Secretariat at Portland House

The Director drew the Assembly's attention to the fact that the IOPC Funds' Secretariat had moved into its current premises at Portland House in June 2000 and that in consultation with the United Kingdom Government, the Funds had signed a ten-year lease. The Director informed the Assembly that the Funds were made aware at the time of signing the lease that the landlord intended to carry out external refurbishment of the building at some point during the coming ten years. The Director also informed the Assembly that, contrary to what he had been led to believe at that time, he had recently been informed that the necessary work could not be carried out whilst the tenants were in the building and that, as a result, the landlord was negotiating with the tenants to obtain their agreements to terminate the lease so as to enable him to carry out the refurbishment, which was expected to take two or three years. The Director mentioned that the landlord had offered the tenants alternative office space in two new office buildings close to Portland House. The Director stated that he was considering the issue in consultation with the United Kingdom Government. He mentioned that he had only very recently been informed of this situation and that, as a result, had been unable to assess the possible implications. The Director stated that he would submit a document on this issue to the next session of the Assembly.

**18 Adoption of the Record of Decisions**

The draft Record of Decisions, as contained in document 92FUND/A/ES.10/WP.4, was adopted, subject to certain amendments.

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