



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

ASSEMBLY
2nd session
Agenda item 13

92FUND/A.2/11
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TRANSFER OF SECRETARIAT FUNCTIONS

Note by the Director

1 Introduction

1.1 At the 2nd extraordinary session of the 1971 Fund Assembly and the 1st session of the 1992 Fund Assembly it was decided that the 1971 Fund and the 1992 Fund should have a joint Secretariat. It was decided that the Secretariat of the 1971 Fund should, at least for the time being, administer also the 1992 Fund (documents 71FUND/A.ES/2/22, paragraph 6.3 and 92FUND/A.1/34, paragraph 8.2).

1.2 At its 1st extraordinary session, the Assembly of the 1992 Fund decided that the 1992 Fund should establish its own Secretariat from the date on which the transitional period ended, ie the date on which the compulsory denunciations of the 1969 Civil Liability Convention and the 1971 Fund Convention would take effect. It was also decided that the 1992 Fund Secretariat, once established, would be authorised to administer also the 1971 Fund (document 92FUND/A/ES.1/22, paragraphs 6.2 and 6.4).

1.3 Having noted the decisions taken by the 1992 Fund Assembly, the 1971 Fund Assembly decided, at its 19th session, that the 1971 Fund should be administered by the 1992 Fund Secretariat once the latter had been established, and adopted a resolution to this effect (1971 Fund Resolution N°10, document 71FUND/A.19/30, paragraphs 11.3 and 11.4). The Resolution is reproduced in the Annex.

1.4 The transitional period will end on 15 May 1998. The Secretariat functions of the two Organisations will therefore be transferred from the 1971 Secretariat to a 1992 Fund Secretariat as from 16 May 1998.

1.5 The transfer of the Secretariat from the 1971 Fund to the 1992 Fund gives rise to a number of questions of an administrative nature. Some of these questions have legal or financial implications. The Director intends to submit these issues to the Assembly for consideration at an extraordinary session to be held in the spring of 1998. The Director has considered it appropriate, however, to raise certain of these issues at the 2nd session of the Assembly, so as to enable the Assembly to give him instructions on these points.

2 Transfer of ownership of furniture, office equipment and other supplies

The furniture, office equipment and other supplies used by the joint Secretariat are owned by the 1971 Fund. The Director proposes that the ownership of these assets should be transferred to the 1992 Fund with effect from 16 May 1998. It is also proposed that, in consideration of this transfer, the 1992 Fund should pay to the 1971 Fund an estimated amount of £60 000, calculated as explained in the draft budget for 1998 (document 92FUND/A.2/24). The amount has been calculated as set out in paragraph 2.3 of that document. The amount will be reviewed in the light of the inventory position as at 15 May 1998.

3 Staff Regulations and Rules for the 1992 Fund Secretariat

3.1 The conditions of service of the staff of the 1971 Fund Secretariat are governed by the 1971 Fund's Staff Regulations and Staff Rules. The Staff Regulations were amended by the 1971 Fund Assembly at its 2nd extraordinary session to allow staff members to act also for the 1992 Fund. The amended Staff Regulations were published in document 71FUND/A.ES/2/22/2.

3.2 Under the Staff Regulations the Director issues Staff Rules to implement the Regulations. Amendments to the Staff Rules are reported to the Assembly by the Director (cf document 71FUND/A.20/13).

3.3 It will be recalled that the Assembly of the 1992 Fund, at its 1st session, adopted a Resolution (1992 Fund Resolution N°1) 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 (document 92FUND/A.1/34, Annex I). At its 2nd extraordinary session, the 1971 Fund Assembly welcomed the adoption of this Resolution (document 71FUND/A/ES.2/22, paragraph 6.7).

3.4 It will be necessary for the 1992 Fund Assembly to adopt Staff Regulations for the 1992 Fund Secretariat with effect from 16 May 1998. The Director intends to present a proposal for such Staff Regulations to the extraordinary session of the 1992 Fund Assembly to be held in the spring of 1998. In his view, the 1992 Fund's Staff Regulations should be identical to those applicable at present to the 1971 Fund Secretariat, subject only to such amendments as will be required by the transfer of Secretariat functions from the 1971 Fund to the 1992 Fund.

4 Provident Fund for the 1992 Fund Secretariat

4.1 In accordance with Staff Regulation 23, the 1971 Fund has a Provident Fund to which both the Organisation and staff members contribute in accordance with the provisions of Staff Rule VIII.5. The share of the staff member in the 1971 Fund's Provident Fund shall, at the discretion of the Director, be payable to the staff member on his separation from the 1971 Fund (Staff Rule VIII.5(c)). Staff members are therefore entitled to be paid their respective share of the Provident Fund when their employment with the 1971 Fund ceases, ie on 15 May 1998.

4.2 Since there will no longer be a 1971 Fund Secretariat after 15 May 1998, there will be no need for the 1971 Fund to continue to operate a Provident Fund after that date. It appears that the 1992 Fund should establish a Provident Fund. In the Director's view this Provident Fund should be operated in the same way and give staff members of the 1992 Fund the same benefits as they are given by the Provident Fund of the 1971 Fund.

4.3 The 1971 Fund's Provident Fund was set up in order to provide social security to the staff members of the 1971 Fund. It is likely that many of the present staff members would prefer to transfer their share of the 1971 Fund's Provident Fund (or part thereof) to the Provident Fund to be established by the 1992 Fund, in order to ensure that their social security will not be prejudiced. Such a transfer would be in line with the purpose of 1992

Fund Resolution N°1 referred to in paragraph 3.3 above. For this reason, the Director proposes that those staff members who wish to do so should be entitled to transfer their respective shares of the 1971 Provident Fund (or part thereof) to the 1992 Fund's Provident Fund in conjunction with the transfer of the Secretariat functions. From the staff members' point of view, the transfer of their employment from one Organisation to the other should be of a purely formal nature.

4.4 The United Kingdom Government tax authorities (Inland Revenue) have confirmed that there will be no adverse tax consequences of a transfer of accrued benefits from a 1971 Fund Provident Fund to a 1992 Fund Provident Fund, provided that the latter will be identical in all essential respects to the former.

5 **Action to be taken by the Assembly**

The Assembly is invited:

- (a) to take note of the information contained in this document;
- (b) to take a decision in respect of the transfer of title from the 1971 Fund to the 1992 Fund of furniture, office equipment and other supplies (paragraph 2);
- (c) to note the Director's intention in respect of the Staff Rules and Regulations and Staff Rules (paragraph 3);
- (d) to consider the Director's proposal that the 1992 Fund should establish a Provident Fund (paragraph 4.2);
- (e) to consider the Director's proposal in respect of the staff members' share of the 1971 Fund's Provident Fund (paragraph 4.3);
- (f) to give the Director such instructions as it may deem appropriate in relation to the transfer of the Secretariat functions from the 1971 Fund to the 1992 Fund from 16 May 1998.

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ANNEXResolution N°10 - Administration of the 1971 Fund by the 1992 Fund Secretariat

THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND, 1971 (1971 Fund),

RECALLING that the 1971 Fund and 1992 Fund are at present administered by a joint Secretariat,

NOTING that the 1992 Fund has authorised the 1992 Fund Secretariat to administer also the 1971 Fund,

NOTING ALSO that the Assembly of the 1992 Fund has decided to establish its own Secretariat from the date on which the compulsory denunciations of the 1969 Civil Liability Convention and 1971 Fund Convention take effect,

RECOGNISING that, after the compulsory denunciations take effect, the 1992 Fund will become the more important of the two Organisations in terms of receipts of contributing oil,

ACKNOWLEDGING that it would be impractical for two separate Secretariats to operate concurrently,

RECALLING ALSO the Resolution adopted by the Assembly of the 1992 Fund (Resolution N° 1 of the 1992 Fund, as contained in Annex I to document 92FUND/A.1/34) on the position of members of the 1971 Fund Secretariat whereby, 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 in such a case 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 their employer,

RESOLVES that, from the date of the establishment of the 1992 Fund Secretariat, the 1971 Fund shall be administered by the 1992 Fund Secretariat,

AND DECLARES that the functions which, under the 1971 Fund Convention, are entrusted to the Secretariat shall be performed by the Secretariat of the 1992 Fund.
