



## RECORD OF DECISIONS OF THE THIRTEENTH SESSION OF THE ASSEMBLY

(held from 13 to 17 October 2008)

Chairman: Mr Jerry Rysanek (Canada)  
First Vice-Chairman: Mr Edward K Tawiah (Ghana)  
Second Vice-Chairman: Mr Ichiro Shimizu (Japan)

### *Opening of the session*

### *Procedural matters*

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

The Assembly adopted the Agenda as contained in document 92FUND/A.13/1.

#### **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 Jerry Rysanek (Canada)  
First Vice-Chairman: Mr Edward K Tawiah (Ghana)  
Second Vice-Chairman: Mr Ichiro Shimizu (Japan)

2.2 The Chairman, on behalf of himself and the two Vice-Chairmen, thanked the Assembly for the confidence shown in them. The first-Vice-Chairman also expressed his gratitude to the Assembly and congratulated the Chairman on his re-election.

#### **3 Examination of credentials**

3.1 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.

3.2 In accordance with Rule 10 of the Assembly's Rules of Procedure the delegations of Cameroon, Panama, Portugal, Qatar and the Republic of Korea were appointed members of the Credentials Committee.

3.3 The following Member States were present:

Algeria	Germany	Nigeria
Angola	Ghana	Norway
Argentina	Greece	Oman
Australia	India	Panama
Bahamas	Ireland	Philippines
Belgium	Italy	Poland
Bulgaria	Japan	Portugal
Cameroon	Kenya	Qatar
Canada	Latvia	Republic of Korea
China (Hong Kong Special Administrative Region)	Liberia	Russian Federation
Cyprus	Malaysia	Spain
Denmark	Malta	Sweden
Dominican Republic	Marshall Islands	Trinidad and Tobago
Estonia	Mexico	Turkey
Finland	Monaco	United Kingdom
France	Morocco	Uruguay
Gabon	Netherlands	Vanuatu
	New Zealand	

3.4 After having examined the credentials of the delegations of the members of the Assembly, the Credentials Committee reported in document 92FUND/A.13/2/1 that all the credentials were in order.

3.5 The Assembly expressed its sincere gratitude to the Members of the Credentials Committee for its work during this session.

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

Ecuador	Syrian Arab Republic
Saudi Arabia	Ukraine

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

*Intergovernmental organisations:*

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

*International non-governmental organisations:*

Comité Maritime International (CMI)  
International Association of Classification Societies Ltd (IACS)  
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)  
Oil Companies International Marine Forum (OCIMF)

*General review***4 Report of the Director**

- 4.1 The Director introduced his report on the activities of the IOPC Funds since the Assembly's 12th session in October 2007, contained in document 92FUND/A.13/3. He drew the attention of the governing bodies to the fact that the 1971 Fund Convention had entered into force on 16 October 1978 and that on that same date in 2008 the IOPC Funds would have been in operation for 30 years. He felt that it was therefore particularly apt that the 1992 Fund's 100th Member State had become part of the international compensation regime in this anniversary year.
- 4.2 The Director expressed once again his gratitude and appreciation to the Government of Monaco for having hosted the March 2008 meetings of the IOPC Funds in Monaco and in particular to the delegation of Monaco for its excellent co-operation in organising these meetings.
- 4.3 The Director noted that the last 12 months had seen continued growth in the 1992 Fund membership and that there were currently 101 Member States, with a further State for whom the 1992 Fund Convention would be in force in December 2008. He stated that, after the 1971 Fund Convention had ceased to be in force on 24 May 2002, a number of the former 1971 Fund Member States had ratified the 1992 Fund Convention, and that it was hoped that the remaining eight such States would soon do so. He also noted that at the time this item was discussed 21 Member States had ratified the Supplementary Fund Protocol. It was noted, however, that during the course of the meeting week the Secretariat had been notified that Estonia had also ratified the Supplementary Fund Protocol on 14 October 2008, bringing the total number of Supplementary Fund Member States to 22 on 14 January 2009.
- 4.4 The Director reported that since the October 2007 sessions of the governing bodies, the 1992 Fund had been notified of three new oil pollution incidents which involved or might involve the Fund, namely the *Volgoneft 139*, the *Hebei Spirit* and an unidentified spill in Argentina.
- 4.5 The *Volgoneft 139* incident had occurred on 11 November 2007 in the Kerch Strait, linking the Sea of Azov and the Black Sea between the Russian Federation and Ukraine, when the ship reportedly broke in two during a storm. It was believed that between 1 200 and 2 000 tonnes of fuel oil had been spilt at the time of the incident. The Russian Federation was a party to the 1992 Civil Liability and Fund Conventions whereas Ukraine will become a party to the 1992 Civil Liability Convention (1992 CLC) on 29 November 2008. The estimated losses arising out of this incident were expected to exceed the limitation amount applicable to the *Volgoneft 139* under the 1992 CLC, ie 4.51 million SDR (£3.6 million).
- 4.6 The *Hebei Spirit* had been struck by the crane barge *Samsung N°1* while at anchor about five miles off Taean on the west coast of the Republic of Korea on 7 December 2007. About 10 500 tonnes of crude oil had escaped into the sea from the *Hebei Spirit*. The estimated losses arising out of this incident were expected to exceed the limitation amount applicable to the *Hebei Spirit* under the 1992 CLC, ie 89.77 million SDR (£72 million).
- 4.7 A significant quantity of oil had impacted the shoreline in Caleta Cordova, Chubut Province, Argentina on 26 December 2007 and a total of 5.7 kilometres of coastline had been reported to have been affected. The Argentinean Court was investigating the *Presidente Umberto Arturo Illia* (*Presidente Illia*) as the most likely origin of the spill. However, several other possible sources of the pollution were also being investigated. If it were proved that the spill that impacted the coast had come from a 'ship' as defined in the 1992 Civil Liability and Fund Conventions, the 1992 Fund would have to pay compensation for any losses incurred as a result of the pollution.
- 4.8 The Director noted that, at the time of the October 2008 sessions of the Funds' governing bodies, there had not been any incidents which had involved or might involve the Supplementary Fund.

- 4.9 With respect to the 1971 Fund, the Director noted that there were outstanding third party claims in respect of seven incidents (*Aegean Sea, Iliad, Kriti Sea, Nissos Amorgos, Plate Princess, Evoikos* and *Alambra*) and that recourse actions taken by the 1971 Fund in respect of two incidents (*Vistabella* and *Al Jaziah 1*) were also pending.
- 4.10 The Director reported that he had been informed by the United Kingdom Foreign and Commonwealth Office that it was anticipated that the revised Headquarters Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the 1992 Fund and the new Headquarters Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Supplementary Fund, would be amongst the legislature which it was hoped would be passed in the Spring 2009 Parliamentary session.
- 4.11 With respect to risk management, the Director reported that a Risk Register had been developed, identifying thirteen risks as being key risks across the Secretariat and setting out the present safeguards in place to manage and mitigate these key risks. He said that, where appropriate, relevant controls, procedures and policies would be further developed, a time frame included and progress monitored and reported. The Risk Register had been reviewed by the Audit Body at its meeting in June 2008 and would continue to be reviewed on an annual basis. Furthermore, he said that the Secretariat would undertake an annual review of the key risks to ensure that the relevant procedures, controls and policies remained in place or were amended where appropriate.
- 4.12 The Director stated that the non-submission of reports on contributing oil receipts had been a recurring problem for both the 1971 Fund and the 1992 Fund and, although in recent years the situation had continued to improve, it continued to give rise to considerable concern. He reported that three States with reports outstanding for many years had submitted their reports and, in addition, Cambodia, which had reports outstanding for six years, had recently submitted reports for 2001-2006 although unfortunately they were incomplete. He further reported that by 29 September 2008, oil reports were outstanding for 28 1992 Fund Member States and six former 1971 Fund Member States. A number of these States had reports outstanding for several years. The Director stated that there were no outstanding reports in respect of the Supplementary Fund.
- 4.13 The Director reported that the new claims handling database, the Web-based Claims Management System (WCMS), about which the Assembly had been informed at its October 2007 session and which had been developed in-house, was expected to greatly facilitate the handling of incidents, in particular those where claimants, governments, experts, etc, made large amounts of data available to the Funds, and that it provided very useful management information. He informed the Assembly that it was already proving to be a very valuable tool in respect of the *Hebei Spirit* incident.
- 4.14 With respect to the Records of Decisions database on which work had begun in 2006, the Director reported that the former Deputy Director/Technical Adviser, Mr Joe Nichols, had completed work on categorising all the decisions and writing appropriate abstracts early in 2008 and that the former Director of the Funds, Mr Måns Jacobsson, was proofreading the information. A database interface had been developed to enable the database to be accessible online. It would then be kept up to date after each session of the governing bodies. It was anticipated that the database would be available in the first part of 2009.
- 4.15 The Director reported that the Working Group which had been established by the 1992 Fund Assembly at its February/March 2006 session to develop proposals in respect of non-technical measures and guidelines for States and industry to promote quality shipping for the carriage of oil by sea, had held its fourth and fifth meetings in March and June 2008. The Working Group's discussions had focused on two main areas: practices within the marine insurance industry to promote quality shipping for the carriage of oil by sea, including the sharing of information within the industry and possible barriers to sharing such information, and practices by Member States to promote quality shipping for the carriage of oil by sea, and more specifically whether these practices could be improved in any way. The Director reported that the Group had finalised its work in

June 2008 and its reports would be considered by the 1992 Fund Assembly at its October 2008 session.

- 4.16 With respect to the International Convention on liability and compensation for damage in connection with the carriage of hazardous and noxious substances by sea, 1996 (HNS Convention), the Director reported that the HNS Focus Group, established by the 1992 Fund Assembly at its 12th session held in October 2007, had met in March and June 2008. He also reported that at its June 2008 meeting, the Administrative Council, acting on behalf of the 1992 Fund Assembly, had approved the text of a draft Protocol to the Convention and had instructed the Director to finalise it and to submit it to the Secretary-General of IMO, requesting him to refer it to the Legal Committee for consideration with a view to convening a Diplomatic Conference to consider the draft Protocol at the earliest opportunity. The 1992 Fund Assembly would be invited to consider the Report of the Working Group on its 2nd meeting at the Assembly's October 2008 session.
- 4.17 The Director reported that the Secretariat had continued its efforts to increase the number of Member States to the 1992 Fund and the Supplementary Fund and that he and other members of the Secretariat had also participated in seminars, conferences and workshops in a number of countries and had given lectures on liability and compensation for oil pollution damage and on the operation of the IOPC Funds.
- 4.18 Looking ahead, the Director said that, although it was satisfying to note that the number of 1992 Fund Member States had grown from nine at the time of its establishment in 1996 to 102 by December 2008, it was hoped that more States would become members of both the 1992 Fund and the Supplementary Fund in the near future and that he hoped to make progress in respect of the winding up of the 1971 Fund. He also said that the Secretariat would continue to work actively on the preparations for the entry into force of the HNS Convention and the setting up of the HNS Fund which had, during the past year in particular, become a focus for discussion within the 1992 Fund Assembly.
- 4.19 The Chairman, on behalf of the Assembly, thanked the Director for his comprehensive Report.

*Treaty matters*

**5 Status of the 1992 Fund Convention and the Supplementary Fund Protocol**

- 5.1 The Assembly took note of the information contained in document 92FUND/A.13/4 concerning the status of the 1992 Fund Convention and the Supplementary Fund Protocol.
- 5.2 It was also noted that at present there were 101 Member States of the 1992 Fund and that one further State, Ecuador, would become a Member by 11 December 2008. It was further noted that the United Kingdom had extended the application of the 1992 Fund Convention to the Isle of Man with effect from 15 September 2008.
- 5.3 It was noted that 21 1992 Fund Member States were Members of the Supplementary Fund at the time of the session and that Estonia had ratified the Supplementary Fund Protocol on 14 October 2008 and would become a Member of the Supplementary Fund on 14 January 2009. The delegation of Poland informed the Assembly that, having completed the necessary Parliamentary process, a letter approving the ratification of the Protocol was currently awaiting the signature of the State's President and that Poland expected to deposit an instrument of ratification to the Supplementary Fund Protocol in the near future. The delegation of Australia informed the Assembly that legislation implementing the Protocol in Australia had passed its Parliament and was currently awaiting royal assent. That delegation stated that it expected Australia to ratify the Protocol during the second half of 2009.
- 5.4 The Assembly recalled its discussions at its October 2007 session relating to the possible inclusion of the 1992 Conventions in the IMO Voluntary Audit Scheme, which had resulted in the instruction

to the Director to have informal discussions of an exploratory nature with the IMO Secretariat to consider whether such an audit scheme might be useful (document 92FUND/A.12/28, paragraph 5.7).

- 5.5 The Assembly noted the information contained in document 92FUND/A.13/4 regarding the implementation of the 1992 Civil Liability and Fund Conventions into national law, and in particular the results of the Director's discussions with the IMO Secretariat, as set out in paragraphs 3.8 – 3.11 of document 92FUND/A.13/4, and his analysis set out in paragraphs 3.12 – 3.13 of that document.
- 5.6 The Assembly noted that the Director shared the view of the IMO Secretariat that at present it would not be desirable to incorporate in the Audit Scheme instruments such as the 1992 Conventions which were of a legal nature and therefore required expertise and experience significantly different from that which was currently used to operate the Scheme. It also noted, however, that in the future, once the Audit Scheme had reached its final form and once it had been institutionalised and developed into a mandatory instrument, there were likely to be possibilities for incorporating the 1992 Conventions into the Scheme.
- 5.7 Some delegations from States which had taken part in the IMO Voluntary Audit Scheme informed the Assembly of their positive experience and endorsed the benefits of the scheme. All delegations which spoke on the issue, however, agreed with the Director that at the present stage he should not pursue the possibility of including the 1992 Conventions in that Scheme.
- 5.8 The Assembly instructed the Director not to pursue the possibility of including the 1992 Conventions in the IMO Voluntary Audit Scheme at this stage but decided that the issue should remain part of the Secretariat's ongoing communication with IMO, with a view to exploring at regular intervals whether and at what point in the future the 1992 Conventions could usefully be incorporated in that Scheme.
- 5.9 The Assembly also instructed the Secretariat to continue its efforts in respect of the implementation of the 1992 Conventions by Member States as set out in paragraph 3.3 of document 92FUND/A.13/4 and to report to the Assembly in respect of any new developments.

**6 Application of the 1992 Fund Convention to the EEZ or an area designated under Article 3(a)(ii) of the 1992 Fund Convention**

The Assembly took note of the information in document 92FUND/A.13/5 as regards Member States which had provided information on the establishment of an EEZ or designated area under Article 3(a)(ii) of the 1992 Fund Convention.

**7 Credentials for meetings**

- 7.1 The Assembly took note of the information in document 92FUND/A.13/6 in respect of credentials for meetings.
- 7.2 It was recalled that at its 11th session, held in October 2006, the 1992 Fund Assembly had endorsed a number of changes to the credentials arrangements for future sessions, as proposed by the Credentials Committee (cf document 92FUND/A.11/35, paragraph 8.4). It was further recalled that these changes had been implemented by means of amendments to the Rules of Procedure of both the Assembly and the Executive Committee (document 92FUND/AC.3/A/ES.12/14, paragraph 3.3) and by the issuing of a revised Circular endorsed by the Assembly in July 2007 providing detailed guidance in respect of the form and content of credentials (Circular 92FUND/Circ.58, 71FUND/Circ.87, SUPPFUND/Circ.8).

- 7.3 As noted at the 1992 Fund Assembly's 12th session, held in October 2007 (document 92FUND/A.12/28, paragraph 3.6), the Director reported on the impact of these changes (document 92FUND/A.13/6, section 2).
- 7.4 The Assembly noted that the Director was of the view that the changes to the credentials arrangements had been a significant improvement and that they had facilitated both the submission of credentials by States and the examination of credentials by the Credentials Committee. It was noted that several States had taken advantage of the revised arrangements in respect of the authorisation of persons to issue credentials and the period for which credentials could be issued. It was further noted that the possibility to submit credentials via telefax had not led to any problems and seemed to have been a considerable benefit for those States whose embassies or high commissions in London were not authorised to issue credentials. This had in turn greatly facilitated the smooth running of meetings, in particular as regards the quorum requirement. It was also noted that the Director was not aware of any delegations having expressed any concerns in respect of the changes.
- 7.5 The Assembly therefore endorsed the Director's view that the current arrangements for credentials, including their submission by telefax, should be maintained and should only be revisited at a future session if further improvements seemed possible or if any unexpected problems arose.
- 7.6 The Assembly recalled that when the Director had originally proposed at the 1992 Fund Assembly's 9th extraordinary session, held in March 2005, that a Credentials Committee be established at each session of the 1992 Fund's governing bodies, he had not proposed, at that stage, that a Credentials Committee be set up in respect of the 1971 Fund and the Supplementary Fund. However, he had expressed his intention to revert to this issue in respect of these Organisations when experience had been gained from the operation of the 1992 Fund Assembly's Credentials Committee (cf document 92FUND/A/ES.9/22, paragraph 5.5).
- 7.7 The Assembly noted the Director's view that since only notifications, and not credentials, were required for meetings of the 1971 Fund, there was no need to establish a Credentials Committee in respect of the 1971 Fund.
- 7.8 The Assembly also noted that, in the light of the successful operation of the 1992 Fund's Credentials Committee, the Director believed that it would be useful if credentials for the Supplementary Fund were also examined by a Committee. It was noted that the majority of States submitted credentials covering meetings of both the 1992 Fund and the Supplementary Fund, which therefore already had to be looked at by the 1992 Fund's Credentials Committee. It was further noted that, since all Supplementary Fund Member States were also Members of the 1992 Fund and sessions of the Supplementary Fund Assembly were normally held in conjunction with sessions of the 1992 Fund's governing bodies, the Director was of the view that the most practical solution was for the 1992 Fund's Credentials Committee to also examine credentials in respect of the Supplementary Fund.
- 7.9 As requested by the Supplementary Fund Assembly (document SUPPFUND/A.4/21, paragraph 7.11), the 1992 Fund Assembly decided that its Credentials Committee would also examine the credentials of Member States of the Supplementary Fund.

*Financial matters*

**8 Report on Investments**

- 8.1 The Director stated due to the current turmoil in the financial markets the Secretariat had been constantly monitoring the situation and had been in contact with the brokers and financial institutions with which the Funds were dealing. He pointed out that the Secretariat had, in this regard, also been in constant contact with the IAB. He announced that this issue would be discussed in further detail under Agenda item 9, the Report of the Joint Investment Advisory Body.

- 8.2 The Assembly took note of the Director's report on the 1992 Fund's investments during the period 1 July 2007 to 30 June 2008, contained in document 92FUND/A.13/7.
- 8.3 The Assembly noted the number of investments made during the twelve-month period, the number of institutions used by the 1992 Fund for investment purposes, and the amounts invested by the 1992 Fund.
- 8.4 It also noted the financial instruments used during the reporting period and in particular that the 1992 Fund had continued to successfully use Dual Currency Deposits to undertake foreign currency hedging between Pound Sterling and a second currency, in this case the Euro, without any costs and with the added benefit of a higher return on the deposit.
- 8.5 The Assembly stated that it would continue to follow the investment activities of the 1992 Fund closely.

## **9 Report of the joint Investment Advisory Body**

- 9.1 The Assembly took note of the report of the joint Investment Advisory Body (IAB) of the 1992 Fund, the 1971 Fund and the Supplementary Fund contained in the Annex to document 92FUND/A.13/8.
- 9.2 The Assembly noted that the IAB, as in previous years, had held meetings with representatives of the External Auditor and with the Audit Body.
- 9.3 The Assembly took note of the extensive verbal report by the IAB with regards to the prevailing financial markets. It noted, in particular, the assurance provided by the IAB that the Funds' approved list of financial institutions met the highest investment criteria. It was further noted that it had always been the IAB's view that if any one of these financial institutions looked like failing due to lack of liquidity, then the central bank of that country would step in to provide the necessary liquidity for the bank to continue its operations. In this regard it was noted that the Funds' entire portfolio of assets was, at this moment, placed with European banks which, over the last few days, had been provided with government guarantees and, in some cases, with direct government investment. They also noted with satisfaction that the IAB was constantly monitoring the market and liaising with the Secretariat. It was further noted that the already strict and prudent investment criteria of the Funds might be further tightened.
- 9.4 The Assembly also noted that the IAB were considering the level of hedging that may be appropriate for the Funds to manage the risk of exposure to foreign currencies, especially in view of the requirement for South Korean Won and possibly Russian Roubles in respect of the *Hebei Spirit* and *Volgoneft 139* incidents.
- 9.5 The Assembly noted that the IAB would review the Funds' finance risks annually and make recommendations as appropriate.
- 9.6 In response to a question by one delegation as to whether there was a need to look at the Funds' Financial Regulations and practices in light of the financial crisis, the Director stated that in his view, after consultation with the IAB, the present Financial Regulations and Investment Guidelines did not seem to present any problems in the short term. The Director added that in the unlikely event that the Financial Regulations and Investment Guidelines would prove to be too restrictive in the current financial climate in that following them would actually put the Fund's assets at an undue risk, he would not hesitate, in consultation with the IAB and the Chairmen of the relevant Fund and the Audit Body, to not follow the Regulations in the interest of securing the assets of the Funds and would inform the governing bodies of the actions taken at their next session.
- 9.7 The Assembly noted the Director's comments that being an intergovernmental body did not in any way provide a safeguard for the assets of the Funds in the event of a financial crisis, and that even



investment guidelines and policies as prudent as those of the Funds could not be seen as a guarantee in this context.

- 9.8 The Assembly expressed its gratitude to the members of the joint Investment Advisory Body for their valuable work.

## **10 Financial Statements and Auditor's Report and Opinion**

- 10.1 The Director introduced documents 92FUND/A.13/9 and 92FUND/A.13/9/Add.1 containing the Financial Statements of the 1992 Fund for the financial year 2007, the External Auditor's Report and Opinion thereon and the 1992 Fund's response to the External Auditor's recommendations in his report on the 2007 Financial Statements. A representative of the External Auditor, Mr Graham Miller, Director International, introduced the External Auditor's Report and Opinion.
- 10.2 The Assembly noted with appreciation the External Auditor's Report and Opinion contained in Annexes III and IV to document 92FUND/A.13/9 and that the External Auditor had provided an unqualified audit opinion on the 2007 Financial Statements, following a rigorous examination of the financial operations and accounts in conformity with applicable audit standards and best practice. The Assembly noted that the unqualified audit opinion was confirmation that the Organisation's internal financial controls had operated effectively. The Assembly also expressed its appreciation to the External Auditor for the depth and detail of his Report.
- 10.3 The Assembly noted the recommendations set out in the External Auditor's report on the 2007 Financial Statements and the Secretariat's response to them. The Assembly welcomed the inclusion of the recommendations of previous years and the Secretariat's response to them in the Financial Statements.
- 10.4 The Assembly welcomed the prompt reimbursements from the P&I Club involved in respect of the *Solar 1* incident which provided confidence and comfort that the system set up to receive reimbursements under the Small Tanker Owners Pollution Indemnification Agreement (STOPIA) 2006 was working very well.
- 10.5 The Assembly noted the External Auditor's recommendation that, should the governing bodies approve in principle the adoption by the Fund of the International Public Sector Accounting Standards (IPSAS) from the financial year 2010, the Secretariat establish a formal project plan for its adoption with regular review by the Secretariat and the governing bodies of the implementation of the plan.
- 10.6 The Assembly also noted that the recommendation by the External Auditor that any recovery of compensation paid in previous years should be disclosed separately had been implemented and that the 2007 Financial Statements had been amended accordingly.
- 10.7 The Assembly further noted the External Auditor's recommendation that the Risk Register be reviewed and evaluated by the Secretariat on an ongoing basis and that key risks be considered by the Audit Body and brought to the attention of the governing bodies, if so required.
- 10.8 With respect to the recommendations made for the previous year, the Assembly noted that the External Auditor was satisfied that adequate preparation was being made for the future implementation of IPSAS and also noted that no major project work had been undertaken in 2007 which required the budgeting of staff time.
- 10.9 The Assembly further noted that efforts were being made by the Secretariat to return outstanding funds due to a contributor which was a dissolved joint venture between two oil companies and recommended that the Secretariat continue its efforts in this respect.

- 10.10 The Assembly noted that the External Auditor welcomed the cost savings which had been achieved as a result of the implementation of his recommendation for competitive tendering for recurring expenditure.

**11 Joint Audit Body's Report and approval of Financial Statements**

- 11.1 The Chairman of the Audit Body, Mr Charles Coppolani, introduced document 92FUND/A.13/10, containing the joint Audit Body's Report.
- 11.2 In his introduction Mr Coppolani reminded the Assembly that it was to some extent a sad occasion as it would be the last time that he would have the occasion to address the Assembly in his capacity as Chairman of the Audit Body, which was last elected in October 2005 and was now coming to the end of its three-year term.
- 11.3 Mr Coppolani drew attention to the Audit Body's examination of the accounts and thanked the External Auditor for his participation in the Body's deliberations, for having accepted to discuss his audit and for having presented his conclusions to the Audit Body. He expressed the Audit Body's satisfaction with the responses received from the External Auditor that internal control procedures were in place and had been properly applied.
- 11.4 Mr Coppolani also referred to the very useful discussions which were held with the joint Investment Advisory Body on an annual basis. He pointed out that, as demonstrated by the current financial climate, investments were subject to risk and it was important to be able to report to the Assembly that both Bodies worked closely together, each Body in its own area, on the management of these risks.
- 11.5 He stated that the Audit Body had continued to monitor the risk management process which had been adopted by the Secretariat and had been pleased to note the progress that had been made and the creation of a Key Risk Register, setting out the main risks across the Funds.
- 11.6 Mr Coppolani drew attention to the decision of the governing bodies in October 2007 to amend the mandate of the Audit Body to include the organisation of the selection process in respect of the appointment of the External Auditor when the time came. He stated that the Audit Body had taken this opportunity to look at its Composition and Mandate and was proposing in document 92FUND/A.13/10/1 some additional amendments to take account of developments in its activities and responsibilities since its creation in 2002.
- 11.7 Mr Coppolani recalled the concern which had been expressed by the Audit Body on numerous occasions in respect of a number of Member States which had not fulfilled their obligations to submit oil reports. He also reminded the governing bodies that a document setting out the position of the Audit Body had been put forward at their October 2007 sessions. At those sessions, while the Audit Body's proposal appeared to have received considerable support, it had given rise to issues which required further study by the Audit Body. Therefore, the Audit Body had been invited by the Assembly to refine the proposal in the light of the discussion and submit a document on the subject to a future session of the Assembly. A document providing the additional information had been submitted for the consideration of the governing bodies at their October 2008 sessions under a separate agenda item.
- 11.8 Mr Coppolani reminded the Assembly that at its June 2005 meeting, the Audit Body had decided that it would be useful to carry out a review of the transition of management control and structures following the appointment of the new Director in 2006. The conclusions of the review, which was carried out in 2008, had provided the Audit Body with assurance that the overall management control and organisation structure arrangements now in place had been very thoroughly considered by the current Director and that nothing had emerged from the review which had given rise to concern that the management control and structures in place were anything other than satisfactory. He drew the attention of the Assembly to the fact that a significant aspect of the evaluation had been

the use of the 1998 Organisational Review of the IOPC Fund Secretariat as a comparator for part of the review.

- 11.9 Mr Coppolani noted that the Audit Body had discussed the implications for the IOPC Funds of the implementation of the International Public Sector Accounting Standards (IPSAS), requiring, in particular, the move from 'obligations' to 'accruals' which might cause a problem with accounting for payment of compensation. He pointed out that, although the Audit Body agreed with the proposal of the Secretariat to seek the approval of the adoption of IPSAS by the IOPC Funds, in principle, from the financial year 2010, it had reserved its position as to whether the Funds should be at the forefront of those organisations implementing IPSAS.
- 11.10 Mr Coppolani noted that the Audit Body had been given a presentation of the Funds' new web-based claims management system which was being used for the first time in respect of the *Hebei Spirit* incident, which had taken place in the Republic of Korea in December 2007. He expressed the Audit Body's opinion that the new system would provide the potential for both improving efficiency in assessing claims and in improving transparency for stakeholders.
- 11.11 Mr Coppolani drew the attention of the Assembly to the evaluation which the Audit Body had carried out of its work during the first six years of its existence. The annex to the Audit Body's written report to the governing bodies provided a summary of the work carried out over this six-year period as well as an outline of the philosophy and approach which the Audit Body had adopted. The Audit Body had felt that this document would be helpful to the new members of the Audit Body to be elected in October 2008 and that it might also assist the Funds' governing bodies to understand the underlying approach adopted by the Audit Body so as to be able to evaluate its contribution to the overall governance of the Funds' activities.
- 11.12 Mr Coppolani drew attention to the fact that when the Audit Body was established in 2002, the governing bodies had decided to review the functioning of the Audit Body every three years on the basis of an evaluation report from its Chairman. He added that, whilst it might be said that the Audit Body itself was not the proper entity to recommend its own continuation, it noted that the External Auditor had emphasised the importance that he attached to its existence and that the Director had stated that he considered that the Audit Body contributed significantly to the effective governance of the IOPC Funds.
- 11.13 The Assembly noted the Audit Body's recommendation that the governing bodies approve the Financial Statements of the 1992 Fund for the financial year 2007.
- 11.14 The Assembly approved the Financial Statements of the 1992 Fund for the financial year 2007.
- 11.15 Several delegations which spoke expressed their appreciation to Mr Coppolani for his important work as the first Chairman of the Audit Body as well as to the other members of the Audit Body who would be stepping down. On behalf of the outgoing members, Mr Coppolani said that the success of the Audit Body had been due to teamwork and to the support of the Secretariat, the representatives of the External Auditor and the Investment Advisory Body. He thanked Member States for the trust shown to the Audit Body.

## **12 Composition and Mandate of the Audit Body**

- 12.1 In his presentation of document 92FUND/A.13/10/1, Mr Wayne Stuart, on behalf of the Audit Body, recalled that the governing bodies at their October 2007 sessions, had decided that the mandate of the Audit Body would need to be amended to include the organisation of the tender process in respect of the appointment of the External Auditor when the time came.
- 12.2 Mr Stuart said that the Audit Body had taken this opportunity to look at its Composition and Mandate and had proposed some additional amendments to take into account developments in its activities and responsibilities since its creation in 2002.

- 12.3 Mr Stuart said that many of the changes that were being proposed were of an editorial or streamlining nature, including the division of the Composition and Mandate into two sections, entitled 'Composition' and 'Mandate' but he drew the governing bodies' attention in particular to the following proposed changes of a more substantive nature :
- In paragraph 2, the Audit Body was proposing that the title of the one named individual not related to the Organisations with expertise and experience in financial and audit matters be changed from 'outsider' to 'financial expert' to reflect more appropriately the role of this member of the Audit Body;
  - In paragraph 2, the Audit Body was proposing that the Chairman of the 1992 Fund Assembly should, in consultation with the Chairpersons of the 1971 Fund Administrative Council and of the Supplementary Fund Assembly, propose one of the elected members of the Audit Body for consideration and approval by the governing bodies as Chairperson of the Audit Body;
  - In paragraph 3, the Audit Body was proposing that, should nominations for election to the Audit Body not be sufficient to fill vacancies at an election, existing members of the Audit Body having served two terms would be eligible for a once-only re-election, provided that they were re-nominated by one or more 1992 Fund Member States;
  - In paragraph 3, the Audit Body was also proposing that the 'financial expert' should hold office for three years, twice renewable. The rationale for this was that the 'financial expert' was likely to have to acquire knowledge of the workings of the IOPC Funds during his/her first term and that the possibility of a third term of office would enhance the continuity and thus be more efficient and in the workings of the Audit Body;
  - In paragraph 4, the Audit Body was proposing the insertion of a new item relating to the payment of an honorarium to the members of the Audit Body and of a fee to the 'financial expert';
  - In addition to the inclusion of the organisation of the process for the selection of the External Auditor under the Mandate (paragraph 5 (f)), the Audit Body was proposing that the remit of the Audit Body be extended to include a review not only of the effectiveness of the Organisations' financial reporting but also of its management systems (paragraph 5 (a)); and
  - The Audit Body was also proposing the inclusion of a specific item to cover the undertaking of any other tasks or activities which it might feel appropriate, including any requested by the governing bodies (paragraph 5 (g)).
- 12.4 It was noted that the Audit Body's internal Rules of Procedure would have to be updated in due course in the light of the 1992 Fund Assembly's decision with respect to a revision of the Composition and Mandate.
- 12.5 The Assembly considered the proposed revised Composition and Mandate of the Audit Body as set out in the annex to document 92FUND/A.13/10/1. During the debate the Audit Body responded to queries from some delegations and clarified a number of points within the Composition and Mandate. In particular, attention was drawn to paragraph 1 of the Composition in which the independence of the Audit Body was highlighted.
- 12.6 The Assembly adopted the revised Composition and Mandate of the Audit Body as set out at Annex I.

**13 Adoption of International Public Sector Accounting Standards (IPSAS)**

- 13.1 The Assembly took note of the information contained in document 92FUND/A.13/11 relating to the adoption of new accounting standards.
- 13.2 The Assembly recalled that at its last session in October 2007 the representative of the External Auditor had recommended that the Secretariat submit a proposal to the Assembly seeking its approval for the adoption, in principle, of the International Public Sector Accounting Standards (IPSAS).
- 13.3 The Assembly noted that all organisations which were part of the United Nations system had been recommended to adopt IPSAS to replace the United Nations Accounting Standards from 1 January 2010.
- 13.4 The Assembly also noted that the move to IPSAS would result in changes to the format and content of the accounts of the IOPC Funds and that those changes would necessitate a review of the IOPC Funds' Financial Regulations, Internal Regulations and accounting policies to ensure compliance where appropriate with IPSAS. The Assembly noted that any changes would be agreed with the Audit Body and External Auditor prior to being put forward for adoption by the Assembly, which was planned for the 2009 autumn session.
- 13.5 The Assembly approved the adoption, in principle, of IPSAS by the IOPC Funds from the financial year 2010 and noted the proposed tentative timetable for its implementation.

*Contribution matters***14 Report on contributions**

- 14.1 The Assembly took note of the Director's report on contributions contained in document 92FUND/A.13/12.
- 14.2 The Director drew the attention of the Assembly to the amounts of outstanding contributions due from Member States as summarised in the body of the text and set out in the Annexes to the document.
- 14.3 Many delegations voiced their concern as to the level of outstanding contributions, the non-fulfilment of obligations by some Member States and in particular to the fact that a large proportion of outstanding contributions related to two Member States.
- 14.4 Delegations reiterated that Member States had a legal obligation to ensure contributions were paid and that governments of Member States should take all the necessary steps possible under national law to ensure prompt payment of contributions as set out in the 1992 Fund Convention.
- 14.5 One delegation enquired as to the procedures in place within the Secretariat for pursuing outstanding contributions and as to whether legal action was presently being taken to recover any outstanding contributions. The Director responded that reminders were regularly sent to contributors and that the position in respect of outstanding contributions was annually presented to the autumn sessions of the governing bodies. With respect to legal action against contributors, the Director stated that the Funds had in certain cases used lawyers to pursue contributors in arrears. He explained, however, that the Funds would only take legal action as a last resort since there could be a number of reasons for non-payment, some of those being understandable and not warranting immediate legal action, such as the merging of contributors which could lead to a question as to where liability rested, or contributors going into bankruptcy or becoming inactive. The Director added that contributors were always reminded that interest would be charged for late payment of contributions.

- 14.6 In relation to one Member State with substantial contribution arrears the Director explained that the late submission of oil reports in respect of a number of years had led to the contributor being invoiced for a number of old levies in a later year.
- 14.7 The delegation representing the other Member State with substantial contribution arrears explained that the arrears resulted from a contributor in that Member State no longer being in existence, ie a refinery having been de-commissioned, and that the Secretariat was pursuing the matter.
- 14.8 Following a discussion by Member States, the Audit Body was instructed to review the matter of outstanding contributions and put forward proposals to ensure prompt payment of contributions.

## **15 Submission of oil reports**

- 15.1 The Assembly considered the situation in respect of the non-submission of oil reports, as set out in document 92FUND/A.13/13. It was noted that, since the document had been issued, one further State, Algeria, had submitted its outstanding oil report. It was therefore noted that, whilst there were no outstanding reports in respect of the Supplementary Fund, a total of 32 States still had outstanding oil reports for the 1971 and 1992 Funds for the year 2007 and/or previous years: six States in respect of the 1971 Fund and 27 States in respect of the 1992 Fund. It was further noted that, whilst the situation seemed slightly better than in previous years, a number of States had reports outstanding for many years.
- 15.2 The Assembly also noted that those States which had submitted reports for 2007 represented some 99.3% of the expected total contributing oil (cf document 92FUND/A.13/15, Annex I) and that a further six States (Cameroon, Colombia, Kenya, Mauritius, Nigeria and Venezuela), which had all submitted reports within the last three years, represented the remaining 0.7%.
- 15.3 The Assembly noted with satisfaction that since the October 2007 sessions of the governing bodies, ten States had submitted most or all of their outstanding reports. It was noted that Dominica, Saint Vincent and the Grenadines and Cape Verde, which had had reports outstanding for six years, five years and four years, respectively, had submitted all of their reports. The Assembly appreciated the efforts made by the authorities in these States to gather the information needed to make these reports.
- 15.4 The Assembly was also encouraged by contacts with the authorities of Cambodia, which had reports outstanding for seven years. It was noted that Cambodia had recently submitted reports for 2001-2006, but that unfortunately the reports were incomplete.
- 15.5 The Assembly noted that the failure of a number of Member States to submit oil reports had been a very serious issue for a number of years and that, whilst the situation might be slightly better than in previous years, it was still very unsatisfactory. The Assembly expressed its very serious concern as regards the number of Member States which had not fulfilled their obligations to submit oil reports, since the submission of these reports was crucial to the functioning of the IOPC Funds.
- 15.6 It was recalled that, at their October 2005 sessions, the governing bodies had instructed the Director to proceed with a number of measures to assist States to submit oil reports (documents 92FUND/A.10/37, paragraphs 15.6-15.13, SUPPFUND/A/ES.1/21, paragraphs 9.3-9.10, and 71FUND/AC.17/20, paragraphs 11.6-11.12). It was noted that one of these measures was the establishment of an electronic reporting system for the submission of reports on contributing oil, similar to the one which had been developed in respect of the HNS Convention. It was recalled that, at their October 2007 sessions, the governing bodies had noted that the Secretariat had hoped that a trial version of such a system would be available for demonstration to the governing bodies at their October 2008 sessions, at the latest (documents 92FUND/A.12/28, paragraph 13.10, SUPPFUND/A.3/20, paragraph 12.11 and 71FUND/AC.22/18, paragraph 11.10). The Assembly noted that this had not been possible due to staff shortages in the External Relations and Conference Department, but that it was intended that the project would be a priority during 2009.

- 15.7 The Assembly instructed the Director to continue to bring the matter of the submission of oil reports to its attention at each regular session.
- 15.8 The Assembly further instructed the Director to pursue his efforts to obtain the outstanding oil reports and urged all delegations to co-operate with the Secretariat in order to ensure that States fulfilled their obligations in this regard.
- 15.9 It was recalled that, at its October 2007 session, the Assembly had considered document 92FUND/A.12/12/2 submitted by the Audit Body, which had proposed that the Assembly take a policy decision that payment of claims submitted by a public authority or agent of a Member State which was in arrears with the submission of its oil reports would be deferred until the reporting deficiency had been fully rectified.
- 15.10 As invited by the Assembly at its October 2007 session, the Audit Body had submitted a document (document 92FUND/A.13/13/1) in which its proposal had been refined in the light of the discussion at that session. Introducing that document, the representative of the Audit Body presented further information as regards the following issues (document 92FUND/A.13/13/1, section 3):
- Which claims/claimants would be targeted for deferral of payment;
  - What was the precise meaning of 'substantially in arrears'; and
  - Whether this proposed action was legally valid.
- 15.11 Summing up the discussion of the refined proposal, the Chairman noted that, as regards the policy aspects of the proposal, the debate had been conclusive in that nearly all delegations that took the floor had supported the policy proposal and had not identified any flaws as regards the policy aspects. He noted that, whilst one delegation had clearly indicated it was not prepared to support the Audit Body's proposal and another delegation had wished to remain neutral, there did not seem to be any grounds to send the proposal back and invite the Audit Body to re-think it from the policy standpoint.
- 15.12 The Chairman further noted that, as regards the legal aspects of the Audit Body's proposal, it was broadly recognised that the proposal was not a sanction or penalty and that no major argument had been identified that would call for the proposal to be rejected as being illegal or in direct conflict with the provisions of the 1992 Fund Convention.
- 15.13 However, the Chairman noted that a considerable number of delegations had raised another legal aspect, ie whether or not the policy decision would be enforceable. He also noted that, whilst it had been suggested that this question could be studied further, in practice the likelihood of a legal challenge by a Contracting State seemed to be fairly remote since that State would have to claim that it was entitled to the benefits of the treaty relationship with the other Contracting States without having to fulfil its obligations to them.
- 15.14 The Assembly decided to adopt the policy proposal submitted by the Audit Body, as set out in document 92FUND/A.13/13/1, section 6, and to apply the policy after a grace period of 90 days. The Assembly also decided that, after the grace period, the policy decision would apply to all claims in Member States with outstanding oil reports.
- 15.15 The Assembly instructed the Director to prepare, in consultation with the Chairman, a circular containing the policy decision together with appropriate background information and to circulate it to all Member States. It further instructed the Director to bring the policy to the attention of Member States by any appropriate means.
- 15.16 The Assembly thanked the Audit Body for its work on this issue and requested the Audit Body to add to its work programme the issue of outstanding contributions, with a view to making recommendations to the Assembly as to how that problem could be dealt with.

*Secretariat and administrative matters*

**16 Secretariat Matters**

- 16.1 The Assembly took note of the information contained in document 92FUND/A.13/14/Rev.1 regarding matters relating to the operation of the Secretariat.
- 16.2 The Assembly noted that the Director had decided not to fill the post of Deputy Director for the time being and had instead created a post of Technical Adviser/Claims Manager, graded at P5 level in the Professional category. It also noted that in his/her capacity as Technical Adviser, the incumbent would report to the Director and be a member of the Management Team. In his/her capacity as Claims Manager, the incumbent would report to the Head of the Claims Department and would deputise for him. The Assembly further noted that the successful candidate had been selected and that he/she was expected to take up the post in the near future.
- 16.3 In light of the above, the Assembly approved the Director's proposal to amend Internal Regulation 7.13 as set out in Annex I to the document, giving the Technical Adviser/Claims Manager authority to make final or partial settlements of claims or to make provisional payments not exceeding £500 000 for a particular claim.
- 16.4 The Assembly also approved the Director's proposal to amend Financial Regulation 9.2 to designate the Technical Adviser/Claims Manager as a signatory under Category B of the Financial Regulations.
- 16.5 The Assembly noted that the Director had established a new post of Finance Assistant within the Finance and Administration Department due to one of the Finance Assistants working part-time. This had resulted in there being one additional part-time (2/5) Finance Assistant within the Department.
- 16.6 The Assembly noted the Director's proposal to remove the two in-house translation posts from the structure of the Secretariat on the basis of discussions at its 12th session, held in October 2007 (cf document 92FUND/A.12/28, paragraph 14.13). However, although some delegations supported this proposal, the majority of delegations who took the floor requested that the two posts be retained within the structure of the Secretariat as this would more easily facilitate a future appointment to these posts if so required. The view was also expressed that the Organisations had three official languages and that the posts should be retained to reflect these languages. The Assembly decided to retain the two in-house translation posts (French and Spanish) within the structure of the Secretariat.
- 16.7 The Assembly recalled that at its 12th session, held in October 2007, it had approved an additional Professional Category post at P3 level to enable the Head of the External Relations and Conference (ERC) Department to better manage the increased workload of the Department. The Assembly noted that the creation of the additional post, combined with the fact that two staff members of the Department had left the Secretariat within a short period of time, had provided an opportunity to re-structure the Department and to review and re-allocate the various roles within the Department. The Assembly also noted that the ERC Department had been re-structured and now consisted of the Head of Department, two Professional category posts and five General Service category posts.
- 16.8 The Assembly further recalled that the re-structuring had also required a review of the classification of the posts involved, which had been carried out by an external UN-classifier who had worked for the 1992 Fund in the past and who had a long-standing experience of classification reviews for the International Maritime Organization (IMO).
- 16.9 The Assembly noted that as a result of this review one post in the General Service category had been recommended for re-classification, that this recommendation had been followed by the Director under the authority given to him by the Assembly and that the post involved had been re-classified from G6 to G7.



- 16.10 The Assembly noted that the post of Head of the ERC Department had also been recommended for re-classification from P5 to D1 and that, after studying the rationale for the recommendation for re-classification as set out in the advice of the UN-classifier, the Director had considered that the increased and diverse responsibilities of the Head of the ERC Department, as well as his/her crucial role in the preparation of the entry into force of the HNS regime, justified a re-classification of the post to D1 as recommended.
- 16.11 The Assembly further noted that, for the reasons given, the Director had proposed that the post of Head of the ERC Department be reclassified as D1.
- 16.12 The Assembly agreed with the Director's proposal that the post of Head of the ERC Department be reclassified as D1 and that the present holder of the post be promoted from P5 to D1 with effect from 1 November 2008.
- 16.13 The Assembly noted the Director's proposal to amend Staff Regulation 24 on written notice of resignation and increase the notice required from Professional staff from 30 to 90 days so as to bring it into line with the situation at IMO. Several delegations who spoke expressed the view that although there might be a case for applying this to new appointments, it should not be enforced on staff with existing contracts. These delegations also felt that a period of 90 days notice of resignation was too long and that the original 30 day term should be retained.
- 16.14 One delegation stated that, whilst it believed that a period of notice of 90 days was too long, it recognised the frustration of the Director when faced with the difficulties of finding sufficiently highly qualified staff to replace a member of the Secretariat. That delegation therefore proposed that the Director consider using the Associate Professional Officers' (APO) Programme or Associate Expert Programme, which, it stated, were two of the oldest and largest programmes within the United Nations system. That delegation also pointed out that both IMO and the International Maritime Satellite Organization (IMSO), which was a tenth of the size of the Funds' Secretariat, had successfully used these programmes, and that, in that delegation's view, the use of such programmes was beneficial to both Secretariats of international organisations and to their Member States.
- 16.15 The Assembly decided not to amend Staff Regulation 24.
- 16.16 The Assembly noted the information contained in document 92FUND/A.13/14/Rev.1 with regard to the 1992 Fund's Staff Rules.

*Compensation matters*

**17 Reports of the Executive Committee on its 39th – 41st sessions**

- 17.1 The Chairman of the Executive Committee, Mr John Gillies (Australia), informed the Assembly of the work of the Committee during its 39th – 41st sessions (cf documents 92FUND/EXC.39/2, 92FUND/EXC.40/11, 92FUND/EXC.41/11).
- 17.2 The Assembly approved the reports of the Executive Committee and expressed its gratitude to the Committee's Chairman, the Vice-Chairman and its members for their work

**18 Election of members of the Executive Committee**

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

Eligible under paragraph (a)	Eligible under paragraph (b)
Canada	China (Hong Kong Special Administrative Region)
France	Cyprus
India	Liberia
Italy	Philippines
Republic of Korea	Qatar
Spain	Sweden
United Kingdom	Trinidad and Tobago
	Uruguay

*Operational matters***19 Election of Members of the Audit Body**

- 19.1 The governing bodies took note of the information contained in document 92FUND/A.13/16 (SUPPFUND/A.4/15 and 71FUND/AC.23/13) which was presented by the Director.
- 19.2 The governing bodies recalled that, in order to increase the transparency of the operation of the IOPC Funds the governing bodies of the 1992 Fund and 1971 Fund had decided at their October 2001 sessions to establish a joint Audit Body for the two Organisations. The first election of members of this Audit Body had taken place in October 2002.
- 19.3 The governing bodies also recalled that, at their sessions held in March 2005, the 1992 Fund Assembly, the Supplementary Fund Assembly and the 1971 Fund Administrative Council had decided that there should be a joint Audit Body for the three Funds. The governing bodies had further decided that the Supplementary Fund Assembly and the 1971 Fund Administrative Council should not hold elections of the Audit Body Members but instead leave this function to the 1992 Fund Assembly (cf documents 92FUND/A/ES.9/28, section 18, SUPPFUND/A.1/39, section 31 and 71FUND/AC.16/15, section 8).
- 19.4 It was noted that the last election of members of the Audit Body had taken place in October 2005 and that, since the mandate of the members of the Audit Body was for three years, the 1992 Fund Assembly would elect a new Audit Body at this session.
- 19.5 The governing bodies also noted that under the current Composition and Mandate of the Audit Body as decided by the governing bodies at their March 2005 sessions, the Audit Body was composed of seven members elected by the governing bodies: one named Chairman nominated by 1992 Fund Member States, five named individuals nominated by 1992 Fund Member States and one named individual not related to the Organisations ('external expert' (formally called 'outsider')), with expertise and experience in audit matters, nominated by the Chairman of the 1992 Fund Assembly.
- 19.6 They further noted that, of the Audit Body elected in October 2005, two members had only served one term and were eligible for re-election for a second term of three years. These were:
- Mr Mendim Me Nko'o (Cameroon)  
Mr Wayne Stuart (Australia)
- 19.7 The governing bodies also recalled that in January 2008 the Director had issued a circular informing 1992 Fund Member States that nominations of candidates for the six members from 1992 Fund

Member States for election to the Audit Body, accompanied by their curriculum vitae, should be submitted to him by 16 May 2008 at the latest. In the circular attention had been drawn to the fact that nominations could only be made by 1992 Fund Member States and that those present members of the Audit Body who wished to be re-elected for a second term of three years also needed to be nominated by a 1992 Fund Member State.

19.8 The governing bodies further recalled that the term of office of the member of the Audit Body not related to the Organisations ('external expert') with expertise and experience in audit matters, Mr Nigel Macdonald, would also expire at the October 2008 session of the governing bodies when he would have served two terms of office.

19.9 It was recalled that the Administrative Council, acting on behalf of the 1992 Fund Assembly, had noted at its 13th extraordinary session, held in June 2008, that the following nominations had been received from Member States by 16 May 2008 (cf document 92FUND/A/ES.13/3):

Mr Mendim Me Nko'o (Cameroon)	Presented by Cameroon
Professor Seiichi Ochiai (Japan)	Presented by Japan
Mr Emile Di Sanza (Canada)	Presented by Canada
Mr Wayne Stuart (Australia)	Presented by Australia
Mr John Wren (United Kingdom)	Presented by the United Kingdom

19.10 It was further recalled that the Administrative Council had decided that the candidates whose nominations had been received within the deadline given in the first circular would automatically be elected in October 2008 and that a second circular would be sent by the Director to 1992 Fund Member States calling for further nominations to fill the remaining position. If more than one candidature was received for this position, an election would take place.

19.11 The Director reported that on 8 July 2008 he had sent a second circular to 1992 Fund Member States requesting nominations to fill the remaining position on the Audit Body and that by the deadline of 29 August 2008 only one nomination had been received.

19.12 The 1992 Fund Assembly considered the nomination of Mr Thomas Johansson, made by the Government of Sweden (document 92FUND/A.13/16, Annex IV (SUPPFUND/A.4/15, Annex IV and 71FUND/AC.23/13, Annex IV).

19.13 The Assembly re-elected the following previous members of the Audit Body for a second period of three years:

Mr Mendim Me Nko'o (Cameroon)  
Mr Wayne Stuart (Australia)

19.14 The Assembly elected the following as new members of the Audit Body for a period of three years:

Mr Emile Di Sanza (Canada)  
Professor Seiichi Ochiai (Japan)  
Mr Thomas Johansson (Sweden)  
Mr John Wren (United Kingdom)

19.15 The Assembly elected Mr Wayne Stuart (Australia) as Chairman of the Audit Body.

19.16 The governing bodies recalled that, with respect to the one named individual not related to the Organisations ('external expert'), at its 13th extraordinary session, held in June 2008, the Chairman of the 1992 Fund Assembly had put forward the candidature of Mr Nigel Macdonald for re-election and had recommended that the Administrative Council, acting upon behalf of the 1992 Fund Assembly, decide that, as an exceptional measure, Mr Macdonald be allowed to be re-elected to the Audit Body in October 2008 for a further and final three-year term in order that the new Audit Body

could benefit from the experience that he had obtained during his time in office (cf document 92FUND/A/ES.13/3/1).

- 19.17 The governing bodies further recalled that the Administrative Council had endorsed the Chairman's recommendation that the Administrative Council, acting on behalf of the 1992 Fund Assembly, decide that, as an exceptional measure, Mr Macdonald be allowed to be re-elected to the Audit Body in October 2008 for a further and final three-year term.
- 19.18 The Assembly re-elected Mr Macdonald as the 'external expert' with expertise and experience in audit matters, as an exceptional measure for a further and final three-year term.
- 19.19 The Assembly expressed its gratitude to Mr Charles Coppolani (France), Mr Maurice Jaques (Canada), Dr Reinhard Renger (Germany) and Professor Hisashi Tanikawa (Japan), the out-going members, for their valuable contribution to the work of the Audit Body.

## **20 Appointment of members of the joint Investment Advisory Body**

- 20.1 The Assembly reappointed Mr David Jude, Mr Simon Whitney-Long and Mr Brian Turner as members of the joint Investment Advisory Body for a term of three years.
- 20.2 The Chairman congratulated the IAB members on their reappointment and on behalf of the Assembly expressed his gratitude for their valuable work in particular in these turbulent times in the financial sector.

### *Budgetary matters*

## **21 Sharing of joint administrative costs between the 1992 Fund, the 1971 Fund and the Supplementary Fund**

- 21.1 It was recalled that at their March 2005 sessions, the governing bodies of the IOPC Funds had decided that the distribution of the costs of running the joint Secretariat should be made on the basis of the 1971 Fund and the Supplementary Fund paying a flat management fee to the 1992 Fund.
- 21.2 It was also recalled that it had been decided that the management fees payable by the 1971 Fund and the Supplementary Fund should be reviewed annually in view of changes of the total figure of the costs of running the joint Secretariat and the amount of work required by the Secretariat in the operation of these Funds.
- 21.3 The Assembly approved the Director's proposal that the 1971 Fund and the Supplementary Fund should pay flat management fees of £210 000 and £50 000 respectively to the 1992 Fund for the financial year 2009 (document 92FUND/A.13/18).
- 21.4 It was noted that the Administrative Council of the 1971 Fund and the Assembly of the Supplementary Fund had agreed, at their 23rd session and 4th session respectively, to the distribution of joint administrative costs proposed by the Director.

## **22 Budget for 2009 and assessment of contributions to the General Fund**

- 22.1 The Assembly considered the draft 2009 Budget for the administrative expenses of the IOPC Funds joint Secretariat and the assessment of contributions to the 1992 Fund General Fund as proposed by the Director in document 92FUND/A.13/19.
- 22.2 The rationale for the proposed increase in the fees paid to the members of the joint Investment Advisory Body and to the 'external expert' (formerly called the 'outsider') in the Audit Body was discussed at length by the Assembly. In particular, the apparent disparity between the fee paid to the

'external expert' in the Audit Body and the honorarium paid to the other members of the Audit Body was queried by some delegations.

- 22.3 The Director informed the Assembly that the fees paid to the members of the joint Investment Advisory Body (IAB) and to the 'external expert' in the Audit Body had last been increased three and six years ago, respectively. He explained that his proposal was in line with past practice and did little more than take into account inflation over the respective periods. The Director added that, since the other members of the Audit Body were nominated by Member States, he had expected proposals for an increase in their honorarium to be made by the Assembly, as and when appropriate, as had been the case in the past.
- 22.4 One delegation recalled that when the Audit Body had been set up it had been decided that an outside 'financial' expert be engaged who should have the appropriate competencies to enhance the work of the Audit Body and that the other members nominated by Member States should be paid an honorarium plus expenses related to their travel. That delegation also stated that, in its view, it was the Director's responsibility to propose increases to fees payable to the members of the joint Investment Advisory Body and the 'external expert'.
- 22.5 Another delegation made the point that it was awkward and embarrassing for Member States to propose increases for the elected members of the Audit Body, especially for those States which had nominated these members, and that, as a consequence, he felt strongly that in the future this should also be the responsibility of the Director.
- 22.6 Following a discussion, the Assembly decided to instruct the Director to analyse the roles and responsibilities of the members of the IAB and those of the Audit Body and to present to its next session in October 2009 a document setting out a systematic approach to the fees paid to the IAB members and all members of the Audit Body, including a comparison with market conditions and an exploration of the possibility of index-linking the fees, thereby making an automatic annual adjustment.
- 22.7 Further to the decision by the Assembly to retain the two posts of in-house translators in the list of established posts (paragraph 16.6), some delegations expressed the view that budgetary provisions should be made for these posts and that they should be filled as soon as possible in order to improve the efficiency of the translation of documents. The Director stated that he did not intend to fill the two posts in the near future and that filling the posts would not, in his view, bring about an improvement compared to the current practice of outsourcing translation work. He proposed, however, to study the issues relating to the translation function within the Secretariat and to report his findings in a document to be submitted to the October 2009 session for consideration. The Assembly welcomed the Director's proposal.
- 22.8 The Assembly endorsed the Director's proposal not to create a Major Claims Fund for the *Slops* incident but to make payments exceeding the amount normally payable by the General Fund out of the General Fund, rather than establishing a Major Claims Fund for a relatively small amount.
- 22.9 The Assembly adopted the budget for 2009 for the administrative expenses for the joint Secretariat for a total of £3 723 625 (including the cost of the external audit for the three Funds), as reproduced in Annex II to this Record of Decisions.
- 22.10 The Assembly decided to maintain the working capital of the 1992 Fund at £22 million.
- 22.11 The Assembly decided to levy contributions to the General Fund for a total of £10 million, with the entire levy due for payment by 1 March 2009.

22.12 It was noted that the contributions referred to in paragraph 22.11 would be calculated as follows:

Fund	Oil year	Estimated total oil receipts (tonnes)	Payment by 1 March 2009	
			Levy £	Estimated levy per tonne £
General Fund	2007	1 489 901 319	10 000 000	0.0067119

22.13 The Assembly renewed its authorisation to the Director to create positions in the General Service category as required, provided that the resulting cost would not exceed 10% of the figure for salaries in the budget.

22.14 The Assembly noted the Director's estimate of £30 000 for expenses to be incurred in respect of the preparation for the entry into force of the HNS Convention.

### **23 Assessment of contributions to Major Claims Funds**

23.1 The Director introduced documents 92FUND/A.13/20 and 92FUND/A.13/20/Add.1 which contained proposals for the levy of 2008 contributions to Major Claims Funds. In his introduction the Director explained why, despite the Executive Committee's decision not to authorise him to make compensation payments with respect to the *Volgoneft 139* incident, it would, in his view, be prudent for the Assembly to make a deferred levy with respect to this incident, on the understanding, however, that he would not actually invoice all or part of the levy until a decision had been made by the Executive Committee authorising him to make payments of compensation.

23.2 It was the opinion of some delegations that no levy at all should be decided in respect of the *Volgoneft 139* incident pending a decision of the Executive Committee authorising the Director to make payments of compensation.

23.3 However, several delegations were of the view that it would be practical for the Assembly at this session to decide to make a deferred levy with the proviso that the Director would not invoice any part of the deferred levy until a decision to authorise him to make compensation payments in respect of the *Volgoneft 139* incident had been made by the Executive Committee.

23.4 The Assembly decided to levy £50 million with respect to the *Volgoneft 139* incident, the entire levy to be deferred. The Director was authorised to invoice all or part of the deferred levy for payment during the second half of 2009, if and to the extent required, and subject to a decision by the Executive Committee authorising him to make payments of compensation with respect to this incident.

23.5 The Assembly decided that there should be no levy of 2008 contributions in respect of the *Erika* Major Claims Fund.

23.6 In order to enable the 1992 Fund to make payments of claims for compensation arising out of the *Prestige* and *Hebei Spirit* incidents, the Assembly decided to levy 2008 contributions to the *Prestige* and *Hebei Spirit* Major Claims Funds of £2.0 million and £33.5 million respectively, the entire levies to be deferred. The Director was authorised to invoice all or part of the deferred levies to these Major Claims Funds for payment during the second half of 2009, if and to the extent required.

*Developments regarding the international compensation regime*

**24 Report of the 4th intersessional Working Group**

- 24.1 The reports of the fourth intersessional Working Group's fourth and fifth meetings, held in March and June 2008 respectively (documents 92FUND/A.13/21 and 92FUND/A.13/21/1), were presented by the Group's Chairperson, Mrs Birgit Sølling Olsen (Denmark).
- 24.2 Mrs Olsen pointed out that the Working Group had exhausted its Mandate and had done so within the timeframe set by the Assembly, having held five meetings. She presented its final Report, which included a summary of the Group's discussions together with its findings and conclusions.
- 24.3 Mrs Olsen thanked the members of the Working Group for their input and the Secretariat for its assistance. She stated that, although the Group had not made any recommendations to the Assembly, in her view, the measure of success of the Working Group should not be the number of proposals put forward but other aspects, such as the degree to which its work had enhanced awareness and understanding of the issues involved, and the willingness to participate in, discuss and encourage initiatives to promote quality shipping. She acknowledged that various issues under the umbrella of quality shipping remained unresolved and stated that, despite the termination of the Working Group, it was hoped that Member States and members of the industry would continue to work towards their resolution.
- 24.4 The Assembly noted that the Working Group had completed its Mandate, thanked Mrs Olsen for her comprehensive reports on the Working Group's final meetings and expressed its appreciation for the enthusiastic and impressive way in which she had dealt with the difficult discussions throughout all of the Group's meetings.

**25 HNS Convention**

- 25.1 The Assembly recalled that, at its 12th session in October 2007, it had decided to establish a Working Group ('the HNS Focus Group'), with the aim of facilitating the entry into force of the HNS Convention and with the Terms of Reference set out in section 4 of document 92FUND/A.13/22. It was recalled that the Group had made recommendations to the June 2008 session of the Administrative Council, acting on behalf of the Assembly, upon the completion of its work (document 92FUND/AC.4/A/ES.13/9, section 5).
- 25.2 The Assembly recalled that, in accordance with its Terms of Reference, the HNS Focus Group had developed a Protocol to the HNS Convention and had reached a consensus on all outstanding issues, except that regarding the person liable to pay contributions to the LNG Account. It was recalled that, after a lengthy discussion, the HNS Focus Group had decided to maintain the current wording of the draft Protocol, identifying the receiver, as defined in Article 1.4 of the Convention, as the person liable for contributions to the LNG Account. However, it was further recalled that, whilst the majority of the Group had been in favour of that concept, a significant number of delegations had supported the concept of the titleholder being the primary person liable for contributions.
- 25.3 The Assembly recalled that, at that meeting, the delegation of Malaysia had offered to co-ordinate an informal correspondence group with the aim of developing a compromise proposal in respect of contributions to the LNG Account that would make the HNS Convention attractive to as many States as possible.
- 25.4 The Assembly took note of document 92FUND/A.13/22, which contained a detailed report of the second meeting of the HNS Focus Group. The Assembly again expressed its thanks to the Chairman of the HNS Focus Group, Mr Alfred Popp QC (Canada).
- 25.5 The Assembly also took note of document 92FUND/A.13/22/1 and noted that, as instructed by the Administrative Council at its June 2008 session, the Director had finalised the text of the draft

Protocol, retaining footnotes of a technical or editorial nature in order to aid its interpretation and, by means of a letter dated 29 July 2008, had submitted the text of the draft Protocol to the Secretary-General of IMO, requesting him to refer it to the Legal Committee for consideration with a view to convening a Diplomatic Conference to consider the draft Protocol at the earliest opportunity.

- 25.6 The Assembly also noted that, as further instructed, the Director had included with his letter to the Secretary-General the Record of Decisions of the June 2008 session of the Administrative Council. He had also brought the following topics to his attention, where consideration of amendments to the Protocol by the Legal Committee might be beneficial:
- The time periods for the amendment procedure in Article 19 of the draft Protocol, which might be brought into line with Article 24 of the Supplementary Fund Protocol.
  - The entry into force conditions in Article 17 of the draft Protocol, since these would be crucial to ensuring the successful entry into force of the Convention.
- 25.7 The Assembly further noted that the Secretariats of the IOPC Funds and IMO had agreed on necessary changes to Article 1, paragraph 5(a)(vii) of the HNS Convention, as agreed by the Administrative Council (document 92FUND/AC.4/A/ES.13/9, paragraph 5.4).
- 25.8 The Assembly noted that the IMO Secretariat had submitted the draft Protocol and related information for consideration by the Legal Committee during its 94th session to be held during the week commencing 20 October 2008 (document LEG 94/4).
- 25.9 The Assembly also noted that the Correspondence Group, co-ordinated by the delegation of Malaysia, had developed a compromise proposal in respect of contributions to the LNG Account, which was contained in a document submitted by Australia, Belgium, Canada, Denmark, France, Germany, Japan, Malaysia, the Netherlands, Norway, Sweden and the United Kingdom (document LEG 94/4/1), for consideration during the 94th session of the Legal Committee. It was noted that Italy also supported this proposal. The Assembly also noted that Algeria had submitted a document relating to contributions to the LNG Account to the Correspondence Group.
- 25.10 The Assembly further noted that the Secretariat of the IOPC Funds had submitted a document, which contained some minor drafting points in respect of the compromise proposal, to that session of the Legal Committee (document LEG/94/4/2).
- 25.11 The Assembly expressed its sincere gratitude to the co-ordinator of the Correspondence Group, Captain Muhammad Razif Ahmad of Malaysia, for his hard work and dedication which had resulted in the successful development of a compromise proposal.

*Other matters*

**26 Future sessions**

- 26.1 The Assembly decided to hold its next regular session during the week of 12 October 2009.
- 26.2 It was noted that tentative arrangements had also been made with IMO for meetings of the governing bodies during the weeks of 23 March and 15 June 2009. The Chairman pointed out, however, that the March meeting would be short and so would not occupy the whole of that meeting week. The Assembly noted that the Secretariat would arrange the meeting dates taking into account the convenience of the many delegates who attend both Fund meetings and IMO's Legal Committee. It was further noted that the Secretariat would explore with the IMO Secretariat the possibilities of swapping the meeting week with that of Legal Committee (30 March 2009) and that the exact meeting dates would be chosen, in consultation with the relevant Chairmen, at the beginning or end of the chosen week in order to avoid a gap before or after Legal Committee. It was also noted that



changing the week of the March meeting might necessitate a change to the date of the June meeting in order to avoid the March and June meetings being too close together.

## 27 Any other business

### 27.1 STOPIA 2006 AND TOPIA 2006

27.1.1 The Assembly took note of the information contained in document 92FUND/A.13/23 regarding the Small Tanker Owners Pollution Indemnification Agreement (STOPIA) 2006 and the Tanker Owners Pollution Indemnification Agreement (TOPIA) 2006.

27.1.2 It was recalled that at its 12th session held in October 2007, the Assembly had noted the information regarding the numbers of ships entered and not entered in STOPIA 2006 and in TOPIA 2006 and had agreed with the Director's recommendation not to re-open at this stage STOPIA 2006 and TOPIA 2006. It was noted that the Assembly had also welcomed his intention to regularly monitor the situation and to report to the governing bodies of the 1992 Fund and the Supplementary Fund at future sessions (document 92FUND/A.12/28, paragraph 26.12).

#### NUMBER OF TANKERS ENTERED IN STOPIA 2006 AND NOT ENTERED IN STOPIA 2006

27.1.3 It was noted that in October 2008 the International Group had provided the 1992 Fund with a list of ships entered in STOPIA 2006 in the second half of 2008, which had contained 5 451 tankers. It was also noted that since 2007, 911 more small tankers had been entered in STOPIA 2006.

27.1.4 It was noted that the situation with regard to the Japanese coastal (Naiko) tankers was as follows:

Year	Number of Japanese Coastal Tankers entered in Japan P&I Club	Entered in STOPIA 2006	% entered in STOPIA 2006
2007/2008	609	250	41.1
2008/2009	589	341	57.9

Year	Number of Japanese Coastal Tankers > than 200 GT in Japan P&I Club	Entered in STOPIA 2006	% entered in STOPIA 2006
2007/2008	178	128	71.9
2008/2009	176	163	92.6

27.1.5 It was noted that the figures reported in 2007 had also indicated that two tankers entered in Steamship Mutual Underwriting Association (Bermuda) Limited had not been entered in STOPIA 2006. It was also noted that this was no longer the case and that there were no tankers that fell into this category other than those entered in the Japan P&I Club referred to above.

27.1.6 The Assembly noted that the total number of vessels entered in STOPIA 2006 as at October 2008, and that of vessels momentarily entered in International Group Clubs but not entered in STOPIA 2006, as well as those reported in October 2007, was as follows:

Year	Number of tankers entered in STOPIA 2006	Number of tankers not entered in STOPIA 2006	Total	% of total entered in STOPIA 2006
2007/2008	4 540	361	4 901	92.6
2008/2009	5 451	248	5 699	95.6

#### NUMBER OF TANKERS ENTERED IN TOPIA 2006 AND NOT ENTERED IN TOPIA 2006

27.1.7 It was noted that in September 2008 the International Group of P&I Clubs had reported to the Funds that the number of 'Relevant Ships' entered in a P&I Club and not entered in TOPIA 2006 had been

nil, and that the number of 'Relevant Ships' entered in TOPIA 2006 which had ceased to be entered in TOPIA 2006 whilst still insured by a P&I Club had also been nil.

27.1.8 It was noted that the International Group had also reported to the Funds that it had been informed by the Japan P&I Club that the coastal tankers entered in the Japan P&I Club that had been entered in STOPIA 2006 by written agreement were not also entered in TOPIA 2006 because the size of these coastal tankers was generally so small that it was considered most unlikely that the costs of claims for pollution damage arising from an incident with such a tanker would exceed the 1992 Fund limit, ie 203 million SDR. It was also noted that the number of these tankers not entered in TOPIA 2006 because they were not participating in the pooling arrangements of the International Group was 589 (paragraph 27.1.4).

27.2 Transfer within the Budget

The Assembly authorised the Director to make the necessary transfer to Consultants' fees under Miscellaneous expenditure under Chapter V, within the 2008 budget, from Chapter VI (Unforeseen expenditure) to cover the cost of such fees in 2008.

28 Adoption of the Record of Decisions

The draft Record of Decisions of the Assembly, as contained in document 92FUND/A.13/WP.1, was adopted, subject to certain amendments.

\* \* \*

## ANNEX I

### COMPOSITION AND MANDATE OF THE JOINT AUDIT BODY OF THE 1992 FUND, THE 1971 FUND AND THE SUPPLEMENTARY FUND

#### COMPOSITION

- 1 The members of the Audit Body shall perform their functions independently and in the interest of the Organisations as a whole and shall not receive any instructions from anyone, including their Governments.
- 2 The Audit Body shall be composed of seven members elected by the 1992 Fund Assembly: six named individuals nominated by 1992 Fund Member States and one named individual not related to the Organisations ('external expert') with expertise and experience in financial and audit matters, nominated by the Chairperson of the 1992 Fund Assembly. Nominations, accompanied by the curriculum vitae of the candidate, should be submitted to the Director in response to a call for nominations made by the Director. The Chairperson of the 1992 Fund Assembly will, in consultation with the Chairpersons of the 1971 Fund Administrative Council and of the Supplementary Fund Assembly, propose the name of one of the elected members of the Audit Body for consideration and approval by the governing bodies as Chairperson of the Audit Body.
- 3 Members of the Audit Body shall hold office for three years, once renewable. Should nominations for election to the Audit Body not be sufficient to fill vacancies at an election, existing members of the Audit Body having served two terms will be eligible for a once-only re-election, provided they are re-nominated by one or more 1992 Fund Member States. The external expert shall hold office for three years, twice renewable.
- 4 Travel and subsistence expenses of the members of the Audit Body shall be paid by the Organisations. The Assembly of the 1992 Fund will, from time to time, decide on the quantum of the honorarium paid to the six elected members and the fee paid to the external expert. The timing and method of payment will be agreed between the Audit Body and the Director.

#### MANDATE

- 5 The Audit Body shall:
  - (a) review the adequacy and effectiveness of the Organisations' management and financial systems, financial reporting, internal controls, operational procedures, risk management and related matters;
  - (b) promote the understanding and effectiveness of the audit function within the Organisations, and provide a forum to discuss matters referred to in (a) above and matters raised by the external audit;
  - (c) discuss with the External Auditor the nature and scope of each forthcoming audit and provide input to the development of the strategic audit plan;
  - (d) review the Organisations' Financial Statements and reports;
  - (e) consider all relevant reports by the External Auditor, including reports on the Organisations' Financial Statements, and make appropriate recommendations to the Funds' governing bodies;
  - (f) manage the process for the selection of the External Auditor; and
  - (g) undertake any other tasks or activities as requested by the Funds' governing bodies.

- 6 The Chairman of the Audit Body shall report on its work to each regular session of the 1992 Fund Assembly, the 1971 Fund Administrative Council and the Supplementary Fund Assembly.
- 7 Every three years the functioning of the Audit Body and its mandate shall be reviewed by the 1992 Fund Assembly, the 1971 Fund Administrative Council and the Supplementary Fund Assembly on the basis of an evaluation report from the Chairman of the Audit Body.

\* \* \*

## ANNEX II

## 2009 ADMINISTRATIVE BUDGET FOR 1992 FUND

STATEMENT OF EXPENDITURE		Actual 2007 expenditure for 1992 Fund		2007 budget appropriations for 1992 Fund		2008 budget appropriations for 1992 Fund		2009 budget appropriations for 1992 Fund	
		£		£		£		£	
<b>SECRETARIAT</b>									
<b>I</b>	<b>Personnel</b>								
(a)	Salaries	1 289 229		1 433 650		1 485 034		1 548 995	
(b)	Separation and recruitment	20 574		35 000		35 000		35 000	
(c)	Staff benefits, allowances and training	437 078		573 700		632 666		613 930	
	<b>Sub-total</b>		<b>1 746 881</b>		<b>2 042 350</b>		<b>2 152 700</b>		<b>2 197 925</b>
<b>II</b>	<b>General Services</b>								
(a)	Rent of office accommodation (including service charges and rates)	277 299		280 400		316 300		319 300	
(b)	Office machines (IT hardware/software) / maintenance	61 293		110 000		80 000		71 500	
(c)	Furniture and other office equipment	3 704		17 500		15 000		25 000	
(d)	Office stationery and supplies	13 922		22 000		22 000		22 000	
(e)	Communications (courier, telephone, postage, e-mail/internet)	47 357		68 000		73 000		68 000	
(f)	Other supplies and services	25 925		37 500		37 500		32 500	
(g)	Representation (hospitality)	17 704		25 000		25 000		25 000	
(h)	Public Information	66 171		180 000		180 000		200 000	
	<b>Sub-total</b>		<b>513 375</b>		<b>740 400</b>		<b>748 800</b>		<b>763 300</b>
<b>III</b>	<b>Meetings</b>								
	Sessions of the 1992, Supplementary and 1971 Fund Governing Bodies and Intersessional Working Group:		228 548		200 000		175 000		175 000
<b>IV</b>	<b>Travel</b>								
	Conferences, seminars and missions		102 733		160 000		150 000		150 000
<b>V</b>	<b>Miscellaneous expenditure</b>								
(a)	External audit fees for IOPC Funds	60 500		60 500		62 000		62 400	
(b)	Consultants' fees	136 921		180 000		150 000		150 000	
(c)	Audit Body	101 170		110 000		110 000		120 000	
(d)	Investment Advisory Bodies	37 500		37 500		37 500		45 000	
	<b>Sub-total</b>		<b>336 091</b>		<b>388 000</b>		<b>359 500</b>		<b>377 400</b>
<b>VI</b>	<b>Unforeseen expenditure (such as consultants' and lawyers' fees, cost of extra staff and cost of equipment)</b>		-		60 000		60 000		60 000
<b>Total Expenditure I-VI</b>			<b>2 927 628</b>		<b>3 590 750</b>		<b>3 646 000</b>		<b>3 723 625</b>
<b>Total Expenditure I-VI excluding External Audit fees for IOPC Funds</b>							<b>3 584 000</b>		<b>3 661 225</b>
<b>VII</b>	<b>Due from 71Fund</b>								
	Management fee payable to 1992 Fund by 1971 Fund		275 000		275 000		(210,000)		(210,000)
<b>VIII</b>	<b>Due from Supplementary Fund</b>								
	Management fee payable to 1992 Fund by Supplementary Fund		70 000		70 000		(50,000)		(50,000)
<b>1992 Fund Budget Appropriation excluding External audit fee for IOPC Funds</b>							<b>3 324 000</b>		<b>3 401 225</b>
<b>1992 Fund Budget Appropriation including External audit fee for 1992 Fund only</b>							<b>3 372 500</b>		<b>3 449 725</b>