



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

ASSEMBLY
9th session
Agenda Item 20

92FUND/A.9/18
23 September 2004
Original: ENGLISH

ADMINISTRATIVE COUNCIL
15th session
Agenda Item 1

71FUND/AC.15/13

REVIEW OF INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS HAVING OBSERVER STATUS

Note by the Director

Summary:

In connection with the review of the list of international non-governmental organisations having observer status carried out by the governing bodies at their October 2003 sessions, the governing bodies decided that the observer status of the Advisory Committee on Protection of the Sea (ACOPS) should be reviewed at the October 2004 sessions. The contributions made by ACOPS to the IOPC Funds' activities are reviewed. An analysis is made of the term 'truly international character' in the Guidelines on relations between the 1992 Fund and intergovernmental organisations and international non-governmental organisations. Consideration is given as to whether the Conference of Peripheral Maritime Regions (CPMR), which has provisional observer status with the 1992 Fund, should be given observer status on a permanent basis.

Action to be taken:

- (a) Consider whether to withdraw the observer status of ACOPS;
- (b) Clarify the term 'truly international character' in the above mentioned Guidelines (1992 Fund Assembly only); and
- (c) Review the provisional observer status of CPMR (1992 Fund Assembly only).

1 Introduction

- 1.1 Pursuant to Article 18.10 of the 1971 and 1992 Fund Conventions, the Assembly shall determine which non-Contracting States and which inter-governmental and international non-governmental organisations shall be admitted to take part, without voting rights, in meetings of the Assembly and subsidiary bodies.
- 1.2 Under Rule 5 of the 1971 and 1992 Fund Assemblies' Rules of Procedure, the Director shall invite to be represented by observers at any session of the Assembly *inter alia* any international non-governmental organisation which the Assembly has decided to admit to its meetings in accordance with Article 18.10 of the 1971 and 1992 Fund Conventions.
- 1.3 At its 1st session, held in June 1996, the 1992 Fund Assembly adopted Guidelines on relations between the International Oil Pollution Compensation Fund 1992 and intergovernmental

organisations and international non-governmental organisations which set out, *inter alia*, the criteria for the granting of observer status (document 92FUND/A.1/34/1). These guidelines were amended at the Assembly's 7th session in October 2002 to include provisions on the granting of observer status on a provisional basis and on a periodic review of whether observer organisations continue to fulfil the criteria set out in the guidelines. The guidelines are reproduced in Annex I.

1.4 As regards the periodic review, the Guidelines read as follows:

The Assembly will review every three years the list of international non-governmental organisations having observer status in order to determine whether the continuance of observer status for any particular organisation is of mutual benefit.

1.5 The 1992 Fund Assembly also decided at its October 2002 session that the first review should take place at its October 2003 session.

1.6 Corresponding guidelines were adopted by the 1971 Fund Assembly in 1979, but they were not amended in 2002.

1.7 The following international non-governmental organisations have been granted observer status:

Advisory Committee on Protection of the Sea (ACOPS)
BIMCO
Comité Maritime International (CMI)
Conference of Peripheral Maritime Regions (CPMR) (1992 Fund only)
Cristal Limited
European Chemical Industry Council (CEFIC) (1992 Fund only)
Federation of European Tank Storage Associations (FETSA)
Friends of the Earth International (FOEI)
International Association of Independent Tanker Owners (INTERTANKO)
International Chamber of Shipping (ICS)
International Group of P & I Clubs
International Salvage Union (ISU)
International Tanker Owners Pollution Federation Limited (ITOPF)
International Union for the Conservation of Nature and Natural Resources (IUCN)
Oil Companies International Marine Forum (OCIMF)

2 Review of observer status carried out in October 2003

2.1 At their sessions in October 2003, it was noted by the governing bodies that many international non-governmental organisations having observer status with the 1992 Fund Assembly also had observer status with the 1971 Fund. It was therefore agreed that the review should be carried out on behalf of both governing bodies.

2.2 In accordance with a decision taken at their October 2002 sessions, the governing bodies set up a group of five States to consider whether the international non-governmental organisations granted observer status should continue to have such status and to report its findings during that session to the governing bodies.

2.3 The group held a meeting during that session and its report to the governing bodies included the following points:

The group noted that the Advisory Committee on Protection of the Sea (ACOPS) had not attended any meetings during the period 1996-2003 and therefore recommended that the governing bodies request the Director to write to ACOPS stating that the governing bodies were seriously concerned

that ACOPS had not attended any meetings since the establishment of the 1992 Fund, despite enjoying observer status, notifying it of the meeting dates for 2004 and informing it that the governing bodies would consider whether to withdraw the observer status of ACOPS at its session in October 2004.

The group noted that the provisional observer status of CPMR would need to be reviewed by the 1992 Fund Assembly no later than April 2005 and recalled that when observer status was granted to CPMR on a provisional basis some doubt had been expressed as to whether CPMR was an organisation of 'truly international character'. The group therefore recommended that, in advance of that review, the Assembly should clarify the term 'truly international character' and that the Assembly should instruct the Director to write to CPMR requesting an updated membership list.

- 2.4 The governing bodies endorsed the group's recommendations (documents 92FUND/A.8/30, paragraphs 17.1-17.8 and 71FUND/AC.12/22, paragraphs 14.1-14.8). The 1992 Fund Assembly decided that the provisional observer status of CPMR should be reviewed at its session in October 2004 (document 92FUND/A.8/30, paragraph 17.9).

3 Review in respect of ACOPS

- 3.1 The Advisory Committee on Protection of the Sea (ACOPS) was granted observer status with the 1971 Fund in 1985 (document FUND/A.8/15, paragraph 3) and with the 1992 Fund in 1996 (document 92FUND/A.1/34, paragraph 4.2).
- 3.2 The Director wrote to ACOPS in December 2003, as instructed by the governing bodies, informing it *inter alia* that the governing bodies would consider whether to withdraw its observer status at their sessions in October 2004. The Director has not received any response to this letter.
- 3.3 ACOPS has not attended any meetings of the IOPC Funds during 2004, nor submitted any documents.
- 3.4 Paragraphs B.II and B.2 respectively of the 1971 and 1992 Fund Guidelines provide for the possibility of the withdrawal of the observer status granted to an international non-governmental organisation if the Assembly considers that there is no further advantage to the respective Fund in continuing with that status or if any conflict of interests arises or is likely to arise between the respective activities of the Fund and the organisation concerned.
- 3.5 The Director is of the view that there is no further advantage to the 1971 and 1992 Funds in ACOPS continuing to have observer status. He therefore recommends that the governing bodies should withdraw the observer status of ACOPS.

4 Clarification of the term 'truly international character'

- 4.1 Paragraph B.1 (a) of the 1992 Fund Guidelines on relations between the 1992 Fund and intergovernmental organisations and international non-governmental organisations states:
Observer status may be granted by the Assembly to an international non-governmental organisation, at its request, if:
(a) the organisation concerned is of truly international character and its objectives are in harmony with those of the 1992 Fund:
- 4.2 The Guidelines do not provide any clarification of the term 'truly international character'.

- 4.3 The term 'truly international' is used by the International Maritime Organization (IMO) in Rule 5 of its 'Rules Governing Relationships with Non-Governmental Organizations', which deal with the granting of consultative status, the equivalent of the IOPC Funds' observer status. Rule 5 provides *inter alia*:

Consultative status may not be granted to any non-governmental international organization unless it has a permanent headquarters, a governing body and an executive officer, and is truly international with members, component branches or affiliated bodies in a sufficient number of countries.

- 4.4 IMO's Rules Governing Relationships with Non-Governmental Organizations are supplemented by 'Guidelines on the Grant of Consultative Status'. The introduction to these Guidelines states *inter alia*:

These guidelines are intended to supplement the provisions of the Rules and are to be applied subject to those provisions. Their purpose is to enable the Council and the Committees of IMO to assess applications for consultative status in order to ascertain whether any organization applying for such status meets the requirements stipulated in the Rules. It is intended that these guidelines shall be applied by the Committees with a degree of flexibility in respect of individual applications.

- 4.5 As regards the term 'truly international', paragraph A.IV of the Guidelines states:

Consultative status shall only be granted to non-governmental organizations which are truly international and are active and effective in their field. An organization shall be deemed to be an international organization for this purpose only if it has members, component branches or affiliated bodies in a sufficient number of countries, depending on the nature of the interest or interests represented by that organization.

- 4.6 In the Director's opinion, the term 'truly international character' in relation to observer status with the IOPC Funds should be interpreted in a similar way, ie an organisation should be considered to be of truly international character if it has members, component branches or affiliated bodies in a sufficient number of countries, depending on the nature of the interest or interests represented by that organisation. However, bearing in mind the relatively narrow range of subjects relevant to the work of the IOPC Funds, the Director is of the opinion that, as for IMO, this term should be interpreted with a degree of flexibility in respect of individual applications for observer status.

5 Review in respect of CPMR

- 5.1 At its April/May 2002 session, the 1992 Fund Assembly decided that the Conference of Peripheral Maritime Regions (CPMR) should be granted observer status on a provisional basis and that the status of CPMR should be re-examined at a later session. At that session, one delegation considered that it could be said that CPMR was not of a truly international character since it was a European organisation (document 92FUND/A/ES.6/10, paragraphs 9.1.1 and 9.1.4).
- 5.2 An updated membership list for CPMR is attached at Annex II, from which it can be seen that the Regions which are members of CPMR are located in 25 States, of which 23 are, or will shortly be, Members of the 1992 Fund, in three continents.
- 5.3 The Director is of the opinion that CPMR does have members in a sufficient number of countries to be considered as being of 'truly international character'. He therefore recommends that the Assembly should grant observer status to CPMR on a permanent basis.

6 Action to be taken by the governing bodies

6.1 The governing bodies are invited:

- (a) to take note of the information contained in this document; and
- (b) to decide whether to withdraw the observer status of ACOPS.

6.2 The 1992 Fund Assembly is invited:

- (a) to clarify the meaning of the term 'truly international character'; and
- (b) to review the observer status of CPMR.

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ANNEX I

Text as revised by the 1992 Fund Assembly at its October 2002 session

GUIDELINES ON RELATIONS BETWEEN THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND 1992 (1992 FUND) AND INTERGOVERNMENTAL ORGANISATIONS AND INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS

A Intergovernmental organisations

- 1 The International Oil Pollution Compensation Fund 1971 will be invited to be represented at all meetings of the Assembly and may be invited, as appropriate, to meetings of subsidiary bodies which may be established.
- 2 The United Nations and the International Maritime Organization and any other specialised agency of the United Nations whose interests and those of the 1992 Fund are of common concern, will be invited to be represented by observers at all meetings of the Assembly and may be invited, as appropriate, to meetings of subsidiary bodies.
- 3 The Assembly will consider requests to be represented by observers received from other intergovernmental organisations whose aims and activities are relevant to those of the 1992 Fund or which are interested in the work of the 1992 Fund. An invitation to attend a session of the Assembly or other meeting may, subject to confirmation by the Assembly, be issued by the Director to any organisation making such a request. The Assembly may decide that invitations be sent to such an organisation either for a specific session or meeting or on a regular basis.
- 4 An agreement for co-operation may, with the approval of the Assembly, be concluded between the 1992 Fund and any intergovernmental organisation, if it is in their mutual interest to do so. The agreement may provide, where appropriate on a reciprocal basis, for admission as an observer, exchange of information, consideration of suggestions for agenda items, consultation on programmes and joint activities and other practical co-operation.

B International non-governmental organisations

- 1 Observer status may be granted by the Assembly to an international non-governmental organisation, at its request, if:
 - (a) the organisation concerned is of truly international character and its objectives are in harmony with those of the 1992 Fund;
 - (b) it has aims, responsibilities or activities in the fields related to those of the 1992 Fund or which are of concern or interest to the 1992 Fund, particularly in connection with pollution and environmental matters, maritime and shipping affairs, marine insurance, production or transport of oil or relevant questions of international law; and
 - (c) it is able to make a contribution to the work of the 1992 Fund, for example by providing specialised information, advice or expertise, or by identifying or helping to procure the services of experts or consultants, or

by otherwise furnishing technical assistance or by making research facilities available.

- 2 Observer status may be granted on a provisional basis for a period normally not exceeding three years.
- 3 Observer status will be withdrawn if the Assembly considers that there is no further advantage to the 1992 Fund in continuing with the same or if any conflict of interests arises or is likely to arise between the respective activities of the 1992 Fund and the organisation concerned.
- 4 The Assembly will review every three years the list of international non-governmental organisations having observer status in order to determine whether the continuance of observer status for any particular organisation is of mutual benefit.

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ANNEX II

Regions which are Members of the Conference of Peripheral Maritime Regions (CPMR)

As at 20 September 2004

Aberdeenshire (United Kingdom)	Famagusta (Cyprus)
Abruzzo (Italy)	Fife (United Kingdom)
Açores (Portugal)	Finnmark (Norway)
Åland (Finland)	Friuli-Venezia-Giulia (Italy)
Alentejo (Portugal)	Galati (Rumania)
Algarve (Portugal)	Galicía (Spain)
Anatoliki Makedonia Thraki (Greece)	Gävleborg (Sweden)
Andalucía (Spain)	Gloucestershire & South-Gloucestershire (United Kingdom)
Aquitaine (France)	Gotland (Sweden)
Argyll And Bute (United Kingdom)	Gozo (Malta)
Arhus (Denmark)	Guadeloupe (France)
Asturias (Spain)	Guyane (France)
Attiki (Greece)	Halland (Sweden)
Aust Agder (Norway)	Hampshire (United Kingdom)
Baleares (Spain)	Highland (United Kingdom)
Balvi (Lithuania)	Hiiumaa (Estonia)
Basilicata (Italy)	Hordaland (Norway)
Basse-Normandie (France)	Ida-Virumaa (Estonia)
Border (Ireland)	Ionia Nisia (Greece)
Bornholm (Denmark)	Ipiros (Greece)
Bretagne (France)	Isle of Man
Buskerud (Norway)	Isle of Wight (United Kingdom)
Calabria (Italy)	Istria (Croatia)
Calarasi (Rumania)	Itä-Uusimaa (Finland)
Campania (Italy)	Kentriki Makedonia (Greece)
Canarias (Spain)	Kirklareli (Turkey)
Cantabria (Spain)	Klaipeda (Lithuania)
Caras-Severin (Rumania)	Kriti (Greece)
Castilla Y Leon (Spain)	Kymenlaakso (Finland)
Catalunya (Spain)	La Reunion (France)
Centre (France)	La Rioja (Spain)
Centro (Portugal)	Languedoc-Roussillon (France)
Comunitat Valenciana (Spain)	Lazio (Italy)
Constanta (Rumania)	Liguria (Italy)
Cornwall (United Kingdom)	Limousin (France)
Corse (France)	Lisboa E Vale Do Tejo (Portugal)
Devon (United Kingdom)	Madeira (Portugal)
Dytiki Ellada (Greece)	Marche (Italy)
Dytiki Makedonia (Greece)	Martinique (France)
East of England Regional Assembly (United Kingdom)	Mecklenburg-Vorpommern (Germany)
East of Scotland European Consortium (Aberdeen City, Angus, Perth & Kinross, Dundee City, Clackmannanshir, Stirling, Falkirk, West Lothian, City of Edimburgh, Midlothian, East Lothian, Aberdeenshire, Fife, West Lothian (United Kingdom)	Melilla (Spain)
Edirne (Turkey)	Midi-Pyrenees (France)
Emilia-Romagna (Italy)	Møre Og Rømsdal (Norway)
	Murcia (Spain)
	Navarra (Spain)
	Noord-Holland (Netherlands)
	Noord Nederland (Netherlands)
	Norrbottn (Sweden)

Nordland (Norway)
Nord-Pas De Calais (France)
Nord-Trondelag (Norway)
Norte (Portugal)
Northern Ireland Assembly (United Kingdom)
Notio Aigaio (Greece)
Odessa (Ukraine)
Öland (Sweden)
Orkney (United Kingdom)
Østfold (Norway)
Ostrobothnia (Finland)
Oulu Region (Finland)
País Vasco (Spain)
Päijät-Häme (Finland)
Pärnumaa (Estonia)
Pays De La Loire (France)
Peloponnisos (Greece)
Podlaskie (Poland)
Poitou-Charentes (France)
Provence-Alpes-Cote D'azur (France)
Puglia (Italy)
Riga (Lithuania)
Ringkøbing (Denmark)
Rogaland (Norway)
Saaremaa (Estonia)
Sardegna (Italy)
Scottish Executive (United Kingdom)
Shetland (United Kingdom)
Sicilia (Italy)
Södermanland (Sweden)

Sogn Og Fjordane (Norway)
Somerset (United Kingdom)
Sør-Trondelag (Norway)
Sousse (Tunisia)
South of Scotland Alliance (United Kingdom)
South-West Finland (Finland)
Sterea Ellada (Greece)
Stockholm (Sweden)
Suffolk (United Kingdom)
Tanger-Tetouan (Morocco)
Tekirdag (Turkey)
Telemark (Norway)
Thessalia (Greece)
Toscana (Italy)
Troms (Norway)
Tukums (Lithuania)
Tulcea (Rumania)
Umbria (Italy)
Uppsala (Sweden)
Västerbotten (Sweden)
Vasternorrland (Sweden)
Västra-Götaland (Sweden)
Vest-Agder (Norway)
Vestfold (Norway)
Viborg (Denmark)
Voreio Aigaio (Greece)
Wales (United Kingdom)
Western Isles (United Kingdom)
Zeeland (Netherlands)
