



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

ASSEMBLY
8th extraordinary session
Agenda item 3

92FUND/A/ES.8/2/6
20 May 2004
Original: ENGLISH

PREPARATIONS FOR THE ENTRY INTO FORCE OF THE SUPPLEMENTARY FUND PROTOCOL

Operational matters

Note by the Director

Summary:	This document deals with issues relating to operational matters which will have to be considered in connection with the setting up of the Supplementary Fund.
Action to be taken:	Give the Director instructions in respect of: <ul style="list-style-type: none">(a) the Internal Regulations of the Supplementary Fund;(b) the Financial Regulations of the Supplementary Fund and the 1992 Fund;(c) the External Auditor of the Supplementary Fund;(d) the Investment Advisory Body of the Supplementary Fund; and(e) the Audit Body of the Supplementary Fund.

1 **Introduction**

- 1.1 Article 16.2 of the Supplementary Fund Protocol provides *inter alia* that Articles 18 and 29 of the 1992 Fund Convention, which deal with certain financial matters, shall apply to the Assembly, Secretariat and Director of the Supplementary Fund.
- 1.2 As instructed by the 1992 Fund Assembly at its 8th session in October 2003, the Director has prepared Draft Financial Regulations for adoption by the Supplementary Fund Assembly at its first session.
- 1.3 The present document also deals with the appointment of an External Auditor and the establishment of an Investment Advisory Body and an Audit Body to the Supplementary Fund.

2 **Internal Regulations**

- 2.1 Under Article 16.2 of the Supplementary Fund Protocol and Article 18.3 of the 1992 Fund Convention, the Supplementary Fund Assembly shall adopt Internal Regulations necessary for the proper functioning of the Fund.
- 2.2 Since the contents of the Internal Regulations of the Supplementary Fund will, on a number of points, depend on the instructions that the 1992 Fund Assembly may wish to give him in respect of various matters dealt with in other documents submitted to the Assembly, the Director has not yet prepared draft Internal Regulations for the Supplementary Fund.

3 Financial Regulations

- 3.1 The Assembly of the 1992 Fund adopted Financial Regulations at its 1st session. They deal with various aspects of the 1992 Fund's finances, in particular the accounts and investments. These Regulations have been amended from time to time.
- 3.2 A draft of the Financial Regulations for the Supplementary Fund is reproduced at the Annex and follows as closely as possible those of the 1992 Fund. Any differences between the two sets of Regulations are indicated.
- 3.3 The Director also proposes certain amendments to the 1992 Fund's Financial Regulations in the light of experience.
- 3.4 It is proposed that Regulation 7.1(a)(v) of the 1992 Fund Financial Regulations be deleted since it duplicates Regulation 7.1(a)(iii). It is also proposed that Regulation 10.4(a), second sentence, of the 1992 Fund Financial Regulations be deleted since it contradicts the first sentence in that Regulation.
- 3.5 A number of 1992 Fund Financial Regulations contain the phrase 'the Assembly or, where appropriate, a subsidiary body established by the Assembly under Article 18.9 of the 1992 Fund Convention'. However, the expression 'or, where appropriate, subsidiary body established by the Assembly under Article 18.9 of the 1992 Fund Convention' appears to be superfluous since under Regulation 1.7 'Assembly' means the Assembly referred to in Article 17 of the 1992 Fund Convention or, where appropriate, a subsidiary body established by the Assembly in accordance with Article 18.9 of the 1992 Fund Convention. It is suggested therefore that this expression be deleted.
- 3.6 In the draft Financial Regulations for the Supplementary Fund, Regulations 6.2 and 6.3 have been placed within square brackets, pending the recommendations to be given by the 1992 Fund Assembly on certain aspects of the budget.
- 3.7 The Investment Advisory Bodies are considering whether Financial Regulation 10.4(c), which deals with the maximum amount to be invested with any one financial institution, needs to be revised in view of the fact that there will be three Funds.
- 3.8 Financial Regulation 2 of the 1992 Fund deals with conversion of SDRs into Pounds Sterling. There is no need for a corresponding provision for the Supplementary Fund.
- 3.9 A new Financial Regulation 13 is proposed for inclusion in respect of the Audit Body of the three Organisations. A provision relating to the Audit Body has also been included in Financial Regulation 14 which deals with the External Auditor.
- 3.10 The Director intends to study the Financial Regulations further and will submit proposals for any additional changes for consideration by the 1992 Fund and Supplementary Fund Assemblies and the 1971 Fund Administrative Council at a future date.

4 External Auditor

- 4.1 Under Article 16.2 of the Supplementary Fund Protocol and Article 18.6 of the 1992 Fund Convention, the Supplementary Fund Assembly shall appoint auditors for the Supplementary Fund.
- 4.2 Financial Regulation 13.1 of the 1992 Fund and the 1971 Fund provides that the Assembly of the Fund shall appoint an External Auditor, who shall be the Auditor-General (or officer holding the equivalent title) of a Member State, in the manner and for the period decided by the Assembly.

- 4.3 Since, if the Director's proposal in this regard is accepted, the Supplementary Fund and the 1992 Fund and, at least for some time, the 1971 Fund will be operating in parallel and will share a joint Secretariat, it would seem appropriate that the same person should act as External Auditor for all three Organisations.
- 4.4 The Comptroller and Auditor General of the United Kingdom has been the External Auditor of the 1971 and 1992 Funds since these Organisations were created in 1978 and 1996 respectively. The present appointment expires on 31 December 2006.
- 4.5 The External Auditor of the 1992 Fund and the 1971 Fund has been appointed for successive periods of four years. It is proposed that the term of office for the External Auditor of the Supplementary Fund should also be four years. In order that the terms of office of the External Auditor of the three Organisations should coincide, however, it is proposed that the appointment of the External Auditor of the Supplementary Fund should initially be from a date to be decided by the Supplementary Fund Assembly at its 1st session to 31 December 2006, and thereafter for periods of four years.
- 4.6 The Auditor General of the United Kingdom has confirmed that he would be pleased to be proposed for appointment also as External Auditor of the Supplementary Fund.

5 Investment Advisory Body

- 5.1 The 1992 and 1971 Funds have each an Investment Advisory Body composed of external experts with special knowledge in investment matters, to advise the Director in general terms on such matters. The members of the Investment Advisory Bodies, who are elected by the governing bodies of these Organisations, are the same for both Funds.
- 5.2 The Director proposes that the Supplementary Fund should have an Investment Advisory Body with the same mandate as that of the Bodies of the 1971 and 1992 Funds and that the composition of the three Bodies should be the same.

6 Audit Body

- 6.1 The 1971 Fund and the 1992 Fund have a joint Audit Body. The mandate and composition of the Audit Body as decided by the governing bodies are set out in document 92FUND/A.7/29, paragraph 12.6 and Annex II, and 71FUND/AC.9/20, paragraph 8.6 and Annex I.
- 6.2 The Director proposes that the Supplementary Fund should have a joint Audit Body with the 1971 and 1992 Funds.

7 Action to be taken

The Assembly is invited

- (a) to take note of the information contained in this document; and
- (b) to give the Director such instructions as it deems appropriate in respect of:
 - (i) the Internal Regulations of the Supplementary Fund;
 - (ii) the Financial Regulations of the Supplementary Fund;
 - (iii) the External Auditor of the Supplementary Fund;
 - (iv) the Investment Advisory Body of the Supplementary Fund; and
 - (v) the Audit Body of the Supplementary Fund.