



ELECTION OF MEMBERS OF THE AUDIT BODY

Note by the Director

Summary:	The 1992 Fund and the 1971 Fund have a joint Audit Body. The Director has proposed that the Audit Body should also be the Audit Body of the Supplementary Fund and that the members of the joint Body should be elected by the 1992 Fund Assembly. The mandate of the present members of the Body expires at the October 2005 sessions of the 1992 and 1971 Fund's governing bodies. The election of the Audit Body will take place at the governing bodies' sessions in October 2005. The procedure for this election is considered.
Action to be taken:	To decide on the election procedure.

1 Composition of the Audit Body

- 1.1 The 1992 Fund and the 1971 Fund have a joint Audit Body. The present mandate of the Body is reproduced in Annex I of document 92FUND/A/ES.9/16.
- 1.2 The joint Audit Body is composed of seven members elected by the governing bodies: one named Chairman nominated by Member States, five named individuals nominated by Member States and one named individual not related to the Organisations ('outsider'), with expertise and experience in audit matters nominated by the Chairmen of the respective governing bodies.
- 1.3 At their October 2002 sessions the governing bodies of the 1992 and 1971 Funds elected the persons listed in paragraph 1.3 of document 92FUND/A/ES.9/16 as members of the Audit Body for a term of three years.
- 1.4 As decided by the governing bodies, the term of three of the six members of the first Audit Body to be elected, ie those elected in October 2002 from Member States, shall not be renewable (Mandate, item 2).
- 1.5 This document is based on the assumption that the Director's proposal that the election of members of the joint Audit Body should be made by the 1992 Fund Assembly only would be adopted.

2 Nomination and election of candidates

- 2.1 As the term of office of the present members of the Audit Body expires in October 2005, the election of the members of the Audit Body for the period 2005-2008 will take place at the governing bodies' sessions in October 2005.
- 2.2 The Director intends to write to Member States inviting nominations of candidates for election to the Audit Body, accompanied by the curriculum vitae of the candidate, to be submitted to him at least eight weeks in advance of the October 2005 sessions, ie by 22 August 2005 at the latest. Nominations would, in the Director's view, be required also in respect of any of the present members who wish to stand for re-election. All nominations received would be circulated to delegations in due course.
- 2.3 At their October 2002 sessions, the governing bodies of the 1992 and 1971 Funds decided that the election should be held jointly by the governing bodies. At those sessions the election of members of the Audit Body was held by secret ballot in accordance with the Rules of Procedure of the Assemblies (cf Rules 32, 38 and 40. It was agreed that each voting delegation had to select six candidates, failing which the voting paper would become invalid (documents 92FUND/A.7/29, paragraph 12.9 and 71FUND/AC.9/26, paragraph 8.9). The Director is of the view that a similar election procedure should be used in October 2005.
- 2.4 The provisions governing elections are set out in Rules 37-40 of the Assembly's Rules of Procedure which are reproduced in the Annex. However, in the case of the election of members of the Audit Body to take place in October 2005, there is a special proviso, ie that the term of office of three of the present members elected from Member States shall not be renewable. In the Director's view, there appear to be two options as regards the procedure:
- Option 1: There should be only one ballot including the candidatures of all present members of the Audit Body elected from Member States wishing to stand for re-election as well as any other candidatures received by the Director before the deadline of 22 August 2005. The persons to be elected would be the six candidates having received the highest number of votes, provided however that not more than three of the present members would be taken into account for this purpose.
- Option 2: Should more than three members of the present Audit Body elected from Member States stand for re-election, a first ballot would be held between these candidates and the three of them receiving the highest number of votes would be re-elected for a second term of three years. A second ballot would then be held between all other candidates nominated by Member States (ie other than the present members), and the three candidates receiving the highest number of votes would be elected.
- 2.5 In respect of the choice between these options, the Director makes the following observations. The Mandate does not provide that three of the members of the first Audit Body elected from Member States, ie those elected in October 2002, must be re-elected. It appears, therefore, that it was intended that in any subsequent elections all candidates should be placed on an equal footing, and this would be the case under Option 1. However, the fact that the term of three of the members could be renewed indicates, in the Director's view, that the governing bodies wanted to make it possible to obtain a successive renewal of the members, thereby ensuring continuity. Option 2 would give certainty that such a successive renewal would take place. Nevertheless, the Director considers that the wording of the mandate points at Option 1, under which all candidates would participate in one single ballot. For this reason, the Director proposes that the election should be carried out in accordance with Option 1, ie by one single ballot.
- 2.6 The proposed procedure would not under either option concern the seventh member ('outsider') who is elected separately. Under the Mandate (item 1), this member will be elected by the 1992 Fund Assembly on the nomination of its Chairman.

3 Action to be taken by the Assembly

The Assembly is invited:

- (a) to take note of the information contained in this document; and
- (b) to decide on the procedure to be used at its October 2005 session for the election of the members of the Audit Body.

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ANNEX

RULES OF PROCEDURE FOR THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND ESTABLISHED UNDER THE 1992 FUND CONVENTION

Rule 37

Elections shall be decided by secret ballot unless the Assembly decides otherwise.

Rule 38

In a secret ballot two scrutineers shall, on the proposal of the Chairman, be appointed by the Assembly from the Members present and shall proceed to scrutinize the votes cast. All invalid votes cast shall be reported to the Assembly.

Rule 39

If one person or Member only is to be elected and no candidate obtains a majority in the first ballot, a second ballot shall be taken confined normally to the two candidates obtaining the largest number of votes save where the Assembly decides otherwise. If in the second ballot the votes are equally divided, the election shall be deferred until the next meeting, when, if another tie results, the Chairman shall decide between the candidates by drawing lots.

Rule 40

- (a) When two or more places are to be filled by election at one time under the same conditions, those candidates obtaining the majority required under Rule 32 in the first ballot shall be declared elected.
- (b) If the number of candidates obtaining the requisite majority is greater than the number of seats to be filled, those candidates obtaining the greatest number of votes shall be declared elected.
- (c) If the number of candidates obtaining the requisite majority is less than the number of persons or Members to be elected, there shall be an additional ballot or ballots, as necessary, to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot and the number of candidates being not more than twice as many as the places remaining to be filled. Should the same number of votes be obtained, however, by two or more candidates for the last place in this restricted list, they shall all be placed on the list.
- (d) If two or more candidates obtain the same number of votes for the last seat or seats to be filled, there shall be a further ballot among these candidates only. Should the votes again be divided equally, the Chairman shall draw by lot the name of the candidate to be eliminated in the subsequent ballot.
- (e) A voting paper containing the names of a greater number of candidates than the number required to be elected shall be considered invalid.