



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1992

ASSEMBLY  
9th extraordinary session  
Agenda item 24

92FUND/A/ES.9/22  
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## CREDENTIALS FOR 1992 FUND MEETINGS

### Note by the Director

<b>Summary:</b>	This document examines the situation as regards credentials and notifications for attendance at meetings and proposes measures to mitigate any problems.
<b>Action to be taken:</b>	To decide whether to establish a Credentials Committee and, if so, on appropriate amendments to the Rules of Procedure.

### 1 Introduction

With the growth in membership of the 1992 Fund, the problems experienced by the Secretariat regarding credentials and/or notifications submitted by States and organisations in respect of attendance at meetings have increased. The establishment of the Supplementary Fund is likely to increase these problems still further. This document sets out the difficulties encountered and proposals as to how they could be addressed.

### 2 Requirement for credentials and/or notifications

2.1 As regards credentials, the Rules of Procedure for the 1992 Fund Assembly provides:

#### **Rule 9**

Each Member shall transmit to the Director the credentials of its representative, together with the names of any alternates or other members of its delegation not later than the opening day of the Assembly. The credentials shall be issued by the Head of State or by the Head of Government or by the Minister for Foreign Affairs or by an appropriate authority as determined by the Government and communicated to the Director.

#### **Rule 10**

The Director shall examine the credentials of delegations and report to the Assembly without delay.

#### **Rule 11**

Any representative to whose admission a Member has made objection shall be seated provisionally with the same rights as other representatives until the Assembly has given its decision on the report of the Director on credentials.

- 2.2 The Rules of Procedure for the 1992 Fund Executive Committee and those proposed for the Supplementary Fund Assembly are identical in this regard. It should be noted that, as regards 1992 Fund Member States which are not members of the Executive Committee but attend its meetings as observers, notification to the Director of the names of the persons who will attend is sufficient.
- 2.3 As regards Member States attending meetings of any intersessional Working Groups of the 1992 Fund or former 1971 Fund Member States attending meetings of its Administrative Council, only notifications are required. The same applies to any States or organisations with observer status attending any Fund meetings, ie the 1992 Fund Assembly, Administrative Council and Executive Committee, the 1971 Fund Administrative Council, the Supplementary Fund Assembly and any Working Groups.
- 2.4 The situation as regards the International Maritime Organization (IMO) is broadly similar, except that the Rules of Procedure for the Assembly of the IMO provide for the establishment of a Credentials Committee, as follows:

#### **Rule 10**

A credentials committee shall be appointed at the beginning of each session of the Assembly. It shall consist of five members who shall be appointed by the Assembly on the proposal of the President. The Credentials Committee shall examine the credentials of delegations and report without delay.

#### **Rule 11**

Any representative to whose admission a Member has made objection shall be seated provisionally with the same rights as other representatives until the Credentials Committee has reported and the Assembly has given its decision.

### **3 The issue**

- 3.1 The situation as regards both the requirements for and the form and content of credentials and notifications is considerably more complicated for meetings of the IOPC Funds than for other similar organisations, such as IMO, as a result of the practice of holding meetings of several IOPC Funds' bodies during the same week. Whilst organisations are only required to submit notifications, most States will have to submit a combination of credentials and notifications depending on their status with respect to the bodies meeting during a particular week.
- 3.2 The Secretariat has attempted to resolve any problems with credentials and notifications during meetings, but a few problems have usually still been outstanding at the end of the week. The governing bodies have normally authorised the Director to resolve any such problems during the following week. Whilst this has been acceptable in the past, a serious problem may arise if a vote needs to be held during the meeting week. In October 2005, the 1992 Fund Assembly will elect the next Director as well as members of the Audit Body. According to Rules 37 and 55 of the Rules of Procedure of the Assembly, these elections will be held by secret ballot. It is therefore essential that all credentials are in order before the ballots are carried out. A delegation whose credentials are not in order at the time of the ballot will not be eligible to vote.

### **4 Form and content of credentials and notifications**

- 4.1 The Director suggests that the following guidance should be given as regards the form and content of credentials and notifications.

Formal requirement as regards credentials

- 4.2 As provided in Rule 9 of the 1992 Fund Assembly's Rules of Procedure (and of the proposed Rules of Procedure of the Supplementary Fund Assembly), the credentials shall be issued (a) by the Head of State or by the Head of Government or by the Minister of Foreign Affairs or (b) by an appropriate authority as determined by the Government and communicated to the Director. If the credentials are issued by such an authority, the text should make it clear who has given the authority to issue credentials.
- 4.3 The credentials should be addressed to the Director of the IOPC Funds (not, as has sometimes been the case in the past, to the Secretary-General of IMO) in the form of an original signed letter.
- 4.4 The credentials should be issued in one of the official languages of the IOPC Funds (English, French or Spanish) or, if in any other language, be accompanied by a certified translation into one of these languages.

Substantive content of credentials

- 4.5 The credentials should indicate clearly the meeting or meetings to which they pertain. This could be done in several ways, for example:

The 10th session of the 1992 Fund Assembly, the 1st extraordinary session of the Supplementary Fund Assembly and the 29th session of the 1992 Fund Executive Committee, held from 17-21 October 2005

or

The meetings held by the bodies of the International Oil Pollution Compensation Funds during the week of 17-21 October 2005.

- 4.6 The credentials should state that they give the person or persons mentioned therein as representative(s) or alternate(s) the right to take part in the meeting(s) and vote.
- 4.7 At least one person must be nominated as representative. Alternate(s) may also be nominated. Persons who are only adviser(s) are not entitled to exercise the right to vote.
- 4.8 It is important that any changes in the composition of a delegation after the issue of the original or additional credentials (for example by the inclusion of further persons) are certified in the form of new or additional credentials, since otherwise any persons not mentioned in the credentials would not be entitled to vote.

Notifications

- 4.9 Notifications should indicate the meeting(s) to which they pertain and the person(s) who will represent the State or Organisation in question. As regards States, it should be signed by a Government or Embassy/High Commission official and be printed on official paper, as appropriate. The requirements set out in paragraphs 4.3 and 4.4 apply also to notifications. Formal credentials would be acceptable even if only notifications are required.

Circular containing guidance

- 4.10 In order to assist States and Organisations, the Director intends to issue a circular which will give detailed guidance on the requirements for credentials and notifications and will contain examples of appropriate wording which could be used by a State or organisation. The models of credentials and notifications are intended solely to assist Governments in the preparation of the instruments. They are not intended, in any way, to replace the form of instruments required by law or practice of individual States. The Director hopes that such a circular will considerably reduce the number of problems with credentials and notifications.

- 4.11 Texts of model credentials are reproduced in the Annex. These texts are based on the corresponding examples issued by IMO.

## **5 Credentials Committee**

- 5.1 In order to ensure that problems with credentials are resolved prior to any voting, the Director is of the view that the 1992 Fund Assembly should, at each session, establish a Credentials Committee. It is suggested that the Committee should have five members elected by the Assembly on the proposal of the Chairman. It would operate in a similar way to that of the IMO Assembly.
- 5.2 If the Assembly were to decide to establish such a Credentials Committee, the Director proposes that Rules 10 and 11 of the 1992 Fund Assembly's Rules of Procedure be replaced by the following text:

### **Rule 10**

A Credentials Committee shall be appointed at the beginning of each session of the Assembly. It shall consist of five members who shall be appointed by the Assembly on the proposal of the Chairman. The Credentials Committee shall examine the credentials of delegations of Member States and report without delay.

### **Rule 11**

Any representative to whose admission a Member has made objection shall be seated provisionally with the same rights as other representatives until the Credentials Committee has reported and the Assembly has given its decision.

- 5.3 The Director takes the view that the Credentials Committee established by the Assembly should examine also the credentials issued for Executive Committee sessions. However, when the Executive Committee holds sessions which are not in conjunction with Assembly sessions, this would not be possible. The Director suggests that the Executive Committee should, in that case, establish its own Credentials Committee. If the Assembly were to agree with the Director in this regard, it may wish to consider the addition of a new Rule (iii) *bis* to the Executive Committee's Rules of Procedure<sup><1></sup>:

(iii) *bis* Rule 10 shall be replaced by the following text:

When the Executive Committee holds sessions in conjunction with sessions of the Assembly, the Credentials Committee established by the Assembly shall examine also the credentials of delegations of States members of the Executive Committee and report to the Executive Committee without delay. Should a session of the Executive Committee be held not in conjunction with a session of the Assembly, the Executive Committee shall at the beginning of the session appoint a Credentials Committee. It shall consist of three members who shall be appointed by the Executive Committee on the proposal of the Chairman. The Credentials Committee shall examine the credentials of delegations of States members of the Executive Committee and report without delay.

- 5.4 Problems may arise due to time constraints in respect of meetings of short duration, say a 1½-day meeting of the 1992 Fund Executive Committee not held in conjunction with any other Fund meeting. In order to enable a Credentials Committee to perform its function, it would be crucial

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<1> The introduction to the Rules of Procedure for the Executive Committee adopted by the Assembly provides: 'The Rules of Procedure for the Executive Committee shall be the same as those for the Assembly to the extent that they are relevant to and capable of applying to the proceedings of the Committee, subject to the following modifications:'

that in such situation credentials are submitted in advance of the meeting or, in any event, no later than at the beginning of the period of the meetings (cf Rule 9 of the Rules of Procedure).

- 5.5 The Director is not proposing, at this stage, that a Credentials Committee should be set up for the governing bodies of the 1971 Fund and the Supplementary Fund. However, he intends to revert to this issue in respect of these Organisations when experience has been gained from the operation of the 1992 Fund Assembly's Credentials Committee, if such a Committee were to be established.

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

The Assembly is invited to:

- (a) take note of the information contained in this document;
- (b) consider the requirements for credentials indicated in section 4 of this document;
- (c) decide whether to establish a Credentials Committee for the Assembly and for the Executive Committee; and
- (d) decide on appropriate changes to the Rules of Procedure for the Assembly and the Executive Committee.

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ANNEX

**MODEL LETTER OF CREDENTIALS**

Alternative I

To be signed by the Head of State, Head of Government or Minister for Foreign Affairs

I have the honour to inform you that I have appointed:

.....  
(full name(s) and title(s))

as Representative(s) of ..... to the ..... [meetings and dates to be identified] with full authority to take part in the meeting, to transact all such matters as may appertain to the work of this [these] meetings and to vote with the other Representatives in accordance with the agreed procedures.

I have also the honour to designate

.....  
(full name(s) and title(s) of Alternate(s))

as Alternate Representative(s) and

.....  
(full name(s) and title(s) of Adviser(s))

as Adviser(s) to compose the remainder of the delegation of

.....  
(name of State)

Please accept, Sir, the assurance of my highest consideration.

.....  
(signature)

.....  
(full name and title)

The Director  
International Oil Pollution Compensation Funds  
Portland House  
Stag Place  
London SW1E 5PN

**MODEL LETTER OF CREDENTIALS**

Alternative 2

To be signed by a person authorized by the Head of State, Head of Government  
or Minister for Foreign Affairs to issue credentials.

Sir,

I have the honour to inform you that I have been authorized

by ..... of .....  
(full name and title) (name of State)

to issue credentials in respect of the Representative(s) of my Government to the [meetings and dates to be identified] and to designate the other members of the delegation of .....to the meeting(s).  
(name of State)

Acting upon this authority, I have the honour to inform you that

.....  
(full name(s) and title(s))

has (have) been appointed as the Representative(s) of ..... to the meeting(s) and is (are) fully authorized to take part in the meeting(s), to transact all such matters as may appertain to its work and to vote with the other Representatives in accordance with agreed procedures.

I have also the honour to designate:

.....  
(full name(s) and title(s) of Alternate(s))

as Alternate Representative(s) and

.....  
(full name(s) and title(s) of Adviser(s))

as Adviser(s) to compose the remainder of the delegation of .....  
(name of State)

Please accept, Sir, the assurance of my highest consideration.

.....  
(signature)

.....  
(full name and title)

The Director  
International Oil Pollution Compensation Funds  
Portland House  
Stag Place  
London SW1E 5PN