



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1992

THIRD INTERSESSIONAL  
WORKING GROUP  
Agenda item 2

92FUND/WGR.3/22/7  
6 May 2004  
Original: ENGLISH

## REVIEW OF THE INTERNATIONAL COMPENSATION REGIME

### QUORUM

A discussion paper

**Submitted by Australia, Canada, Italy, New Zealand, Portugal and the United Kingdom**

<b>Summary:</b>	<p>The 7th meeting of the 3rd Intersessional Working Group considered proposals to amend the international oil pollution compensation regimes.</p> <p>Document 92FUND/WGR.3/19/2 proposed the use of the tacit acceptance procedure as a means of introducing administrative changes to improve the operation of the 1992 Fund. States agreed that the problems associated with quorum needed to be addressed but felt that a tacit acceptance procedure was inappropriate and that this issue needed a specific solution. This paper therefore proposes options for addressing this problem, along with suggested draft text.</p>
<b>Related documents:</b>	92FUND/WGR.3/19/2
<b>Action to be taken:</b>	See section 3

### **1 Introduction**

- 1.1 The 7th meeting of the Working Group considered a proposal in document 92FUND/WGR.3/19/2 that the tacit acceptance procedure could be revised to address issues other than the levels of compensation contained in the 1992 Civil Liability and Fund Conventions, eg the introduction of administrative changes which could either improve the operation of the IOPC Funds (Articles 18 and 29) or solve problems in the running and operation of the Fund such as the quorum requirement (Article 20).
- 1.2 The co-sponsors recognise the concerns of delegations at the 7th meeting of the Working Group that felt that the use of the tacit acceptance procedure for amending Articles 18 and 29 would be inappropriate. It was felt that, if a situation arises that requires prompt action to deal with the operation or running of the Fund or the Fund's governing bodies, it is unlikely that the time periods in the tacit acceptance procedure, even if amended, will be able to deal with the problem.

- 1.3 Delegations also felt that it was important to try to maintain the international and mutual nature of the Fund's governing bodies.
- 1.4 Nonetheless, the co-sponsors recognise that the IOPC Funds' Assemblies have previously encountered difficulties on a number of occasions in constituting a quorum for its meetings. At present, Article 20 of the 1992 Fund Convention states that 'a majority of Member States shall constitute a quorum for its meetings'.
- 1.5 The co-sponsors wish to avoid any potential political embarrassment that may arise if a meeting of the Assembly is due to meet and quorum cannot be constituted. If such a situation arose this could affect the prompt payment of compensation to claimants with potential damaging consequences for the regime. The co-sponsors present the following proposal to avoid this situation.

## **2 Proposal**

- 2.1 The co-sponsors propose a solution by amending Article 20 as follows:

'A quorum for meetings of the Assembly shall be constituted by:

- 1 a majority of its members; or
- 2 at least [half] of he [xx] % of the members with the largest quantities of contributing oil received, and at least as many other members.'

- 2.2 Whilst the co-sponsors consider that there is no approach which will actually reflect the membership of the Fund other than complete attendance by all Members, this option seeks to ensure that there is an element of balance by requiring the active participation of both large and small contributors, with neither group able to function alone.
- 2.3 The following illustration, for example only, demonstrates how this could work in practice where a majority of the Members of the Assembly are not present at a particular meeting.
- 2.4 If the Fund has, for example, 84 contracting States, a quorum could be constituted by half of for example, 30% of Members with the largest quantities of contributing oil received, this would mean that a quorum would be achieved by the presence of any 13 of the 26 largest contributing Members, as well as any 13 of the Members falling outside of the 26 largest contributors.
- 2.5 It would be important to consider what figures would fill the square brackets. If the percentage is too high then this would not solve the problem.
- 2.6 Basing the solution on a percentage, rather than a given number of Members, will ensure that the quorum will grow or shrink in parallel with a growing or declining membership of the IOPC Funds.

## **3. Action requested**

The co-sponsors of this document invite the Working Group to consider their proposal.

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