INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS	**Agenda item: 6**	**IOPC/JUN10/6/1**	
	Original: ENGLISH	30 June 2010	
	1992 Fund Executive Committee	**92EC48**	●
	1992 Fund Working Group	**92WG6/1**	●

RECORD OF DECISIONS OF THE JUNE 2010 MEETINGS OF THE IOPC FUNDS

(held from 28 to 30 June 2010)

Governing Body (session)		**Chairman**	**Vice-Chairman/Chairmen**
1992 Fund	Executive Committee **(92EC48)**	Mr Daniel Kjellgren (Sweden)	Mr Francisco Noel R Fernandez III (Philippines)
	Working Group **(92WGR6/1)**	Mr Volker Schöfisch (Germany)	

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Opening of the sessions

1992 Fund Executive Committee

0.1 The Chairman opened the 48th session of the 1992 Fund Executive Committee.

1992 Fund 6th intersessional Working Group

0.2 See section 5.

1 Procedural matters

1.1	**Adoption of the Agenda - Document IOPC/JUN10/1/1**	**92EC**

The 1992 Fund Executive Committee adopted the Agenda as contained in document IOPC/JUN10/1/1.

1.2	**Examination of credentials: Establishment of Credentials Committee Document IOPC/JUN10/1/2**	**92EC**
	Examination of credentials: Report of the Credentials Committee Document IOPC/JUN10/1/2/1	**92EC**

1992 Fund Executive Committee Decision

1.2.1 In accordance with Rule (iv) of its Rules of Procedure, the 1992 Fund Executive Committee appointed the delegations of Cameroon, Canada and the Netherlands as members of the Credentials Committee.

1.2.2 The States members of the 1992 Fund Executive Committee present at the sessions are listed at the Annex, including an indication of other 1992 Fund Member States, States having at any time been Members of the 1971 Fund, non-Member States, intergovernmental organisations and international non-governmental organisations which were represented as observers.

1.2.3 After having examined the credentials of the States which were members of the 1992 Fund Executive Committee, the Credentials Committee reported in document IOPC/JUN10/1/2/1 that fourteen of the members of the Executive Committee had submitted credentials which were in order. No credentials had yet been received in respect of Uruguay. The Credentials Committee expected that this would be rectified by the delegation shortly after the session[<1>].

1.2.4 The Executive Committee expressed its sincere gratitude to the members of the Credentials Committee for its work during this session.

2 General Review

2.1	**Report of the Director**	**92EC**

2.1.1 The Director reported on some significant activities of the IOPC Funds since the October 2009 sessions of the governing bodies. In particular, he referred to the publication of the redesigned Annual Report 2009, which had been prepared in a more concise and lighter format than in previous years. He explained that the Annual Report was divided into two parts and that part one, which summarises the Funds' activities in 2009, was available on the IOPC Funds' website and would be distributed soon after the meetings, and that part two, which provides detailed information on incidents involving the IOPC Funds, would be available on the Funds' website soon.

2.1.2 The Director also referred to the adoption of the Protocol to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious

[<1>] As at the date of issue of this document, no credentials had been received in respect of Uruguay.

Substances by Sea, 1996 (HNS Convention) at a Diplomatic Conference in April 2010. He informed delegations that, as instructed by the 1992 Fund Assembly, he would continue with the administrative tasks necessary for setting up the International Hazardous and Noxious Substances Fund (HNS Fund) and that the Funds' Secretariat intended to prepare a work plan, which would be presented to the 1992 Fund Assembly at its next session in October 2010.

2.1.3 He referred to the ongoing work on the database of decisions taken by the governing bodies as well as to the trial of the online reporting system, which would continue until July and which had already led to useful feedback being provided by Member States participating in the trial, particularly as regards certain issues of security. The results of the trial will be reported at the October 2010 sessions of the governing bodies.

2.1.4 The Director informed delegates that, at the request of the Islamic Republic of Iran, which had recently become a member of the 1992 Fund, the Secretariat had held a successful workshop in Tehran in January 2010. The delegation of the Islamic Republic of Iran thanked the Director and the Secretariat for the workshop, which had been very informative and useful both for the relevant experts of the Iranian Maritime Organisation and the many other key stakeholders who had attended. That delegation pointed out that the Ministry of Oil had been working hard since the Director's visit on the basis of the information provided at the workshop regarding the correct implementation of the 1992 Conventions.

2.1.5 The Director pointed out that, further to the kind offer by Morocco to host the spring 2011 sessions in Marrakech, members of the Secretariat, together with the Chairmen of the 1992 Fund Executive Committee and the Supplementary Fund Assembly, had visited the city and agreed upon a suitable venue and accommodation.

2.1.6 Finally, in light of the postponement of the April 2010 meetings[<2>], the Director urged all delegates to notify the Secretariat of their contact details to ensure that, in the event that any future meetings should be cancelled at short notice, the Secretariat is able to contact delegations without difficulty. A form was distributed at the sessions for delegations to complete. The form will also be available on the IOPC Funds' website for any delegates who were not present at the session.

3 Incidents involving the IOPC Funds

3.1 *Erika* - Document IOPC/JUN10/3/1 — 92EC

3.1.1 The 1992 Fund Executive Committee took note of document IOPC/JUN10/3/1, submitted by the Director.

Claims situation

3.1.2 It was noted that, as at 17 May 2010, 7 131 claims for compensation had been submitted for a total of €388.9 million, that compensation payments totalling €129.7 million had been made in respect of 5 939 claims, and that 1 016 claims had been rejected.

Criminal proceedings

3.1.3 It was noted that in March 2010 the Criminal Court of Appeal in Paris had confirmed the judgement of the Criminal Court of First Instance which had held the following parties criminally liable for the offence of causing pollution: the representative of the shipowner (Tevere Shipping), the president of the management company (Panship Management and Services Srl), the classification society (RINA) and Total SA. The Court of Appeal also confirmed the fines imposed.

3.1.4 Regarding civil liabilities, it was noted that the Court of Appeal had ruled that:

[<2>] Due to severe disruption to international flights as a result of volcanic ash from Iceland, the meetings of the IOPC Funds, which were due to be held from Wednesday 21 to Friday 23 April 2010, were postponed.

- The representative of the registered owner of the *Erika* was an 'agent of the owner', as defined by Article III.4(a) and that, although he was, as such, theoretically entitled to benefit from the channelling provisions of the 1992 Civil Liability Convention (1992 CLC), he had acted recklessly and with knowledge that damage would probably result, which deprived him of protection in the circumstances. Thus, the Court of Appeal confirmed the judgement on his civil liability.

- The president of the management company (Panship) was the agent of a company that performs services for the ship (Article III.4(b)), and as such was not protected by the channelling provisions of the 1992 CLC.

- The classification society RINA, cannot be considered as a 'person who performs services for the ship', according to the definition of Article III.4(b) of the 1992 CLC. Indeed, the Court ruled that, in issuing statutory and safety certificates, the classification society had acted as an agent of the Maltese State (the flag State). The Court also held that the classification society would have been entitled to take advantage of the immunity of jurisdiction, as would the Maltese State, but that in the circumstances it was deemed to have renounced such immunity by not having invoked it at an earlier stage in the proceedings.

- Total SA was *'de facto'* the charterer of the *Erika* and could therefore benefit from the channelling provision of Article III.4(c) of the 1992 CLC, since the imprudence committed in its vetting of the *Erika* could not be considered as having been committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result. The Court of Appeal thus held that Total SA could benefit from the channelling provisions in the CLC and therefore did not have civil liability. The Court of Appeal also decided that the voluntary payments made by Total SA to the civil parties, including to the French Government following the judgement of the Criminal Court of First Instance were final payments that could not be recovered from the civil parties.

3.1.5 The Committee noted that in its judgement, the Criminal Court of Appeal accepted not only material damages (clean up, restoration measures and property damage) and economic losses, but also accepted moral damage resulting from the pollution, including loss of enjoyment, damage to reputation and brand image and moral damage arising from damage to the natural heritage.

3.1.6 It was also noted that the Criminal Court of Appeal has also accepted the right to compensation for pure environmental damage, ie damage to non-marketable environmental resources that constitute a legitimate collective interest, and that the Court of Appeal considered that it was sufficient that the pollution touched the territory of a local authority for such authority to be able to claim for the direct or indirect damage caused to them by the pollution. It was also noted that the Court of Appeal had awarded compensation for pure environmental damage to local authorities and environmental associations.

Legal proceedings involving the 1992 Fund

3.1.7 It was noted that 17 legal actions against the shipowner, his insurer and the 1992 Fund were still pending, with a total amount claimed of some €20.9 million, excluding the claims by Total.

3.1.8 The Committee took note of three court judgements involving the 1992 Fund rendered by various courts, including a judgement by the Court of Cassation on a claim submitted by a cooperative of salt producers.

Legal proceedings by the Commune de Mesquer against Total

3.1.9 It was recalled that the Commune de Mesquer had brought a legal action against Total, where it had been argued that the cargo on board the *Erika* was, under European law, a waste. It was also recalled that the Court of Appeal in Bordeaux would decide whether or not Total had contributed to the occurrence of the pollution caused by the *Erika* incident.

3.2 *Prestige* - Documents IOPC/JUN10/3/2 and IOPC/JUN10/3/2/1 — 92EC

3.2.1 The 1992 Fund Executive Committee took note of the information contained in documents IOPC/JUN10/3/2 and IOPC/JUN10/3/2/1 concerning the *Prestige* incident.

Claims for compensation in Spain

3.2.2 It was noted that as at 7 May 2010, the Claims Handling Office in La Coruña had received 844 claims totalling €1 020.7 million, including 14 claims from the Spanish Government totalling €968.5 million.

3.2.3 It was noted that the 1992 Fund's experts had examined further documentation recently submitted by the Spanish Government and had also finalised the assessment of the costs incurred by one of the affected regions and that, as a consequence, the total assessed amount for the claims submitted by the Spanish Government was now €287.7 million. It was also noted that a letter had been sent to the Spanish Government to communicate the latest assessment of its claims.

Claims for compensation in France

3.2.4 It was noted that as at 7 May 2010, 482 claims totalling €109.7 million had been received by the Claims Handling Office in Lorient, including the claims by the French Government totalling €67.5 million.

3.2.5 It was recalled that the claim by the French Government had been provisionally assessed at €38.5 million and that a letter explaining the assessment had been sent to the Government.

3.2.6 The Committee noted that a meeting had taken place in November 2009 between the Secretariat, its experts and the French Government, to discuss the assessment of the Government's claim. It was also noted that at the meeting, the Secretariat had undertaken to provide further details of the assessment to the French Government and that a bundle of documents containing detailed explanations on the assessment had been sent to the French Government in mid-April 2010.

Criminal investigation in Spain

3.2.7 It was recalled that shortly after the incident, the Criminal Court in Corcubión (Spain) had started an investigation into the cause of the incident to determine whether any criminal liability could arise from the events and that the Court was investigating the role of the Master, Chief Officer and Chief Engineer of the *Prestige* and of a civil servant who had been involved in the decision not to allow the ship into a place of refuge in Spain.

3.2.8 The Committee noted that in May 2010 the Criminal Court in Corcubión had declared the instruction of the case as concluded. It was also noted that it was expected that the hearing on the criminal and civil merits of the case would commence later in 2010 or in 2011.

Civil Claims in Spain

3.2.9 It was noted that as at 7 May 2010, some 2 360 claims, including one by the Spanish Government, were pending in the legal proceedings before the Criminal Court in Corcubión (Spain). It was also noted that the 1992 Fund's experts were finalising the assessment of the civil claims submitted to the Criminal Court, in order to try to reach out-of-court settlements with claimants when possible and also in order to be ready to submit defence pleadings when the hearing commences.

3.2.10 The Committee noted that the Criminal Court in Corcubión had appointed Court experts to examine the civil claims lodged in the criminal proceedings and that the experts engaged by the 1992 Fund were examining the report submitted by the Court experts.

Legal proceedings in France

3.2.11 It was noted that actions by 184 claimants, including the French Government, remained pending in court with compensation claims totalling €90.6 million. It was also noted that some 162 French claimants, including the French Government and various communes, had joined the legal proceedings in Corcubión, Spain.

3.2.12 The Committee took note of one judgement rendered in late October 2009 by the Civil Court in Bayonne in respect of a claim submitted by the operator of two hotels and a spa, in which the Court had agreed with the Fund's assessment of the claim.

Legal proceedings in the United States

3.2.13 The Committee recalled that a court action had been initiated in the United States by the Spanish State against the American Bureau of Shipping (ABS), the classification society that certified the *Prestige*.

3.2.14 It was noted that a hearing had taken place at the District Court in May 2010 and that it was expected that the Court would render its decision in the near future.

Possible legal action by the Fund against ABS

3.2.15 It was noted that the 1992 Fund's Secretariat had learned in April 2010 that the French State had brought a legal action against three companies in the ABS group in the Court of First Instance in Bordeaux. The Committee noted that the Director had considered whether this and other developments would give rise to reconsidering the position of the 1992 Fund regarding recourse action in connection with this incident.

3.2.16 It was noted that as regards a possible recourse action in Spain, the Director considered, after consultation with the 1992 Fund's Spanish lawyer, that the advice regarding such action received in 2004 (cf section 2.4 of document IOPC/JUN10/3/2/1) was still valid and that on that basis, the Director did not, for the time being, recommend bringing an action against ABS in Spain.

3.2.17 It was noted that as regards a possible recourse action in France, the Director considered, after consultation with the 1992 Fund's French lawyer, that there appeared to be a number of relevant developments that required further study with a view to determining the prospects and legal implications of a possible recourse action of the 1992 Fund against ABS in France, in particular:

- the publication of two experts' reports submitted in the criminal proceedings in Spain, which conclude that the defects of the *Prestige* were due to the negligence of ABS;
- the request by the French Government in 2009, that some employees of ABS be incriminated in the legal proceedings in the Criminal Court in Corcubión, and the fact that this request was, however, denied;
- recent jurisprudence in France attaching civil liability to a classification society for the damage caused by the pollution resulting from the *Erika* incident; and
- a recent legal action brought by the French State against ABS in France.

3.2.18 It was noted that, in view of the above considerations, the Director intended to further examine in consultation with the 1992 Fund's French lawyer, the prospects and legal implications of a possible recourse action of the 1992 Fund against ABS in France, with a view to making a recommendation to the Executive Committee at a future session.

3.3 *Solar 1* - Document IOPC/JUN10/3/3 92EC

3.3.1 The 1992 Fund Executive Committee took note of the information contained in document IOPC/JUN10/3/3 concerning the *Solar 1* incident.

Claims for compensation

3.3.2 It was noted that as at 17 May 2010 some 32 466 claims had been received and that payments totalling PHP 985 million (£10.77 million) had been made in respect of 26 870 claims, mainly in the fisheries sector.

3.3.3 The Committee noted that work on the assessment of claims was now largely complete, that payments had been made where possible, and that the local claims office had been closed.

Claims in court

3.3.4 It was recalled that a civil action had been filed in August 2009 by a law firm in Manila representing claims by 967 fisherfolk totalling PHP 286.4 million (£4.1 million) for property damage as well as economic losses.

3.3.5 It was also recalled that the Philippine Coastguard (PCG) had brought legal proceedings to ensure its rights were safeguarded in relation to the two claims for costs incurred during clean-up and pumping operations. It was noted that since an offer of settlement for PHP 104.8 million (£1.6 million) had been made for both claims, the Club and the Fund were awaiting a decision from the PCG.

3.3.6 It was noted that 97 individuals, employed by a municipality on Guimaras Island during the response to the incident, had taken action in court against the Mayor, the ship's captain, various agents, ship and cargo owners, and the Fund, on the grounds that they had not been paid for their services. It was noted that a claim by the municipality for overtime payments, including those rendered by the plaintiffs, had been assessed and an offer of settlement had been made to the municipality. It was also noted that since the court action suggested that costs may not have actually been incurred by the municipality, this was now under review.

3.4 *Volgoneft 139* - Document IOPC/JUN10/3/4 92EC

3.4.1 The 1992 Fund Executive Committee took note of the information contained in document IOPC/JUN10/3/4 concerning the *Volgoneft 139* incident.

The 'insurance gap'

3.4.2 It was recalled that in February 2008, the Arbitration Court of Saint Petersburg and Leningrad Region had issued a ruling declaring that the limitation fund had been constituted by means of a letter of guarantee for 3 million SDR (RUB 116.6 million) and that the Court of Cassation and the Supreme Court had confirmed that decision, maintaining that Russian Courts should apply the limits as published in the Russian Official Gazette.

3.4.3 The Committee noted that at a meeting between the Secretariat and the Russian Ministry of Transport held in Moscow in February 2010, a possible solution to the 'insurance gap' had been discussed. It was noted that part of the cost of the clean-up operations carried out by the Krasnodar Regional Administration and by a local authority had been funded by the Ministry of Finance and that further request for funds had been submitted by those administrations to the Ministry of Finance. It was also noted that, if the Ministry of Finance were to pay these further clean-up costs and submit a claim to the 1992 Fund and if the assessment of this claim were to cover the 'insurance gap' of approximately RUB 59 million, the Government could decide to waive its compensation rights to cover the 'insurance gap'. It was noted, however, that it had been stressed that this possible solution would involve the Ministry of Finance submitting the claim and the Fund examining the supporting

documentation, with the assessed amount having to reach at least the amount of the 'insurance gap'. It was further noted that the representative of the Ministry of Transport had undertaken to consider this possible solution.

Cause of the incident

3.4.4 It was recalled that the insurer had pleaded before the Arbitration Court of Saint Petersburg and Leningrad Region the defence that the spill had resulted from a natural phenomenon of an exceptional, inevitable and irresistible character and that the shipowner and his insurer were therefore not liable for the pollution damage caused by the spill. It was noted that if this defence were to be successful, the 1992 Fund would be liable to pay compensation to victims of the spill from the outset.

3.4.5 It was recalled that the Fund's experts had provisionally concluded that the storm of 11 November 2007, although it may have been irresistible in respect of the *Volgoneft 139*, was neither exceptional nor inevitable, in that there had been sufficient opportunities to avoid the vessel being exposed to the storm in the way it had been.

3.4.6 The Committee noted that to fully understand the circumstances of the incident, the Secretariat and the Fund's experts had visited the Kerch Vessel Traffic System (VTS) in Ukraine in November 2009 and the VTS in Kavkaz, Russian Federation, in February 2010. It was noted that, on the basis of the additional information made available during the visits, the Fund's experts had confirmed their preliminary conclusions that the *Volgoneft 139* should not have been in the area at the time of the incident since the conditions associated with the storm were in excess of the vessel's design criteria.

3.4.7 The Committee noted, however, that whereas the Fund's experts' initial view had been that the Kerch Strait anchorage was considered as a commercial port, the experts now understood that the Strait was not operated as a port. It was also noted that during the visits to the VTS in Kerch and in Kavkaz, the experts had learned that none of the Port Authorities had powers to close the anchorage in case of a storm warning or to direct vessels to vacate the anchorage and that it was therefore the conclusion of the experts that it was the responsibility of the Master and the shipowner to take action to avoid the incident.

Claims for compensation

3.4.8 The Committee noted that claims totalling RUB 8 533.4 million had been submitted as a result of the incident and that substantial progress had been made in the assessment of claims. It was noted that two claimants had indicated agreement with the assessment and that letters had been sent to a number of other claimants communicating the assessment of their claims. It was also noted that the Fund's experts continued the examination of the documentation provided in support of the various claims.

Metodika claim

3.4.9 It was noted that at the February 2010 meeting between the Secretariat and the Ministry of Transport in Moscow (cf paragraph 3.4.3 above), the Ministry of Transport's representative had explained that the Minister of Transport had written to the Deputy Prime Minister of the Russian Federation who had, in turn, written to the Minister of Natural Resources. It was noted that in his reply, the Minister of Natural Resources accepted that a 'theoretical' claim under 'Metodika' was not acceptable under the international Conventions and that the Russian Government had the obligation to comply with these Conventions but that, at the same time, he had stated that there was no need to withdraw the claim since it was expected that the Court would reject it. It was noted that the Ministry of Natural Resources also accepted that only the claim for the actual losses incurred by them as a result of the spill in the amount of RUB 578 347, which was in conformity with the 1992 CLC and Fund regime, should be considered. It was also noted that in the letter it was explained that there was no need to amend Russian internal law on 'Metodika' since it applied to internal cases only, and not to pollution cases where the international Conventions applied.

Director's considerations

3.4.10 The Committee noted that, in the view of the Director, there seemed to be an indication that the Court would not accept Ingosstrakh's defence of 'force majeure' but also that the lower CLC limit of 3 million SDR would be maintained and that, in that case, Ingosstrakh was not likely to pay above that limit. It was noted that, in addition, it seemed that Ingosstrakh's assessments were lower than the Fund's assessments and that, while a solution might eventually be found to the 'insurance gap', it would appear that Ingosstrakh would not make any payments until all the claims had been adjudicated by the Court.

3.4.11 The Committee also noted the Director's view that there were claimants in this incident who had claimed in accordance with the 1992 Conventions and the Fund's criteria, and who had duly cooperated with the Fund, leading to a settlement having been reached with them. It was also noted that some of these claimants had indicated that they were experiencing financial hardship and that it seemed that Ingosstrakh would not make any payments until all the claims had been adjudicated by the Court.

3.4.12 It was noted that the Director was of the opinion that it could be considered not in line with the Fund's overall mission to continue to withhold payments to claimants referred to in paragraph 3.4.11, but that, on the other hand, he considered it was of utmost importance to adhere to the basic principles of the 1992 Fund and the 1992 Conventions underlying the international regime, in particular in relation to the 'insurance gap' and the 'Metodika' claim. The Committee noted that the Director therefore considered that it would be appropriate to authorise him to make payments, but only to those claimants who:

(a) had claimed in accordance with the 1992 Conventions and the Fund's criteria;

(b) had duly cooperated with the Fund, which had led to a settlement having been reached between them and the Fund; and

(c) were not a (central) government body or agency.

3.4.13 It was also noted that for the Fund to make any payments now would mean that the Fund would later have to recover from Ingosstrakh the amounts paid in compensation, up to the applicable limit. It was noted that the Director further proposed that a decision to authorise him to make any other payments would only be taken once a satisfactory solution had been reached for the 'insurance gap' and the 'Metodika' claim.

Additional information from the Director

3.4.14 The Director informed the Committee that, after the publication of document IOPC/JUN10/3/4, two additional issues had come to the Secretariat's attention that the Committee might wish to consider when taking a decision on whether to endorse his proposal. One issue was that, according to the advice received from the Fund's Russian lawyer, subrogation, under Russian law, was normally reserved for insurance contracts and that, although the international Conventions under the Russian Constitution took precedence over national law, there were no provisions in Russian internal law giving the 1992 Fund a right of subrogation in respect of any voluntary payment made and that therefore there remained a risk that a subrogated claim by the Fund against Ingosstrakh might not be automatically accepted by the Russian Courts. The other issue was that Ingosstrakh assessments of the claims were substantially lower than the Fund's assessments and that therefore it was possible, and even likely, that Ingosstrakh would also dispute the quantum of such a subrogated claim by the Fund.

Statement by the Russian delegation

3.4.15 The Russian delegation confirmed the continued willingness of the Russian authorities to assist the Fund in order to make progress in the handling of this case. That delegation also stated that at the June 2010, hearing the Court had finalised the preliminary hearings, and that the proceedings would

now enter into a final stage where the Court should take a decision. That delegation pointed out that there were still claims which had not been assessed by the Fund, and requested the Fund to accelerate the assessments to help the Court to make a decision on payments from the CLC limitation fund.

3.4.16 The Russian delegation also stated that it noted with satisfaction that the Fund was willing to consider a possible solution to solve the 'insurance gap', taking into consideration the payments made from the Russian Federal Funds to cover costs in clean-up operations, but that this option was still being considered by the Russian Government.

3.4.17 That delegation also stated that, although Metodika would not be applied in future CLC and Fund cases, in this case the claim could not be withdrawn, although Rosprirodnadzor was willing to accept the assessment of its claim on the basis of costs incurred. It also stated that the claim based on Metodika was not being seriously considered by the Court.

3.4.18 That delegation also stated that the defence of 'force majeure' would most likely not be accepted by the Court. The delegation added that the judge appreciated the work carried out by the Fund and that it seemed very likely that the Court would accept the Fund's assessments.

3.4.19 The delegation finally asked the Committee to accept the Director's proposal to make payments to those claimants referred to in paragraph 3.4.11.

Debate

3.4.20 All delegations that took the floor expressed satisfaction that progress had been made in this case and thanked the Russian authorities for the cooperation given and the Secretariat for its work. They also expressed their sympathy with the claimants. However, several delegations stated that they were not ready to authorise the Director to make payments until certain outstanding issues were resolved, in particular the situation regarding subrogation under Russian law.

3.4.21 Concern was also expressed by some delegations about the fact that Ingosstrakh assessments of claims were considerably lower than the Fund's assessments. One delegation asked the Secretariat what the difference in quantum was between assessments by the Fund and by Ingosstrakh. The Secretariat replied that the Fund's assessments so far totalled RUB 106 million whereas Ingosstrakh assessments totalled RUB 17 million.

3.4.22 Some delegations, whilst recognising that there were still outstanding issues to be resolved in this incident, supported the Director's proposal since it was essential that the claimants, who were not connected with the problems that had arisen in this case, received prompt compensation.

3.4.23 At the request of the Chairman, the Fund's Russian lawyer took the floor to explain that, under Russian law, international Conventions formed part of Russian legislation and should be applicable by the courts, and that therefore in theory there should be no problems with a subrogated claim. He stated, however, that in Russian law subrogation was only applied in the context of insurance contracts. He added that an analogy could not be drawn with the problem that had arisen regarding the non-application of the increased CLC limits, since, whereas the increased limits had not been officially published in the Russian Official Gazette, the original Conventions had long been published and the provisions contained therein should therefore be applicable by the Russian courts.

3.4.24 One delegation suggested that, in order to avoid the problem of subrogation, the Fund could calculate the proportion of the claim payable by the Fund according to the Conventions and make a payment of that proportion. This suggestion was supported by some delegations.

3.4.25 The Director replied that he did not feel that this suggestion would help claimants very much and added that if the Executive Committee was not prepared to take the risk inherent in his proposal, it would be better not to agree with it. He stated that the issue under consideration was whether or not the Fund was prepared to run a certain risk in order to help claimants that were not connected with the problems in this case. He also stated that the issue of subrogation should not be a problem in legal

terms given that the subrogation provisions in the Conventions should be applicable by Russian courts. Regarding the difference between the Fund's and Ingosstrakh assessment of the claims, the Director stated that the Fund would have to pursue its subrogated claim, as assessed, against Ingosstrakh if necessary, in court. He also suggested that this problem might be solved if the Fund paid initially according to Ingosstrakh assessments, in which case the Fund should be able to recover from Ingosstrakh the amounts paid by it.

3.4.26 When summarising the discussion, the Chairman concluded that although the situation in respect of this case had improved, the problems associated with the 'insurance gap' and 'Metodika' were still unresolved. He also stated that, although the Committee had expressed its appreciation to the Russian Government and to the Secretariat for their efforts to resolve this very difficult case and had expressed its sympathy for the claimants, it was, for the time being, not ready to authorise the Director to make any payments until the uncertainties in respect of the 'insurance gap' and the Metodika claim had been resolved and there was more clarity regarding the right of subrogation under Russian law and the differences between the assessments by the Fund and Ingosstrakh, hopefully before the next meeting in October 2010.

Decision

3.4.27 The Committee decided not to endorse the Director's proposal set out in paragraphs 3.4.12 – 3.4.13 and that the Fund should not, for the time being, make any payments in respect of this incident until the uncertainties in this case had been resolved.

3.5 ***Hebei Spirit*** **- Documents IOPC/JUN10/3/5, IOPC/JUN10/3/5/1, IOPC/JUN10/3/5/2 and IOPC/JUN10/3/5/3** **92EC**

3.5.1 The 1992 Fund Committee took note of the information contained in document IOPC/JUN10/3/5, submitted by the Director and documents IOPC/JUN10/3/5/1, IOPC/JUN10/3/5/2 and IOPC/JUN10/3/5/3, submitted by the Republic of Korea and the PowerPoint presentations made by the Secretariat and the delegation of the Republic of Korea.

Claims situation

3.5.2 It was noted that as at 28 June 2010, 20 217 claims totalling KRW 2 011 826 million (£1 106 million) had been registered, including 228 group claims, together representing 98 839 claimants. It was also noted that 1 944 claims had been assessed at a total of KRW 115 172 million (£63 million), that 4 637 claims had been rejected and that the Skuld Club had made payments to 1 742 claimants totalling KRW 107 848 million (£59 million). It was further noted that the remaining claims were being assessed or additional information had been requested from the claimants and that a further 6 000 claims were being registered and further claims were expected.

Assessment of small-scale non-fishery claims

3.5.3 It was recalled that the experts engaged by the Skuld Club and the Fund had developed a methodology for the assessment of claims in the non-fishery sector in cases where there was very little or no supporting evidence provided. It was also recalled that, in October 2009, the 1992 Fund Executive Committee had endorsed the Director's decision to assess small claims in the non-fishery sector according to this methodology on a trial basis and that the Skuld Club and the Fund had been assessing these claims based on the methodology developed (cf document IOPC/OCT09/11/1, paragraph 3.8.20).

3.5.4 The Committee noted that, as at 1 June 2010, about 46% of the small-scale business claims submitted had been assessed using the methodology described above, that the others were being assessed and that further claims from small-scale businesses were expected. It was also noted that the Director intended to present the results of the application of this methodology once all small-scale claims, for which the methodology was suitable, had been assessed.

Tourism Claims

3.5.5 With respect to the decline in economic activities in some areas due to changes in the tourism patterns as raised by the Director (document IOPC/JUN10/3/5, paragraph 9.19), the delegation of the Republic of Korea expressed that it had had difficulties in accepting the Director's view, since the statistical information that delegation had available, in their view, indicated otherwise. To illustrate this point, that delegation gave a presentation on tourism.

3.5.6 The delegation of the Republic of Korea explained that the overall number of tourists nationwide in Korea had increased despite the significant decrease in tourists visiting the affected area. It was also mentioned that the number of travellers who stayed in accommodation facilities had increased over recent years compared to the number of travellers on day trips.

3.5.7 The Fund's tourism expert stated that the statistics presented by the Republic of Korea were already known and suggested that a consultation between the Fund's experts and the Korean Government would be useful.

Investigation into the cause of the incident

3.5.8 It was noted that the appropriate authority in the ship's flag State administration in China (Hong Kong Special Administrative Region) (China (HKSAR)) had concluded its investigation into the cause of the incident and that the report on the investigation had been published in 2009.

3.5.9 It was also noted that the result of the investigation into the cause of the incident by the Incheon District Maritime Safety Tribunal in the Republic of Korea and the decision taken in appeal by the Central Maritime Safety Tribunal in December 2008 had been appealed to the Supreme Court and that a decision was pending.

Limitation proceedings by the owner of the Hebei Spirit

3.5.10 It was recalled that in February 2009, the Limitation Court had rendered an order for the commencement of the limitation proceedings by the owner of the *Hebei Spirit*. It was noted that 126 316 claims totalling KRW 3 597 billion (£2 billion) had been submitted to the limitation proceedings and that the Limitation Court had appointed a court administrator to deal with the claims.

3.5.11 It was noted that a number of claimants had appealed to the Supreme Court of Korea against the decision for the commencement of the limitation proceedings by the owner of the *Hebei Spirit*, that this appeal had been dismissed on 26 November 2009, and that consequently the Limitation Court's decision for the commencement of the proceedings had become final.

Recourse action

3.5.12 It was recalled that in January 2009, the owner and insurers of the *Hebei Spirit* and the 1992 Fund had commenced recourse action against Samsung C&T and Samsung Heavy Industries (SHI), the owner and operator/bareboat charterer of the two towing tugs, the anchor boat and the crane barge, in the Court of Ningbo in the People's Republic of China, combined with an attachment of SHI's shares in two shipyards in China as security.

3.5.13 It was noted that both Samsung C&T and SHI had filed applications objecting to the jurisdiction of the Court of Ningbo and, in the case of SHI, objecting to the attachment, that submissions in response to the applications had been lodged on behalf of the 1992 Fund and that the decision of the Court of Ningbo on all applications was expected in 2010.

3.5.14 The 1992 Fund Executive Committee noted that in February 2010, the Fund had signed an agreement with the owner, Skuld Club and China P&I Club ('ship's interests') in connection with the recourse action, under which the Fund and the ship's interests will continue their separate actions in the Ningbo Maritime Court, sharing the costs of the recourse actions and enjoying the proceeds of any recovery

by Court judgement or settlement on a 50/50 basis. It was also noted that, in accordance with the agreement, the Fund had paid US$3 million to the Skuld Club, corresponding to half of the costs incurred by the Club in collecting evidence for the recourse action. It was further noted that in February 2010, the Fund had also paid the Club for the cost of the security of US$20 million provided by the Club in relation to the attachment of SHI's shares in the shipyards in the People's Republic of China (cf document 92FUND/EXC.44/7, paragraph 13.3.31).

Level of payments

3.5.15 It was recalled that in June 2008, the 1992 Fund Executive Committee, in view of the uncertainty as to the total amount of the admissible claims, had decided that the level of payments should for the time being be limited to 35% of the amount of the damage actually suffered by the respective claimants as assessed by the Fund's experts. It was also recalled that in October 2008, March, June and October 2009, the Executive Committee had decided to maintain the level of the Fund's payments at 35% of the established claims (cf document IOPC/JUN10/3/5, paragraph 14.4.3).

3.5.16 The Committee noted that the most recent estimate by the Skuld Club's and the Fund's experts of the total amount of the admissible losses caused by the spill was around KRW 453 100 million (£262 million). It was noted however, that although on the basis of the analysis by the Club's and the Fund's experts it could be argued that there was room to revise the level of payments, the Director had also considered the circumstances set out in document IOPC/JUN10/3/5, paragraph 14.4.4, which had led him to the conclusion that, given the remaining uncertainties and taking into account that the advice of the Club's and Fund's experts was still the most reliable and realistic estimate of the total exposure of the Fund in this case, maintaining the level of payment at 35% would continue to provide the Fund with reasonable protection against a possible overpayment situation.

Intervention by the Korean delegation on the level of payments

3.5.17 The Korean delegation stated that, although it understood and supported the Director's recommendation to maintain the level of payments at 35% for the time being, it would like to request that Committee instruct the Director to examine, together with the Korean Government, possible ways to increase the level of payments to victims of the *Hebei Spirit* incident to 100% of the established losses and to present a proposal to the Committee at its October 2010 session.

3.5.18 That delegation stated that it had made its request for the following reasons:

- Firstly, claimants were already receiving 100% of their losses from the Skuld Club as a result of the Second Cooperation agreement between the Korean Government and the Skuld Club.

- Secondly, although the Korean Government had decided to 'stand last in the queue' for its losses incurred in respect of the incident, this amount would not be sufficient to allow the Executive Committee to increase the level of payments to 100% since it represented some 19.5% (some KRW 88 700 million) of the overall total exposure.

- Thirdly, in past incidents, for instance in the *Prestige* incident, the Executive Committee had agreed to increase the level of payments to victims subject to some conditions, namely that the payments were based on an assessment of claims following the 1992 Fund's criteria for admissibility of claims; that the principle of equal treatment of claimants was respected; that financial arrangements to protect the 1992 Fund against an overpayment situation were set up and that this decision was of real benefit to claimants.

- Fourthly, payments at 100% would:

  (a) assist the victims to regain their livelihood as soon as the assessment had been completed by the Fund;

  (b) reduce the possibility of legal disputes arising from the incident; and

(c) allow the Secretariat to focus on its principal task of compensating victims.

Response by the Director on the level of payments

3.5.19 In response to the Korean delegation, the Director stated that the level of payments in respect of the *Hebei Spirit* incident was currently 35% of the established losses and that the total amount of the claims submitted showed that unless something was done, it was very unlikely that this level of payments would, in the short term, increase substantially.

3.5.20 He added that if the Executive Committee were to establish the level of payments on the basis of the amounts claimed in the limitation proceedings (KRW 3 597 billion), as had been the case in major incidents in the past, the level of payments would have to be substantially reduced. It could therefore be argued that the *Hebei Spirit* was indeed an exceptional case.

3.5.21 The Director stated that he had discussed this matter with the Korean delegation and that he agreed with them that the possibility of a solution along the lines described in their intervention should be explored.

3.5.22 He stated that for this solution to work, however, it was essential that all relevant elements of similar arrangements accepted by the Executive Committee in the past be incorporated in any proposed arrangement, in particular that the 1992 Fund was fully protected against an overpayment situation with both an appropriate undertaking from the Government and a sufficient bank guarantee, and that the principle of equal treatment of claimants was upheld.

3.5.23 He also stated that a solution like the one envisaged by the Korean delegation would inevitably take some time to prepare and that he was therefore willing to work together with the Korean Government with the aim of developing a proposal for an increase in the level of payments for the Executive Committee's consideration at its October 2010 session.

Debate

3.5.24 Most delegations that took the floor agreed with the Director that, taking into account that the advice of the Club's and Fund's experts was still the most reliable and realistic estimate of the total exposure of the Fund in this case, maintaining the level of payment at 35% would continue to provide the Fund with reasonable protection against a possible overpayment situation.

3.5.25 Several delegations also stated that the Executive Committee should keep in mind that there were persons who had suffered substantial losses as a result of the incident who should be compensated as quickly and adequately as possible and that it was therefore important that the Korean Government and the Director explored the possibilities for an increase in the level of payments as suggested, provided the proposal to be developed incorporated the elements that had been considered crucial in similar arrangements in the past, in particular:

- that the principle of equal treatment of victims be upheld;
- that the payment of compensation be made on the basis of assessments of claims in accordance with the criteria for admissibility established by the 1992 Fund; and
- that the 1992 Fund should be adequately protected against an overpayment situation.

Decision

3.5.26 The Executive Committee decided to maintain the level of payments at 35% of the amount of the loss or damage as assessed by the Club's and Fund's experts and that this percentage should be reviewed at the 1992 Fund Executive Committee's next session. It also decided to endorse the proposal by the Korean delegation to explore, together with the Director, the possibilities of increasing the level for payments to 100% and to submit a proposal to the Executive Committee at its October 2010 session.

Fisheries restrictions

3.5.27 It was recalled that, in the view of the Director, examination of the data provided by the Korean Government regarding the basis on which the fisheries restrictions were imposed and lifted indicated that, on the basis of the scientific and technical information available, all of the fisheries should reasonably have been reopened before the actual date when the restrictions were lifted.

3.5.28 It was also recalled that in June 2009, the 1992 Fund Executive Committee had decided that the assessment of claims in the fisheries sector should be based on conclusive scientific information available to the Fund and had instructed the Director to continue to have bilateral consultations with the Republic of Korea with a view to resolving the remaining differences of opinion as soon as possible (cf document 92FUND/EXC.45/8, paragraph 3.4.21).

3.5.29 The Committee noted that a meeting had taken place in May 2010 in Seoul between representatives of the Korean Government, the Skuld Club and the Fund to discuss the conclusions reached by the Skuld Club's and Fund's experts on the basis of the data provided by the Korean Government, and a document submitted by the Korean Government to the cancelled April meeting of the 1992 Fund Executive Committee.

3.5.30 The Director stated that a further meeting had taken place in June 2010 in London and that at that meeting an in-depth consultation had taken place based on a proposal by the Director, within the present policy on admissibility as laid down in the 1992 Fund's Claims Manual and in accordance with the decision of the Executive Committee taken in June 2009. He further stated that, as a result of that meeting, the remaining differences on the fisheries restrictions had been reduced.

3.5.31 The Committee noted the intervention by one member of the Korean delegation (from a local government) on behalf of the victims affected by the spill, conveying his gratitude for the efforts of the Secretariat to provide compensation to the victims of the incident. In his intervention, the delegate recalled how the decision by the Fund to remove the deduction of 25% from the assessment of the tourism losses after March 2008 had assisted in reducing some hardship on the part of the tourism claimants. The delegate also informed the Committee that a number of claimants had, in the course of the past year, committed suicide due to financial hardship, and conveyed a request from the fisheries claimants that the issue of fisheries restrictions be resolved as soon as possible.

3.5.32 The delegation of the Republic of Korea referred to the Director's intervention with regard to the recent meeting that took place in June 2010. It confirmed that, although not completely satisfied with the proposal by the Director, since the Korean Government had decided to reopen fishing after the relevant scientific information was available, taking into account other important factors, such as risk communication, the progress of the clean-up operations and market confidence, the Korean Government would, with the aim of facilitating the compensation process, respect the Committee's decision reflecting the Director's proposal at the meeting in June 2010. That delegation pointed out that any claimant would, however, retain the right to take court action if he/she was not satisfied with the assessment carried out by the Fund.

3.5.33 The Director expressed sympathy for the families of the deceased and thanked the representatives of the Republic of Korea for their cooperation in finding a solution to the issue of the fisheries restrictions.

Debate

3.5.34 One delegation asked the Director whether he could clarify the principles on which the decision reached with regard to the determination of the reasonable dates on which to base the assessment of the economic losses in the fisheries sector and whether the proposed solution followed the same principles.

3.5.35 The Director explained that in both cases, the decision as to the reasonable dates on which to base the assessment of economic losses in the fisheries sector was made on the basis of the instructions given

by the Committee in June 2009 and that the assessment of claims in the fisheries sector should not necessarily be based on the dates when the restrictions were actually lifted by the authorities, but should be based on conclusive scientific information available to the Fund regarding the earliest dates when the fishery restrictions could reasonably have been lifted.

Decision

3.5.36 The Executive Committee noted that the Secretariat and the Republic of Korea had narrowed their differences of opinion and had reached a mutual understanding on the reasonable dates for lifting the fisheries restrictions within the 1992 Fund's policy on admissibility, as laid down in the Claims Manual, and on the basis of the instructions given by the Committee in June 2009.

Document IOPC/JUN10/3/5/3 submitted by the Republic of Korea

3.5.37 The Committee took note of document IOPC/JUN10/3/5/3 submitted by the Republic of Korea, which explained why there was a need to develop general guidelines on the extent and use of reasonable fishery restrictions after an oil spill, bearing in mind possible conflicts between the relevant Government and the Fund arising from a lack of such guidelines .

3.5.38 It was noted that the document contained a proposal for the Executive Committee to instruct the Director to have the Fund's experts prepare a report with general guidelines to establish a reasonable fishery restriction period after an oil spill.

3.5.39 The Director stated that while he would be willing in principle to provide further guidance to Member States regarding the principles and framework of reasonable fishery restrictions, he also felt that it was important to avoid guidelines which went into too much technical detail. He added that he did not agree with a number of points and suggestions made in the document, but that he could nevertheless foresee that a clarification of, or an amendment to the Claims Manual might be useful for Member States and claimants in future.

3.5.40 The Technical Adviser added that it was relevant in this context to note the difference between public safety and public perception and that while seafood safety was a very important issue, it was also one that tended to be handled differently in different countries at an operational level. She stated that a number of 1992 Fund Member States already have guidelines as to the use of fishery restrictions since the latter are used to protect human health not only following oil spills but also during natural events such as algal blooms. It would therefore be inappropriate for the Fund to give detailed guidance on sampling procedures, extent and analysis, as requested in the document. She supported the Director's suggestion to review and clarify or expand the existing information in the Claims Manual, on what should be considered reasonable principles for fishery restrictions.

Debate

3.5.41 A number of delegations supported the development of general guidelines in principle, but expressed concern regarding their level of detail, particularly in view of potential overlaps with existing national arrangements.

3.5.42 Considering the high degree of variability in the circumstances and situations where fishery restrictions might be used in the context of pollution incidents and the focus required of any IOPC Fund's guidance on compensation issues, some of these delegations felt that under no circumstances should the guidance directly address the extent of fishery restrictions or attempt to regulate operational procedures as this was outside the scope of the Conventions.

3.5.43 One delegation added that in the first instance, any existing guidance in the Claims Manual should be reviewed to clearly identify any need for change.

3.5.44 Another delegation emphasised the existence of high-level, strategic guidance documents from IMO and the Food and Agriculture Organization (FAO) on the management of fishery restrictions after oil spills and suggested that these be taken into account.

3.5.45 In response to a question by one delegation as to whether guidelines developed for insertion in the Claims Manual would need to be adopted by the 1992 Fund Assembly rather than the Executive Committee, the Director agreed that while there seemed to be no objection to changes to the Claims Manual to be explored at the initiative of the Executive Committee, they would ultimately require presentation to the Assembly for final adoption.

Decision

3.5.46 The Executive Committee decided to instruct the Director to develop, in conjunction with the Club and Fund's experts and taking into account any input from Member States, guidelines addressing the principles of reasonable fishery restrictions, possibly in the form of amendments to the Claims Manual.

3.6 **Incident in Argentina - Document IOPC/JUN10/3/6** **92EC**

3.6.1 The 1992 Fund Executive Committee took note of the information contained in document IOPC/JUN10/3/6 on an oil pollution incident in Argentina.

Criminal proceedings

3.6.2 It was recalled that an investigation into the cause of the incident by the Criminal Court of Comodoro Rivadavia (Argentina) had reached a preliminary decision that the spill originated from the *Presidente Arturo Umberto Illia (Presidente Illia)*. It was recalled, however, that the shipowner had appealed against the decision contesting liability and arguing that the oil which impacted the coast must have come from another source.

Civil proceedings

3.6.3 It was recalled that a claim for compensation in relation to environmental damage had been submitted to the Court in Comodoro Rivadavia by the Chubut Province against the Master and the owner of the *Presidente Illia*. It was also recalled that the shipowner had submitted points of defence denying his liability for the spill and requested that the Court bring the 1992 Fund into the proceedings. It was noted that the Court had agreed to this request and that the Fund had been formally notified in October 2009. It was also noted that the Fund had submitted defence pleadings arguing that the most likely source of the spill was the *Presidente Illia*.

Claims handling

3.6.4 The Committee recalled that discussions had been held between the 1992 Fund and the West of England Club and that it had been agreed that the shipowner and his insurer would pay claims for compensation assessed and approved in accordance with the principles laid down in the 1992 Civil Liability and Fund Conventions. It was also recalled that it had been agreed that, if it was finally established that the oil which impacted the coast did not come from the *Presidente Illia* but from another source, the shipowner and the West of England Club would attempt to recover the amounts of compensation paid from the party responsible for the oil spill and, if it was proved that the oil spill must have come from a tanker other than the *Presidente Illia* but it remained unknown (a so-called 'mystery spill'), the shipowner and the West of England Club would recover the amounts of compensation paid from the 1992 Fund.

Claims situation

3.6.5 It was noted that, as at 17 May 2010, 86 claims, for a total of AR$21.9 million (£3.9 million) and one claim for US$81 615 (AR$318 200 or £56 500), had been submitted to the expert acting as the focal

point for the Club and Fund in Argentina by fishermen, tourism-related businesses and animal welfare organisations and that these claims were being examined by the Club's and Fund's experts.

3.6.6 It was also noted that, since the majority of claimants were artisanal fishermen, they had few records available to assist them in quantifying their losses, and that the lack of documentation was extending the time required to make assessments of the losses. It was noted that the West of England Club had made provisional payments of AR$4 000 to each claimant considered to have an admissible claim for at least that amount.

3.7 ***King Darwin* - Document IOPC/JUN10/3/7/Rev.1** **92EC**

3.7.1 The 1992 Fund Executive Committee took note of the information contained in document IOPC/JUN10/3/7/Rev.1. It was noted that on 27 September 2008, the Marshall Islands oil tanker *King Darwin* (42 010 GT) had released approximately 64 tonnes of bunker C fuel oil into the waters of the Restigouche River during discharge operations in the Port of Dalhousie, New Brunswick, Canada.

Claims for compensation

3.7.2 It was noted that four claims had been submitted as a result of the incident, two of which had been settled at US$1 332 488.

Legal actions

3.7.3 It was noted that in September 2009, a dredging company had filed an action in the Federal Court in Halifax, Nova Scotia, against the owners of the *King Darwin*, Steamship Mutual, the Canadian Ship Source Oil Pollution Fund and the 1992 Fund, claiming property damage due to fouling of the equipment caused by the spilled oil and consequential losses totalling Can$143 417 (£93 200).

Director's considerations

3.7.4 It was noted that, from the information available to the 1992 Fund, this appeared to be a small operational spill well contained within the Port of Dalhousie, that the damage caused appeared to be well within the 1992 CLC limit and that it was therefore unlikely that the 1992 Fund would be called upon to pay compensation.

4 Other matters

No matters were raised under this item.

5 1992 Fund sixth intersessional Working Group - first meeting

Report of the first meeting of the 1992 Fund sixth intersessional Working Group - Document IOPC/JUN10/5/7 **92WGR6/1**

The 1992 Fund sixth intersessional Working Group held its first meeting on 29 June 2010. In keeping with past practice, the Report of that meeting will be prepared by the Director, in consultation with the Working Group's Chairman, and issued at a later date. The Report will be considered by the 1992 Fund Assembly at its next regular session.

6 Adoption of the Record of Decisions

The draft Record of Decisions of the June 2010 sessions of the IOPC Funds' governing bodies was adopted, subject to certain amendments.

* * *

ANNEX

1.1 1992 Fund Member States

	1992 Fund Executive Committee	Other 1992 Fund Member States
Algeria		X
Antigua & Barbuda		X
Argentina		X
Australia		X
Bahamas		X
Bahrain		X
Belgium		X
Brunei Darussalam		X
Bulgaria		X
Cameroon	X	
Canada	X	
China (Hong Kong Special Administrative Region)	X	
Cyprus	X	
Denmark		X
Dominica		X
Fiji		X
France	X	
Gabon		X
Georgia		X
Germany	X	
Greece		X
India		X
Islamic Republic of Iran		X
Italy		X
Japan	X	
Liberia	X	
Malaysia		X
Malta		X
Marshall Islands		X
Mexico		X
Morocco		X
Netherlands	X	
New Zealand		X
Nigeria		X
Norway		X
Panama		X
Philippines	X	
Poland		X
Qatar		X
Republic of Korea		X

	1992 Fund Executive Committee	Other 1992 Fund Member States
Russian Federation		**X**
Singapore	**X**	
South Africa		**X**
Spain	**X**	
Sri Lanka		**X**
Sweden	**X**	
Trinidad and Tobago	**X**	
Turkey		**X**
United Kingdom		**X**
Uruguay	**X**	
Venezuela		X

1.2 Non-1992 Fund Member States represented as observers

Bolivia
Côte d'Ivoire
Guatemala
Indonesia
Kuwait
Saudi Arabia
Ukraine

1.3 Intergovernmental organisations

Central Commission for Navigation on the Rhine (CCNR)
International Maritime Organization (IMO)
Maritime Organisation of West and Central Africa (MOWCA).

1.4 International non-governmental organisations

Comité Maritime International (CMI)
International Association of Classification Societies Ltd (IACS)
International Association of Independent Tanker Owners (INTERTANKO)
International Chamber of Shipping (ICS)
International Group of P&I Clubs
International Tanker Owners Pollution Federation Ltd (ITOPF)
International Union of Marine Insurance (IUMI)
Oil Companies International Marine Forum (OCIMF)
World Liquid Petroleum Gas Association (WLPGA)