

 INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS	Agenda item: 1		IOPC/OCT10/1/2/2	
	Original: ENGLISH		12 August 2010	
	1992 Fund Assembly		92A15	●
	1992 Fund Executive Committee		92EC49	
	Supplementary Fund Assembly		SA6	●
	1971 Fund Administrative Council		71AC25	●

EXAMINATION OF CREDENTIALS

PROPOSAL FOR CHANGE TO FORMAL REQUIREMENTS

Note by the Director

Summary:	<p>At the October 2009 sessions of the governing bodies, the Credentials Committee suggested in its report that the 1992 Fund Assembly might wish to review its current policy on credentials, whereby not only credentials and/or notifications transmitted by letter and telefax but also those sent as attachments to e-mails (ie scanned copies) could be accepted as valid for all meetings of the governing bodies. The governing bodies instructed the Director to study the issue of accepting credentials received in the form of attachments to e-mails and to prepare relevant recommendations for consideration by the 1992 Fund Assembly at its next regular session.</p> <p>In this document the Director sets out how he has acted upon that instruction and presents his findings and recommendations.</p>
Action to be taken:	<p><u>1992 Fund Assembly:</u></p> <p>To consider the Director's proposal for a change to the formal requirements as regards the validity of credentials.</p> <p><u>Supplementary Fund Assembly and 1971 Fund Administrative Council:</u></p> <p>To take note of the decision of the 1992 Fund Assembly in respect of this item.</p>

1 Introduction

- 1.1 The governing bodies will recall that, at their October 2006 sessions, the 1992 Fund Assembly endorsed amendments to the credentials arrangements in order to clarify certain aspects of both the content of credentials and the procedures for their submission. The revised policy was communicated to Member States in Circular 92FUND/Circ.58 (SUPPFUND/Circ.8, 71FUND/Circ.87) dated 1 July 2007 (available on the IOPC Funds' website: www.iopcfund.org).
- 1.2 The governing bodies will further recall that at the same sessions, the 1992 Fund Assembly agreed with the view expressed by the Credentials Committee at that session that credentials submitted in the form of e-mail should not be accepted because of the 'exceptionally high risk of forgery or deception' (cf document 92FUND/A.11/7, paragraph 3.12).
- 1.3 In its report to the governing bodies at their October 2009 sessions, the Credentials Committee noted, however, that more and more often credentials were being received by the IOPC Funds' Secretariat as attachments to e-mails. The Credentials Committee was of the view that the 1992 Fund Assembly might wish to consider amending its current policy whereby not only credentials and/or notifications

transmitted by telefax but also as attachments to e-mails (ie scanned copies of the original) could also be accepted as valid for all meetings of the governing bodies, irrespective of whether voting was taking place or not.

- 1.4 The governing bodies instructed the Director to study the issue of accepting credentials received in the form of attachments to e-mails and to prepare relevant recommendations for consideration by the 1992 Fund Assembly at its next regular session

2 **Consideration by the Director**

- 2.1 The Director has considered this issue and has also, for comparison, consulted several United Nations specialised agencies as well as various London-based intergovernmental organisations to ascertain their positions with respect to the acceptance of credentials as attachments to e-mail. The results of his enquiries are in the table below:

<u>Organisation</u>	<u>Credentials accepted as e-mail attachment</u> <u>Yes/No</u>	<u>Comments</u>
International Maritime Organization (IMO)	Yes	
Food & Agricultural Organization (FAO)	Yes	States which submit credentials in the form of an <u>original</u> are put on List A; States which submit credentials in form of a <u>photocopy, a fax or an electronic copy</u> are put on List B. It is up to the Credentials Committee to decide if those on List B are to be accepted and the delegations be authorised to participate fully in the Conference sessions.
United Nations Educational, Scientific and Cultural Organization (UNESCO)	Yes	
Commonwealth Secretariat	Yes	Credentials must be on headed notepaper with a landline number and come from a recognisable e-mail address.
European Bank for Reconstruction and Development	Yes	
International Cocoa Organization	Yes	
International Coffee Organization	Yes	
International Mobile Satellite Organization	Yes	
International Sugar Organization	Yes	
North-East Atlantic Fisheries Commission	Yes	

- 2.2 It appears that all the intergovernmental organisations which were consulted accept credentials presented in the form of an e-mail attachment (ie a scanned copy of the original). It can therefore be concluded that these organisations consider the risks to be acceptable.

- 2.3 In October 2006, some delegations had expressed the view that the IOPC Funds should follow the same policy as IMO and accept credentials sent in the form of an e-mail attachment but require the original of the credentials to be provided after the session. However, the Director had made the point that, if this policy were to be adopted, difficulties could arise if, due to the original not being provided, the credentials of a State were rejected retrospectively and this resulted in a quorum not having been achieved after the session had been held or where a vote had taken place at the session.
- 2.4 Whilst it is true that the risk of fraud or misuse with an e-mail attachment cannot be excluded, that is true as well for telefaxes and indeed even for letters. In reality, this is not likely to happen and, in any event, it is very doubtful that anyone wanting to defraud the Organisations would remain unspotted, for instance because the competent authorities would most probably issue the proper credentials and send the true representative to the meeting. The Director, therefore, believes that the risk is acceptable and that accepting credentials in the form of a scanned copy of the original, attached to an e-mail sent from a recognised e-mail address is a pragmatic solution to the transmission problems encountered by some Member States.
- 2.5 The Director, therefore, recommends that the governing bodies adopt a corresponding amendment to the formal requirements as regards credentials and proposes the following text for the consideration of the governing bodies:

Form and content of credentials and notifications

Formal requirement as regards credentials

The first two paragraphs remain unchanged.

Paragraph 3 (new text underlined):

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, a telefax thereof or a scanned copy of the original credentials transmitted from a recognised e-mail address. Credentials transmitted by telefax or e-mail will be accepted as valid for all meetings of the governing bodies, irrespective of whether voting is taking place or not. There is no requirement for a telefax or e-mail to be accompanied by an original signed letter or *Note verbale* from the State's Embassy or High Commission in London certifying the authenticity of the telefax or e-mail. Should the Director have any concerns as to the authenticity of any credentials received by telefax or e-mail, he will attempt to corroborate them to the extent possible and bring this to the attention of the Credentials Committee.

The remaining paragraphs remain unchanged.

3 Action to be taken

3.1 1992 Fund Assembly:

The 1992 Fund Assembly is invited to consider the Director's proposal to amend the formal requirements as regards credentials to allow for the receipt of credentials as set out above.

3.2 Supplementary Fund Assembly and the 1971 Fund Administrative Council:

The Supplementary Fund Assembly and the 1971 Fund Administrative Council are invited to take note of the decision of the 1992 Fund Assembly in respect of this item.
