



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUNDS

|                                  |                   |   |
|----------------------------------|-------------------|---|
| Agenda item: 7                   | IOPC/OCT11/7/1/2  |   |
| Original: ENGLISH                | 22 September 2011 |   |
|                                  |                   |   |
| 1992 Fund Assembly               | 92A16             | • |
| 1992 Fund Executive Committee    | 92EC53            | • |
| Supplementary Fund Assembly      | SA7               | • |
| 1971 Fund Administrative Council | 71AC27            | • |

## APPOINTMENT OF THE DIRECTOR

### PROCEDURES

#### Note by the Chairman of the 1992 Fund Assembly

**Summary:**

As a result of the decision of the current Director of the IOPC Funds, Mr Willem Oosterveen, not to seek a second term of office, the post of Director will become vacant on 1 November 2011 on the expiry of the Director's contract on 31 October 2011.

The 1992 Fund Assembly will, at its 16th session in October 2011, therefore appoint a new Director who will, *ex officio*, also be Director of the Supplementary Fund and the 1971 Fund.

This document deals with the procedures for the appointment of the new Director.

**Action to be taken:**

1992 Fund Assembly

- (a) to take note of the information provided in this document;
- (b) to decide whether the two candidates for the post of Director should be invited to make presentations prior to the election;
- (c) to decide if a question and answer session with the candidates should be held;
- (d) to decide on the timetable for the election procedure;
- (e) to decide the extent to which the procedure should take place during a private meeting and determine who should be allowed to attend such a session; and
- (f) to elect two scrutineers.

Supplementary Fund Assembly and 1971 Fund Administrative Council

- (a) to take note of the information contained in this document; and
- (b) to note the decisions taken by the 1992 Fund Assembly in respect of the various aspects of the procedures to be followed.

## **1 Introduction**

- 1.1 This document deals with the procedures for the appointment of the new Director.
- 1.2 Nominations of candidates for the position of Director were invited from 1992 Fund Member States by 1992 Fund circular (circular 92FUND/Circ.77). By the closing date for the receipt of candidatures by the IOPC Funds' Secretariat, ie 15 September 2011, two nominations for the post of Director had been received, namely those of Mr José Maura Barandiarán (Spain) and Mr Frédéric Hébert (France). The candidatures of Mr Maura and Mr Hébert have been circulated in document IOPC/OCT11/7/1/1.
- 1.3 The relevant provisions of the 1992 Fund Convention and the 1992 Fund Assembly's Rules of Procedure are reproduced in Annexes I and II respectively.

## **2 Ballot procedure**

- 2.1 At its 9th extraordinary session held in March 2005, the 1992 Fund Assembly decided on the voting procedure set out below to be followed for the election of the Director at the October 2005 sessions (document 92FUND/A/ES.9/28, paragraph 23.2.20). The Chairman of the 1992 Fund Assembly proposes that the same procedure should be followed in October 2011.
- (a) Voting concerning the appointment of Director shall be by secret ballot.
- (b) Before holding each ballot, each Member State present shall receive a list of the names of all candidates standing in that ballot in alphabetical order.
- (c) In each ballot each delegation of the Member States present shall indicate the candidate it supports by ticking the relevant box. If a list indicates support for more than one candidate, the vote is invalid.
- (d) A candidate who obtains two-thirds of the votes of the Member States present at the meeting at the time of the vote shall be declared appointed as Director<sup><1></sup>.

## **3 Timing of ballots**

- 3.1 If neither of the two candidates were to obtain two-thirds majority in the first ballot, one or more further ballots would be required.
- 3.2 At the March 2005 session it was suggested that if multiple ballots were to take place, there should be a certain interval between consecutive ballots so as to allow delegations time for consultations. The Chairman of the 1992 Fund Assembly proposes that the same procedure should be followed in October 2011.
- 3.3 In order to give the Credentials Committee the possibility to examine the credentials submitted by delegations and report to the 1992 Fund Assembly as well as to provide a certain interval between consecutive ballots, the following timetable is proposed:

|                             |                               |
|-----------------------------|-------------------------------|
| First ballot                | Wednesday 26 October, 9.30 am |
| Second ballot (if required) | Wednesday 26 October, 2.30 pm |
| Third ballot (if required)  | Thursday 27 October, 9.30 am  |

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<sup><1></sup> Paragraphs (e) and (f) of the voting procedures decided by the 1992 Fund Assembly in March 2005 relate to the situation where more than two candidates participate in a ballot, which will not be the case in the election to be held at the October 2011 session and they are therefore not included in this document.

#### **4 Presentations by candidates**

- 4.1 In the Director's circular to 1992 Fund Member States dated 12 August 2011 inviting nominations for the position of Director of the IOPC Funds (92FUND/Circ.77), attention was drawn to the fact that, depending on the number of candidates, the 1992 Fund Assembly may wish to invite candidates to make a short oral presentation of approximately 10 minutes' duration in support of his/her candidature at the Assembly's October 2011 session.
- 4.2 The Assembly is invited to decide whether it wishes to invite the two candidates to make presentations prior to the election and whether the Assembly wishes to hold a question and answer session with each candidate immediately following his presentation.
- 4.3 The Chairman considers that if presentations are to be made, these should be done some time before the first ballot. He proposes that the presentations should be made at 4.30 pm on Tuesday 25 October (ie on the day before the first ballot).

#### **5 Private meetings**

- 5.1 At its March 2005 session the 1992 Fund Assembly had noted that Rule 54 of the 1992 Fund's Rules of Procedure for the appointment of the Director required that the 1992 Fund Assembly should vote in secret at a private meeting, but did not indicate who should be allowed to be present at such a private meeting. It had also noted that in accordance with the practice of the IOPC Funds, only 1992 Fund Member States would be allowed to be present at the private meeting.
- 5.2 The Assembly had decided, however, that in view of the fact that the appointment of the Director should be of interest also to the former 1971 Fund Member States that were not Members of the 1992 Fund, those States should be permitted to be present at the private meeting, without voting rights (document 92FUND/A/ES.9/28, paragraph 23.2.23).
- 5.3 The Chairman proposes that, as in October 2005, if presentations were to be made by the candidates, the following procedures should be followed:
- the presentations (and any question and answer sessions) should also take place in a private meeting at which only the delegations of 1992 Fund Member States and former 1971 Fund Member States would be present;
  - the Director and other members of the Secretariat would be excused from attending the meeting;
  - the presentation of each candidate (and any following question and answer session) should be held without the other candidate being present; and
  - the presentations by the candidates and the question and answer periods (if any) at the private meeting would not be recorded electronically or by other means.

#### **6 Election of scrutineers**

- 6.1 Under Rule 38 of the 1992 Fund Assembly's Rules of Procedure, the Assembly shall, on the proposal of the Chairman, appoint two scrutineers from Member States present at the meeting, who shall scrutinise the votes cast.
- 6.2 The Chairman draws the attention of 1992 Fund Member States to the fact that any delegations whose credentials are not in order at the time of the vote will not be entitled to participate in the election of the Director of the IOPC Funds.

7 **Action to be taken**

1992 Fund Assembly

7.1 The 1992 Fund Assembly is invited:

- (a) to take note of the information provided in this document;
- (b) to decide whether the two candidates for the post of Director should be invited to make presentations prior to the election;
- (c) to decide if a question and answer session with the candidates should be held;
- (d) to decide on the timetable for the election procedure;
- (e) to decide the extent to which the procedure should take place during a private meeting and determine who should be allowed to attend such a session; and
- (f) to elect two scrutineers.

Supplementary Fund Assembly and 1971 Fund Administrative Council

7.2 The Supplementary Fund Assembly and the 1971 Fund Administrative Council are invited:

- (a) to take note of the information contained in this document; and
- (b) to take note of the decisions taken by the 1992 Fund Assembly.

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## ANNEX I

### INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE, 1992

#### *Voting*

#### **Article 32**

The following provisions shall apply to voting in the Assembly:

- (a) each member shall have one vote;
- (b) except as otherwise provided in Article 33, decisions of the Assembly shall be by a majority vote of the members present and voting;
- (c) decisions where a three-fourths or a two-thirds majority is required shall be by a three-fourths or two-thirds majority vote, as the case may be, of those present;
- (d) for the purpose of this Article the phrase "members present" means "members present at the meeting at the time of the vote", and the phrase "members present and voting" means "members present and casting an affirmative or negative vote". Members who abstain from voting shall be considered as not voting.

#### **Article 33**

The following decisions of the Assembly shall require a two-thirds majority:

- (a) a decision under Article 13, paragraph 3, not to take or continue action against a contributor;
- (b) the appointment of the Director under Article 18, paragraph 4;
- (c) the establishment of subsidiary bodies, under Article 18, paragraph 9, and matters relating to such establishment.

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## ANNEX II

### RULES OF PROCEDURE OF THE ASSEMBLY OF THE 1992 FUND

#### Voting

##### Rule 32

Subject to Article 33 of the 1992 Fund Convention, decisions of the Assembly and of its subsidiary bodies shall be made, elections shall be determined, and reports, resolutions and recommendations shall be adopted, by a majority of the Members present and voting.

##### Rule 33

Each Member shall have one vote. For the purposes of these Rules and in accordance with Article 32 of the 1992 Fund Convention:

- (a) the phrase "Members present" means Members present at the meeting at the time of the vote;
- (b) the phrase "Members present and voting" means Members present and casting an affirmative or negative vote. Members who abstain from voting or who cast an invalid vote shall be considered as not voting.

##### Rule 37

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

##### Rule 38

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

#### Appointment of Director

##### Rule 54

For the appointment of the Director, the Assembly shall vote by secret ballot in a private meeting.