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Agenda item 7

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SUPPFUND/A.4/5

## CREDENTIALS FOR 1992 FUND MEETINGS

### Note by the Director

**Summary:** At its 11th session, held in October 2006, the 1992 Fund Assembly endorsed a number of amendments to the credentials arrangements for future sessions which had been proposed by the Credentials Committee. This document reports on the impact of these changes.

This document also sets out the Director's proposal that the 1992 Fund Assembly and the Supplementary Fund Assembly consider whether the 1992 Fund's Credentials Committee should also examine the credentials of Member States of the Supplementary Fund and, if so, proposes appropriate amendments to the Rules of Procedure of the Supplementary Fund Assembly.

**Action to be taken:**

1992 Fund Assembly: Decide whether, if the Assembly of the Supplementary Fund were to so request, the Credentials Committee should in addition examine the credentials of delegations of Member States of the Supplementary Fund (cf paragraph 4.2).

Supplementary Fund Assembly:

- (a) decide whether to amend Rule 9 of the Rules of Procedure (cf paragraph 3.3);
- (b) decide whether to request the 1992 Fund Assembly to invite its Credentials Committee to in addition examine the credentials of delegations of Member States of the Supplementary Fund (cf paragraph 4.2); and
- (c) decide on appropriate changes to Rule 10 of the Rules of Procedure for the Assembly (cf paragraph 4.5).

### 1 Introduction

- 1.1 At its 11th session, held in October 2006, the 1992 Fund Assembly endorsed a number of changes to the credentials arrangements for future sessions which had been proposed by its Credentials Committee (cf document 92FUND/A.11/35, paragraph 8.4). Section 2 of this document reports on the impact of these changes, as noted at the 1992 Fund Assembly's 12th session, held in October 2007 (document 92FUND/A.12/28, paragraph 3.6).

- 1.2 Section 3 of this document deals with changes to the Rules of Procedure of the Supplementary Fund Assembly which are proposed in order to harmonise the requirements for credentials for the Supplementary Fund with those of the 1992 Fund.
- 1.3 In March 2005, when the 1992 Fund Assembly originally decided to establish a Credentials Committee to examine the credentials of delegations of Member States to its governing bodies (document 92FUND/A/ES.9/28, section 24), the Director did not propose setting up such a Committee for the governing bodies of the 1971 Fund and the Supplementary Fund. However, he indicated his intention to revert to this issue when experience had been gained from the operation of the 1992 Fund Assembly's Credentials Committee (document 92FUND/A/ES.9/22, paragraph 5.5). This issue is dealt with in section 4 of this document.

## **2 Impact of changes to the arrangements for the submission of credentials**

- 2.1 At its 11th session, held in October 2006, the 1992 Fund Assembly endorsed a number of changes to the credentials arrangements for future sessions, as proposed by the Credentials Committee (cf document 92FUND/A.11/35, paragraph 8.4). These changes were implemented by means of amendments to the Rules of Procedure of both the Assembly and the Executive Committee (document 92FUND/AC.3/A/ES.12/14, paragraph 3.3) and the issuing of a revised Circular endorsed by the Assembly in July 2007 providing detailed guidance in respect of the form and content of credentials (Circular 92FUND/Circ.58, SUPPFUND/Circ.8).
- 2.2 The changes to the credentials arrangements, as laid down in the revised Circular, can be summarised as follows:
  - If credentials were issued by an appropriate authority as determined by the Government, other than the Head of State or the Head of Government or the Minister of Foreign Affairs, such authorisation should be communicated to the Director prior to the meeting only if the person authorised to issue credentials was not a government employee.
  - A person who was properly authorised to issue credentials should be entitled to issue original credentials nominating a particular representative to participate in meetings of the IOPC Funds' governing bodies for a specific calendar year.
  - If credentials were submitted in a language other than one of the official languages of the Funds (English, French and Spanish) they should be accompanied by a certified translation into one of these three languages. The certified translation:
    - must bear the name, position and organisation of the person certifying the translation and be signed and dated or be stamped, dated and initialled; and
    - may be provided by that Member State's Ministry for Foreign Affairs or by its diplomatic representative in London or by one of the delegates whose names were listed in the credentials or by IMO's Translation Section.
  - There was no need for the credentials to state that they gave the nominated person(s) the right to take part in the meeting(s) and vote as such rights were considered to be implied.
  - Credentials which were transmitted by telefax should be accepted as valid for all meetings of the governing bodies of the 1992 Fund, irrespective of whether voting was taking place or not, and there would be no requirement for a telefax 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.

- 2.3 As regards the acceptance of credentials submitted by telefax, it was decided that the Director should have a degree of flexibility so that, if he were to have any concerns as to the authenticity of any credentials received by telefax, he could attempt to corroborate them to the extent possible. The Assembly also decided that it would review at a later date whether or not there was any need to reconsider the issue of the acceptance of credentials submitted by telefax (document 92FUND/A.11/35, paragraph 8.8).
- 2.4 The Director is of the view that the changes to the credentials arrangements have been a significant improvement and that they have facilitated both the submission of credentials by States and the examination of credentials by the Credentials Committee. Several States have taken advantage of the revised arrangements in respect of the authorisation of persons to issue credentials and the period for which credentials can be issued. In addition, the possibility to submit credentials via telefax has not led to any problems and seems to have been a considerable benefit for those States whose embassies or high commissions in London are not authorised to issue credentials, thereby greatly facilitating the smooth running of meetings, in particular, as regards the quorum requirement. The Director is not aware of any delegations having expressed any concerns in respect of the changes.
- 2.5 The Director is therefore of the view that the current arrangements for credentials, including their submission by telefax, should be maintained and should only be revisited at a future session if further improvements seem possible or if any unexpected problems arise.

### **3 Related changes to the Rules of Procedure of the Supplementary Fund**

- 3.1 At its 3rd session, held in June 2007, the 1992 Fund Administrative Council, acting on behalf of the 1992 Fund Assembly, adopted amendments to the relevant Rules of Procedure governing the submission of credentials (document 92FUND/AC.3/A/ES.12/14, paragraph 3.3) in order to implement one of the changes proposed by the Credentials Committee. To the extent possible, the Supplementary Fund Assembly applies the same Rules of Procedure as those applied by the 1992 Fund Assembly.
- 3.2 The submission of credentials is governed by Rule 9 of the Supplementary Fund Assembly's Rules of Procedure, which currently reads:

'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.'

- 3.3 In order to align the text of Rule 9 of the Supplementary Fund Assembly's Rules of Procedure with that of the 1992 Fund Assembly, the Director proposes that the following amendment should be made:

'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. Where such authority is a person who is not a Government employee, such authorisation shall be communicated to the Director in advance of the opening day of the Assembly.'

### **4 Examination of credentials for the Supplementary Fund Assembly**

- 4.1 When the Director originally proposed at the 1992 Fund Assembly's 9th extraordinary session, held in March 2005, that a Credentials Committee should be established at each session of the 1992 Fund's governing bodies, he did not propose, at that stage, that a Credentials Committee should be set up in

respect of the 1971 Fund and the Supplementary Fund. However, he did express his intention to revert to this issue in respect of these Organisations when experience had been gained from the operation of the 1992 Fund Assembly's Credentials Committee (cf document 92FUND/A/ES.9/22, paragraph 5.5).

- 4.2 Since only notifications, and not credentials, are required for meetings of the 1971 Fund, the Director is of the view that there is no need to establish a Credentials Committee in respect of the 1971 Fund. However, in the light of the successful operation of the 1992 Fund's Credentials Committee, the Director believes that it would be useful if credentials for the Supplementary Fund were also examined by a Committee. The majority of States submit credentials covering meetings of both the 1992 Fund and the Supplementary Fund, which therefore already have to be looked at by the 1992 Fund's Credentials Committee. Since all Supplementary Fund Member States are also Members of the 1992 Fund and sessions of the Supplementary Fund Assembly are normally held in conjunction with sessions of the 1992 Fund's governing bodies, the Director is of the view that the most practical solution is for the 1992 Fund's Credentials Committee to also examine credentials in respect of the Supplementary Fund.
- 4.3 The possibility, however, of the Supplementary Fund Assembly holding a session on its own, ie not in conjunction with a session of the 1992 Fund's Assembly or Executive Committee, cannot, of course, be ruled out. In that case the Supplementary Fund Assembly would need to be able to establish its own Credentials Committee.
- 4.4 Rule 10 of the Supplementary Fund Assembly's Rules of Procedure currently reads as follows:

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

- 4.5 The Director proposes that, if the 1992 Fund Assembly were to agree to a request by the Supplementary Fund Assembly that the Credentials Committee of the 1992 Fund should, in addition, examine the credentials of delegations of Member States of the Supplementary Fund, Rule 10 of the Supplementary Fund Assembly's Rules of Procedure should be replaced by the following text:

'When the Assembly holds sessions in conjunction with sessions of the 1992 Fund's governing bodies, the Credentials Committee established by the 1992 Fund shall examine also the credentials of delegations of States members of the Supplementary Fund and report to the Supplementary Fund Assembly without delay. Should a session of the Supplementary Fund Assembly be held not in conjunction with a session of the 1992 Fund's governing bodies, the Assembly shall at the beginning of the session appoint a Credentials Committee. It shall consist of [three/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 States members of the Assembly and report without delay.'

## **5 Action to be taken by the Assemblies**

The 1992 Fund Assembly is invited to:

- (a) take note of the information contained in this document; and
- (b) decide whether, if the Assembly of the Supplementary Fund were to so request, the Credentials Committee should in addition examine the credentials of delegations of Member States of the Supplementary Fund (cf paragraph 4.2).

The Supplementary Fund Assembly is invited to:

- (d) take note of the information contained in this document;
  - (e) decide whether to amend Rule 9 of the Rules of Procedure (cf paragraph 3.3);
  - (f) decide whether to request the 1992 Fund Assembly to invite its Credentials Committee to in addition examine the credentials of delegations of Member States of the Supplementary Fund (cf paragraph 4.2); and
  - (g) decide on appropriate changes to Rule 10 of the Rules of Procedure for the Assembly (cf paragraph 4.5).
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