



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
SUPPLEMENTARY  
FUND

ASSEMBLY  
1st extraordinary session  
Agenda item 24

SUPPFUND/A/ES.1/21  
21 October 2005  
Original: ENGLISH

## RECORD OF DECISIONS OF THE FIRST EXTRAORDINARY SESSION OF THE ASSEMBLY

(held from 19 to 21 October 2005)

Chairman: Captain Esteban Pacha (Spain)  
First Vice-Chairman: Mr Nobuhiro Tsuyuki (Japan)  
Second Vice-Chairman: Mrs Birgit Sølling Olsen (Denmark)

### *Opening of the session*

#### **1 Adoption of the Agenda**

The Assembly adopted the Agenda as contained in document SUPPFUND/A/ES.1/1.

#### **2 Examination of credentials**

2.1 The following Member States were present:

Denmark	Ireland	Portugal
Finland	Japan	Spain
France	Netherlands	Sweden
Germany	Norway	

The Assembly took note of the information given by the Director that all Member States participating had submitted credentials which were in order.

2.2 Italy, which had deposited an instrument of ratification to the Supplementary Fund Protocol on 20 October 2005 but for which the Protocol would not enter into force until 20 January 2006, was represented as an observer.

- 2.3 The following States which were Members of the 1992 Fund but not of the Supplementary Fund were represented as observers:

Algeria	Greece	Qatar
Angola	India	Republic of Korea
Antigua and Barbuda	Israel <sup>&lt;1&gt;</sup>	Russian Federation
Argentina	Jamaica	Saint Lucia
Australia	Kenya	Saint Vincent and the Grenadines
Bahamas	Latvia	Singapore
Bahrain	Liberia	South Africa
Barbados	Lithuania	Sri Lanka
Belgium	Malaysia	Trinidad and Tobago
Cameroon	Malta	Tunisia
Canada	Marshall Islands	Turkey
China (Hong Kong Special Administrative Region)	Mexico	Tuvalu
Colombia	Monaco	United Arab Emirates
Croatia	Morocco	United Kingdom
Cyprus	New Zealand	Uruguay
Dominica	Nigeria	Vanuatu
Estonia	Panama	Venezuela
Georgia	Papua New Guinea	
Ghana	Philippines	
	Poland	

- 2.4 The following States which had observer status with the 1992 Fund were represented as observers:

Brazil	Iran (Islamic Republic of)	Saudi Arabia
Côte d'Ivoire	Kuwait	
Egypt	Peru	

- 2.5 The following intergovernmental organisations and international non-governmental organisations were represented as observers:

*Intergovernmental organisations:*

European Commission  
International Maritime Organization  
International Oil Pollution Compensation Fund 1971  
International Oil Pollution Compensation Fund 1992

*International non-governmental organisations:*

Comité Maritime International (CMI)  
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)

---

<sup><1></sup> Israel became a Member of the 1992 Fund on 21 October 2005.

### **3 Report of the Director**

- 3.1 The Director introduced his report on the activities of the Supplementary Fund since the entry into force of the 2003 Protocol to the International Convention on the Establishment of an International Fund for Oil Pollution Damage 1992 (Supplementary Fund Protocol) on 3 March 2005, contained in document SUPPFUNDFUND/A/ES.1/2. In his presentation the Director made reference to the entry into force of the Protocol, which brought the total amount available for compensation for each incident for pollution damage in the States which become Members of the Supplementary Fund to 750 million SDR (£600 million), including the amount payable under the 1992 Civil Liability and Fund Conventions, ie 203 million SDR (£162 million). He mentioned that the administrative structures of the Supplementary Fund had been established at sessions of the governing bodies in March 2005 and drew particular attention to the fact that it had been decided that the Supplementary Fund should be administered by the 1992 Fund Secretariat and that the Director of the 1992 and 1971 Funds should also be the Director of the Supplementary Fund.
- 3.2 The Director thanked the entire staff for their professionalism and loyalty, which had made it possible to operate the IOPC Funds in an efficient manner.
- 3.3 One observer delegation drew attention to the fact that in his report the Director had not made any mention of technical assistance, for example in the field of measures to prevent pollution incidents, and that there was no appropriation in the budget for such activities. The Director stated that it had been decided in the early days of the 1971 Fund that technical assistance of that type fell outside its remit. He pointed out, however, that the Funds had developed a training package on the handling and assessment of claims and that several workshops on this matter had been held during the past two years.
- 3.4 One observer delegation stated that its country had benefited from the Fund workshops and taken the decision to invite professional trainers to attend these workshops to enable them to pass on the information to a wider audience.
- 3.5 Another observer delegation suggested that the Funds should approach the IMO Technical Cooperation Committee with a view to including the Funds' training package in the Integrated Technical Co-operation Programme (ITCP) for the next biennium. The Director pointed out that the Funds were often invited by IMO to participate in IMO's seminars and workshops to describe the compensation regime which made it possible for the Funds to reach a wider audience.

### **4 Status of the Supplementary Fund Protocol and the 1992 Fund Convention**

- 4.1 The Assembly took note of the information contained in document SUPPFUND/A/ES.1/3 concerning the ratification situation in respect of the Supplementary Fund Protocol and the 1992 Fund Convention. It noted that at the time of the session there were eleven Member States of the Supplementary Fund.
- 4.2 It was noted that Italy had ratified the Supplementary Fund Protocol on 20 October 2005 and that the Protocol would enter into force for Italy on 20 January 2006. The Belgian delegation stated that Belgium would ratify the Supplementary Fund Protocol by the end of October or in early November 2005.
- 4.3 The Assembly also noted that at the end of the 10th session of the 1992 Fund Assembly there were 92 Member States of the 1992 Fund and that four more States would become Members within the next twelve months.

**5 Application of the Supplementary Fund Protocol to the EEZ or an area designated under Article 3(a)(ii) of the Supplementary Fund Protocol**

The Assembly took note of the information in document SUPPFUND/A/ES.1/4 as regards Member States which had provided information on the establishment of an EEZ or designated area under Article 3(a)(ii) of the Supplementary Fund Protocol.

**6 Report of the joint Investment Advisory Body**

6.1 The Assembly took note of the report of the joint Investment Advisory Body of the 1992 Fund, the 1971 Fund and the Supplementary Fund contained in the Annex to document SUPPFUND/A/ES.1/5. It noted the amended Internal Investment Guidelines relating to Money Market Investments and Foreign Exchange Transactions contained in the Attachment to the report and the Investment Advisory Body's recommendation that, once proper internal controls were in place, the Funds should use Business Internet Banking to carry out foreign exchange transactions. The Assembly also took note of the Body's objectives for the coming year.

6.2 The Assembly expressed its gratitude to the members of the joint Investment Advisory Body for their valuable work.

**7 Joint Audit Body's Report**

7.1 The Chairman of the Audit Body, Mr Charles Coppolani, introduced document SUPPFUND/A/ES.1/6 containing the joint Audit Body's Report.

7.2 In his introduction, Mr Coppolani drew particular attention to the involvement of the Audit Body in the audit process and noted with satisfaction the co-operative spirit in which the External Auditor had worked with the Audit Body. He referred to the discussions held with the joint Investment Advisory Body. He also referred to other issues which had been covered by the Body, eg the procedures for recruitment of the next Director and risk management where the Audit Body had noted with satisfaction that considerable work had been carried out on financial risks and that a timetable had been set for addressing other risk areas. He mentioned that the Audit Body was satisfied with the amendments to the Internal and Financial Regulations adopted by the Assembly in March 2005. Mr Coppolani drew the attention of the governing bodies to the importance of Member States fulfilling their obligations to submit oil reports for the proper functioning of the contribution system. He stated that as part of the phased programme of review work agreed upon at the first meeting of the Audit Body in 2002, a review of the efficiency of claims settlement procedures had been carried out and that a report of the review would be considered under Agenda item 8.

7.3 Mr Coppolani drew attention to the fact that when the Audit Body had been established in 2002 the governing bodies had decided that the functioning of the Audit Body should be reviewed every three years on the basis of an evaluation report from its Chairman and that such a review should be made at the present session. Mr Coppolani stated that the Audit Body formed part of the governance of the Funds. He reminded the Assembly that the External Auditor had emphasised the importance that he attached to the Audit Body and that the Director had stated that he considered that the Audit Body contributed significantly to the effective governance of the IOPC Funds. Mr Coppolani referred to the Audit Body's recommendation that the Body should be instructed to continue its work under such a mandate and with such membership composition as the Supplementary Fund Assembly may decide.

7.4 Mr Coppolani stated that the Audit Body, on the assumption that it would be maintained, recommended that the future work programme should include a continuing focus on risk management as well as effective financial control and efficient procedures, monitoring the transition of management control following the new Director taking over responsibility in November 2006, and a continuation of the review of the effectiveness of claims handling procedures.

- 7.5 Many delegations expressed their views on the vital role played by the Audit Body and that the Body's mandate should be reviewed at least once in every three years.
- 7.6 Many delegations supported the view that the Audit Body should be maintained as a permanent structure of the Funds and that it should continue its work not only on the financial aspects of the Funds but also be involved with reviewing operational and management issues.
- 7.7 The Assembly decided to maintain the Audit Body as a permanent part of the IOPC Funds' structure. It was also decided that there was no need to amend the Audit Body's mandate at this stage but leave it to the Audit Body to recommend such amendments as it may deem appropriate. It was decided, however, that the Assembly should review the Audit Body's mandate in 2008.
- 7.8 The Assembly expressed its gratitude for the important work being carried out by the Body.

## **8 Joint Audit Body's Review of claims handling**

- 8.1 The joint Audit Body's Review of claims handling (document SUPPFUND/A/ES.1/7) was introduced by the member of the Audit Body who carried out the review, Mr Nigel MacDonald.
- 8.2 In his introduction, Mr MacDonald informed the Assembly that the Audit Body had confirmed at its December 2004 meeting that a review of claims handling procedures would be carried out in 2005 enabling the Body to form a view about the efficiency of those procedures. He mentioned that the review had been designed, in consultation with the Secretariat, to enable the pattern of claims management to be understood and, in particular, the timeliness and costs of claims assessment, in order to enable the Audit Body to form a view as to the underlying efficiency of the process. Mr MacDonald explained that a significant amount of invaluable preparatory work, extracting from files and existing databases suitable data to assist the analysis and review of claims handling had been carried out by the Secretariat during the first three months of 2005. He expressed his gratitude on behalf of the Audit Body to the Secretariat for providing this assistance.
- 8.3 Mr MacDonald explained that once he had carried out the efficiency review, his report thereon had been considered and endorsed (with minor modifications) by the Audit Body at its June 2005 meeting.
- 8.4 Mr MacDonald emphasised that the efficiency review had not been designed to re-assess individual past claims relating to specific incidents, but had rather sought to identify possible trends and patterns from which lessons for claimants or the Funds might be drawn, looking at a number of different incidents and, where necessary, looking at sample claims within those incidents to understand these matters better. He informed the Assembly that a selection of categories and specific incidents had been examined during the review, namely 'Major incidents', 'Moderate incidents', 'Non-insured incidents' and 'Incidents in one country'. He explained that the efficiency review had focussed on the costs of claims handling and the speed with which claims were assessed, approved and settled, as well as the way claims were handled and the management information available to the Secretariat to monitor and control this activity.
- 8.5 Mr MacDonald explained that considerable assistance had been provided by the Secretariat, both in preparation for this review of the efficiency of claims handling of the Funds, and whilst it was being carried out. He stated that this was the first review of this type undertaken and that it would not have been possible to carry it out without that assistance and expressed the Audit Body's appreciation for it.
- 8.6 Mr MacDonald informed the Assembly that, as set out in document SUPPFUND/A/ES.1/7, the review had identified numerous factors that could cause delay in claims handling. He explained that many of these factors were matters that fell outside the Funds' ability to resolve. The Assembly noted that a significant issue for the Funds was the tendency of claimants to make inflated claims and that when this led to questions and further enquiries, the claimants often

delayed their responses, sometimes for weeks or months, perhaps because of fears of being accused of fraud if the claim were found to be unjustified.

- 8.7 Mr Macdonald stated that the interplay between government relief activity for people affected by an incident, and the Funds' procedures under the Conventions were also an area of potential complexity, particularly where claimants received hardship relief from their Government without having needed to demonstrate the extent of support for their claim that was required to allow the claim to be assessed and approved by the Funds.
- 8.8 It was noted that with one exception (the *Nakhodka* incident – the reasons for which were discussed further in the report) the time taken to assess claims followed a fairly consistent pattern, and the typical time for the majority of claims to be assessed was within six months of being received, with the bulk of all claims being assessed within 12 months, unless there were legal factors causing further delay.
- 8.9 Mr Macdonald stated that the Funds' costs were higher than the equivalent costs of an insurance company, because, in accordance with the Conventions, the Funds had to ensure that every claimant was treated fairly in accordance with legal principles. Mr Macdonald made the point that the practice of setting up a local claims handling office for the larger incidents made a great deal of sense and allowed the Funds to collect and manage the data in ways that were of considerable value in helping to identify and resolve delays and allowed effective oversight and control of costs.
- 8.10 Mr Macdonald emphasised that each incident was different, and that the challenge of carrying out a review of this type was to draw the correct generic lessons, whilst recognising that in specific cases the circumstances would differ and that flexibility and initiative were essential for the Funds to remain adaptable to new circumstances and problems, which was why the report contained a good deal of explanatory material and commentary, as well as recommendations.
- 8.11 The Assembly noted that the recommendations relating to the time taken to handle claims, on the costs of claims, on interim payments and on the management of claims handling. It was noted that the review did not identify any serious past weaknesses or failures by the Funds or the Secretariat and no suggestion whatsoever of any impropriety.
- 8.12 The Assembly expressed its gratitude to the Audit Body for the interesting and useful report.
- 8.13 One delegation, whilst noting the management benefits of claims database systems asked whether the data was protected and for how long was it retained once all claims arising from an incident had been dealt with. The Deputy Director stated that access to the database was restricted to claims staff in the Secretariat, the staff of claims handling offices and the claims staff of the shipowner's insurer. He further stated that all data relating to claims, whether in hard copy or electronic format, was archived after an incident was closed in case the Secretariat needed to refer to it in future, for example in connection with the efficiency review.
- 8.14 Another delegation asked whether any thought had been given to obtaining the claimants' perceptions of the Funds' claims handling efficiency. In reply Mr Macdonald stated that it might be difficult to obtain an objective view from many claimants.
- 8.15 In response to a question about the Funds' support and training programme the Director made the point that it was difficult to reach out to potential claimants prior to an incident, although the Funds' claims workshops had proved very successful and a number of Member States had invited the Funds to run them. The Director also referred to training workshops run by the Secretariat for its experts to ensure that claims were assessed in a consistent way and that assessment reports followed a similar format. It was noted that following the conclusion of major incidents it was the Funds' practice to hold wash ups with all those involved in claims handling to review the lessons learned for use in future incidents.

8.16 The Assembly instructed the Director to submit a report to its next session setting out an action plan that the Secretariat had put in place in the light of Mr Macdonald's recommendations.

## **9 Submission of oil reports**

9.1 The Assembly noted that all Supplementary Fund Member States had submitted their oil reports for 2004, as set out in document SUPPFUND/A/ES.1/8.

9.2 The Assembly noted the information contained in document SUPPFUND/A/ES.1/8/1, which contained recommendations as to further measures that might encourage States to fulfil their obligations to submit oil reports and had been prepared in the light of the serious concerns expressed by the governing bodies of the 1992 Fund and the 1971 Fund as regards the number of States which had not fulfilled their obligations to submit oil reports since the submission of these reports was crucial for the functioning of the IOPC Funds. The present procedures for obtaining the oil reports were noted. The Assembly took note of the consideration by the Audit Body of this issue. It also noted the initiatives that had been taken by the Secretariat and the Director's analysis of the factors contributing to the problem.

9.3 The Assembly considered the Director's suggestion that any further measures to encourage States to submit oil reports would have to focus on either assisting States to submit reports or 'shaming' them into doing so.

9.4 The Assembly noted the measures suggested by the Director as regards assisting States to submit oil reports, namely:

- The Secretariat could liaise much more closely with the Embassy or High Commission of new 1992 Fund Member States in order to try to prevent problems from arising in the first place. This could include inviting the Embassy or High Commission to inform the Secretariat of an individual who was to be responsible for the procedure for submission of the oil reports, either at the Embassy or High Commission or at a relevant Ministry or agency.
- All States could be invited to give the Secretariat the contact details of the person, section or agency which in the respective State was responsible for the submission of reports so as to enable the Secretariat to make direct contacts when problems arose.
- The Secretariat was considering establishing an electronic reporting system for the submission of reports on contributing oil, similar to that which has been developed in the context of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (HNS Convention). It was conceivable that the reduced administrative work involved in using such a system compared to the present system might assist those States with relatively small administrations in the submission of reports.
- The Assembly might wish to consider whether when electing Chairman and Vice-Chairmen of various Fund bodies account should be taken of whether the States whose nationals are considered for election have fulfilled their obligations to submit oil reports.
- The Assembly might wish to instruct the Director to invite a few States which have established efficient procedures for compiling the necessary information and submitting the reports to inform the Secretariat of these procedures. The Director could then prepare an information document which could assist other States in setting up such procedures.

9.5 As regards 'shaming' States into submitting oil reports, the Assembly noted that, in addition to the suggestion that had been made at the 1992 Fund Assembly's October 2004 session that States with outstanding reports could be highlighted on the website and in the Annual Report, the Director had suggested that the Assembly or Administrative Council of the 1992 and 1971 Funds could invite those States with outstanding reports which were represented at the sessions of the

governing bodies to report back at the next session with an explanation as to the reasons for that State's failure to submit reports.

- 9.6 Many delegations stated that they supported the proposed measures to encourage States to submit oil reports and several delegations mentioned that they were particularly interested in the development of an electronic reporting system.
- 9.7 As regards the proposed measures intended to 'shame' States into submitting reports, some delegations supported these measures but other delegations expressed their reservations.
- 9.8 During the discussion, it was mentioned that there were a number of reasons for the non-submission of oil reports. Several delegations mentioned that letters often did not reach the appropriate authority. One delegation suggested that the Secretariat could collect information from States on a regular basis as to the contact details of the government authority and the person responsible for the submission of oil reports. Several delegations suggested that the Secretariat should provide States with assistance to submit reports. One delegation considered that the Secretariat should try to engage with States at a high level.
- 9.9 One delegation drew attention to Article 29 of the Final Clauses of the 1992 Protocol to the 1971 Fund Convention under which, before the Protocol came into force for a particular State, that State should, when depositing its instrument of ratification and annually thereafter, communicate to the Secretary-General of IMO the name and address of any person who in respect of that State would be liable to contribute to the 1992 Fund as well as the quantities of contributing oil received by any such person.
- 9.10 The Assembly instructed the Director to proceed with the measures which had been proposed to assist States to submit oil reports listed in paragraph 9.4 but not with those intended to 'shame' States into submitting reports listed in paragraph 9.5.
- 9.11 The Assembly also instructed the Director to continue to bring the matter of the submission of oil reports to its attention at each regular session.

## **10 Operation of the Secretariat**

- 10.1 The Assembly took note of the information contained in document SUPPFUND/A/ES.1/9 regarding the operation of the Secretariat.
- 10.2 The Assembly noted that a revised version of the 1992 Fund's Claims Manual, which had been approved by the 1992 Fund Assembly at its October 2004 session, had been published in English, French and Spanish in April 2005 and that the revised Manual had been well received.
- 10.3 The Assembly noted that the work on strengthening financial control had continued, taking into account recommendations made by the External Auditor and the Audit Body and that the Investment Advisory Bodies (since March 2005 the joint Investment Advisory Body) had also made valuable proposals in this regard.
- 10.4 The Assembly further noted that the Funds' risk management programme, including safeguarding the Funds' IT systems services was being pursued, and that in order to ensure business continuity, all electronic communications received in the Funds' office in Portland House were automatically copied to the Funds' offices in the IMO building and that all critical data were also replicated to systems in the Funds' offices in that building, thereby providing back-up in the event of the failure of the systems or services at the Portland House office.
- 10.5 The Assembly noted that a new publication in English, French and Spanish of the texts of the 1992 Civil Liability Convention, the 1992 Fund Convention and the 2003 Supplementary Fund Protocol had been issued.

- 10.6 The Director drew attention to recent developments of the IOPC Funds' website, which in May 2004 had become available also in French and Spanish. He mentioned that the website had been further developed by expanding it to provide not only a wider range of information but also to facilitate more user-friendly navigation of the information contained in it. He also mentioned in particular that a section had been added which provided information on the governing bodies, the Secretariat and its staff, the Audit Body and the Investment Advisory Body. He informed the Assembly that further expansion of the IOPC Funds' website would take place during 2006 by adding new sections aimed at specific groups of users.
- 10.7 The Director also mentioned that in June 2005 the Secretariat had begun work on the expansion of the Document Server to contain all documents going back to the first session of the 1971 Fund Assembly in November 1978, a period involving more than 4 000 documents. He explained that the first stage of the project, covering some 2 400 meeting documents for the period 1996-2000, was under way, that all documents from the year 2000 had recently been uploaded to the document server and that it was expected that by the end of 2005 all documents for the period 1996-2000 would be available on the Document Server.
- 10.8 The Director informed the Assembly that during 2004 and 2005 consideration had been given to the establishment of a database of the decisions taken over the years by the governing bodies. He explained that he had now approved a prototype Records of Decisions Database and that work had commenced on categorising all the decisions and other relevant information, such as court judgements, into an index. He expressed his hope that that phase of the project would be completed by the end of 2005. He explained that the second phase would involve preparing abstracts and incorporating them into the database and that the aim was to complete that phase by October 2006, by which time all the Funds' documents should have been added to the Document Server so that the database could be launched onto the Funds' website. He mentioned that at least initially the database would be set up in the English language only.
- 10.9 The Director mentioned that the Secretariat had set up a dedicated website for the HNS Convention ([www.hnsconvention.org](http://www.hnsconvention.org)), that the website was currently in English only but would be made available in French and Spanish in 2006 and that further development of the HNS website would be considered.
- 10.10 The Director thanked those Member States who had continually showed interest and support in the ongoing developments of the IOPC Funds' website and document server.
- 10.11 A number of delegations expressed their satisfaction at the ongoing developments in information management. One delegation looked forward to the new booklet containing the texts of the Conventions on the website, especially the Spanish version which was not previously available.
- 10.12 One delegation noted the regrading of seven posts, which represented 25 per cent of the staff, and assumed that these posts had been regraded based on changes in duties and increased responsibilities. That same delegation further questioned whether it was worthwhile to maintain the posts of French and Spanish translators, which had been vacant since 2003. The Director replied that it was important for the Organisation to build on the staff's competencies and that an external consultant specialised in UN classification of posts had assisted him in determining whether posts should be regraded as a result of new duties and responsibilities. With regard to the two vacant translator posts, the Director stated that no budgetary appropriations had been made for these posts but he considered it appropriate to maintain these established posts to enable the Secretariat to meet increased any significantly increased volume of translations.

## **11 Appointment of Director**

- 11.1 The Assembly recalled that as a result of the expiry of the contract of the current Director of the 1992 Fund, the 1971 Fund and the Supplementary Fund, Mr Måns Jacobsson, on 31 December 2006 the post of Director would become vacant. The Assembly further recalled that the 1992 Fund Assembly had, at its October 2004 session, decided that it would at its 10th session in October 2005 appoint a new Director who would also, *ex officio*, be Director of the 1971 Fund

and the Supplementary Fund. It was recalled that at its 9th extraordinary session, held in March 2005, the 1992 Fund Assembly had decided that in order to ensure a smooth transition from the present Director to his successor, the present Director would retain full responsibility for the Organisations up to 31 October 2006, the newly-elected Director would join the Secretariat on 1 September 2006 and take over responsibility for the Organisations on 1 November 2006 and the present Director would continue to be available up to 31 December 2006 (document 92FUND/A/ES.9/28, paragraph 23.2.28.).

- 11.2 The Assembly took note of the information contained in document SUPPFUND/A/ES.1/10 regarding the candidates for the next Director of the IOPC Funds.
- 11.3 The Assembly noted that the 1992 Fund Assembly had, at its 10th session, elected Mr Willem J G Oosterveen (Netherlands) as the next Director of the 1992 Fund from 1 November 2006 and that he would *ex-officio* be Director of the 1971 Fund and the Supplementary Fund also.
- 11.4 The Assembly congratulated the Director Elect, wishing him every success in his future management of the IOPC Funds.

## **12 Headquarters Agreement**

- 12.1 The Assembly took note of the information contained in document SUPPFUND/A/ES.1/11 regarding the preparation of a Headquarters Agreement between the United Kingdom Government and the Supplementary Fund and a revision of the Headquarters Agreement between the United Kingdom Government and the 1992 Fund.
- 12.2 The Assembly recalled that, as reported to the March 2005 session of the Assembly, the Director had submitted to the United Kingdom Government a draft text of a revised Headquarters Agreement for the 1992 Fund and a draft text of a Headquarters Agreement for the Supplementary Fund. It was also recalled that, as agreed with the United Kingdom Government, both texts had been drafted within the scope of the International Organisations Act 1968 (as amended) and that the texts followed, as closely as possible, the Headquarters Agreement between IMO and the United Kingdom Government, which had been concluded in 2002.
- 12.3 It was noted that consultations with the United Kingdom Government on the draft texts were continuing. The Assembly also noted that it would be invited to consider the texts of the Headquarters Agreements once a provisional agreement had been reached between the Government and the Director on these texts.

## **13 Agreement with IMO on administrative arrangements**

The Assembly took note of the information contained in document SUPPFUND/A/ES.1/12 regarding an agreement with the International Maritime Organization (IMO) on an extension of the scope of the Agreement and License to occupy and the Underlease relating to the Funds' occupancy in the IMO building to cover also the activities of the Supplementary Fund.

## **14 Incidents**

The Assembly noted that, since the Supplementary Fund Protocol had entered into force on 3 March 2005, there had, at the time of the session, been no incidents which would or might involve the Supplementary Fund (document SUPPFUND/A/ES.1/13).

## **15 Election of members of the joint Audit Body**

- 15.1 The Assembly noted that, at its 10th session, the 1992 Fund Assembly had elected the following members of the joint Audit Body, nominated by 1992 Fund Member States, for a period of three years:

Mr Charles Coppolani (France)  
Mr Maurice Jaques (Canada)  
Mr Mendim Me Nko'o (Cameroon)  
Dr Reinhard Renger (Germany)  
Mr Wayne Stuart (Australia)  
Professor Hisashi Tanikawa (Japan)

15.2 The Assembly also noted that the 1992 Fund Assembly had elected Mr Charles Coppolani (France) as Chairman of the Audit Body.

15.3 The Assembly further noted that the 1992 Fund Assembly had elected Mr Nigel Macdonald as the member of the Audit Body not related to the Organisations ('outsider') for a final three-year term.

**16 Appointment of members of the joint Investment Advisory Body**

16.1 The Assembly noted that, at its 10th session, the 1992 Fund Assembly had reappointed Mr David Jude, Mr Brian Turner and Mr Simon Whitney-Long as members of the joint Investment Advisory Body for a term of one year.

**17 Sharing of joint administrative costs between the Supplementary Fund, the 1992 Fund and the 1971 Fund**

17.1 It was recalled that at their October 2003 sessions, the governing bodies of the 1992 and 1971 Funds had decided that the distribution of the costs of running the joint Secretariat should be made by means of the 1971 Fund paying a flat management fee to the 1992 Fund. It was also recalled that at their March 2005 sessions the governing bodies of the 1992 Fund, the 1971 Fund and the Supplementary Fund had decided that the same approach should be used as regards the Supplementary Fund's contribution to the costs of running the joint Secretariat.

17.2 It was recalled that at the Assembly's March 2005 session the Director had undertaken to provide more details of expenses that could be attributed specifically to the Supplementary Fund.

17.3 The Assembly noted the Director's view that it would, with a few exceptions, be very difficult to identify the volume of work of individual staff members which should be attributed specifically to the Supplementary Fund or to the 1971 Fund without requiring all staff to maintain records of time spent on tasks relating to those Funds, which would have given rise to a considerable administrative burden. It was noted that the Director had instead tried to assess how many working days per year the staff as a whole would, during 2006, devote to tasks relating to the 1971 Fund and the Supplementary Fund, that he had arrived at 20 days for the 1971 Fund and five days for the Supplementary Fund and that he had apportioned the costs on the basis of the daily costs of running the joint Secretariat based on the proposed administrative budget for 2006, resulting in a management fee for the 1971 Fund of £275 000 and for the Supplementary Fund of £70 000, payable to the 1992 Fund (document SUPPFUND/A/ES.1/16, paragraphs 5 and 6).

17.4 The Assembly agreed with the approach taken by the Director and approved the Director's proposal that for 2006 the Supplementary Fund should pay a flat management fee of £70 000 to the 1992 Fund.

17.5 It was decided that the management fee payable by the Supplementary Fund should be reviewed annually, in view of changes of the total figure of the costs of running the joint Secretariat and the amount of work required by the Secretariat in the operation of that Fund.

17.6 It was noted that the Assembly of the 1992 Fund had agreed, at its 10th session, to the flat management fee of £70 000 payable by the Supplementary Fund to the 1992 Fund, as set out in paragraph 17.4.

**18 Working capital**

The Assembly decided to maintain the working capital of the Supplementary Fund at £1 million, as proposed by the Director in document SUPPFUND/A/ES.1/17.

**19 Budget for 2006 and assessment of contributions to the General Fund**

19.1 The Assembly noted that the draft budget for 2006 for the administrative expenses for the joint Secretariat adopted by the 1992 Fund Assembly totalled £3 601 900.

19.2 The Assembly considered the draft 2006 Budget for the administrative expenses of the Supplementary Fund and the assessment of contributions to the General Fund as proposed by the Director in document SUPPFUND/A/ES.1/18.

19.3 The Assembly adopted the budget for 2006 for the administrative expenses of the Supplementary Fund with a total of £85 000 (including the management fee of £70 000), as reproduced in the Annex to this document.

19.4 The Assembly noted the Director's proposal that contributions of £1.3 million should be levied to the General Fund to cover:

- (a) the administrative expenses for 2006 (including a management fee payable to the 1992 Fund);
- (b) reimbursement with interest of loans granted by the 1992 Fund; and
- (c) the working capital.

19.5 The Assembly noted that the 1992 Fund Assembly had decided that the 1992 Fund should not raise any contributions for payment in early 2006. For this reason the Assembly considered it preferable to postpone the first levy of contributions to the Supplementary Fund until the autumn of 2006 and decided to request the 1992 Fund Assembly to authorise the Director to make the necessary funds available to the Supplementary Fund in the form of loans.

19.6 It was noted that, at its 10th session, the 1992 Fund Assembly had granted the request referred to in paragraph 19.5 and authorised the Director to make the necessary funds available to the Supplementary Fund in the form of loans to be repaid, with interest, when the Supplementary Fund had received the first levy of contributions decided by its Assembly, to the extent that this could be done without prejudice to the operations of the 1992 Fund (document 92FUND/A.10/37, paragraph 30.13).

19.7 The Assembly took note of the information contained in document SUPPFUND/A/ES.1/18/1 explaining the operation of the capping system. It was noted that since it had been decided not to levy any contributions to the Supplementary Fund at this stage, the question of capping of contributions did not arise.

**20 Assessment of contributions to Claims Funds**

The Assembly decided that, since there had been no incidents which would or might require the Supplementary Fund to pay compensation, there was no need for contributions to be levied to any Claims Fund (document SUPPFUND/A/ES.1/19)

**21 Co-operation with P&I Clubs**

21.1 The Assembly took note of the information contained in document SUPPFUND/A/ES.1/20 and in particular the proposed text of a revised Memorandum of Understanding between the 1992 Fund/Supplementary Fund and the International Group of P&I Clubs as contained in Annex II to that document.

21.2 In view of the decision by the 1992 Fund Assembly that the Director should collaborate with the International Group of P & I Clubs and OCIMF on a revision of the voluntary agreement package this agenda item was not considered (cf document 92FUND/A.10/37, paragraph 8.31).

**22 Future sessions**

22.1 The Assembly decided to hold its next regular session during the week of 23 - 27 October 2006, but noted that this session might be held at an alternative venue to the IMO building.

22.2 It was noted that the weeks of 27 February and 22 May 2006 were available for IOPC Fund meetings and that such meetings could take place at the IMO building.

**23 Any other business**

No items were raised under this agenda item.

**24 Adoption of the Record of Decisions**

The draft Record of Decisions of the Assembly, as contained in document SUPPFUND/A/ES.1/WP.1, was adopted, subject to certain amendments.

\* \* \*

ANNEX

**2006 ADMINISTRATIVE BUDGET FOR THE SUPPLEMENTARY FUND**

		<b>Budget appropriations for the period 1 January - 31 December 2006</b>
		<b>£</b>
<b>I</b>	<b>Management fee payable to 1992 Fund</b>	<b>70 000</b>
<b>II</b>	<b>Administrative costs relating only to the Supplementary Fund (such as fees of External Auditor, legal experts and consultants)</b>	<b>15 000</b>
<b>Total</b>		<b>85 000</b>