



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

ASSEMBLY
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Agenda item 16

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PREPARATIONS FOR THE ENTRY INTO FORCE OF THE 1992 PROTOCOL AMENDING THE 1971 FUND CONVENTION

GRANT OF OBSERVER STATUS BY THE 1992 FUND

Note by the Director

1 Introduction

1.1 Under Article 18.10 of the 1992 Fund Convention, one of the functions of the Assembly is to grant observer status with the 1992 Fund. This Article, which is identical (after deletion of the reference to the Executive Committee) to the wording of Article 18.10 of the 1971 Fund Convention, reads as follows:

The functions of the Assembly shall be:

.....

10 to determine which non-Contracting States and which inter-governmental and international non-governmental organizations shall be admitted to take part, without voting rights, in meetings of the Assembly and subsidiary bodies;

.....

1.2 The criteria for inviting non-Member States and organisations to participate, without voting rights, in sessions of the 1971 Fund Assembly are laid down in the Rules of Procedure of that Assembly. Draft Rules of Procedure for the Assembly of the 1992 Fund have been prepared and are reproduced in document FUND/A.18/13/1.

2 Grant of observer status to non-Member States

2.1 The following draft Rule of Procedure for the 1992 Fund Assembly is proposed for granting observer status to non-Member States as regards the 1992 Fund:

Rule 4

The Director with the approval of the Chairman shall invite:

- (a) States which have signed the 1992 Fund Convention or which have deposited the appropriate instrument in respect of that Convention, but for which that Convention is not yet in force;
- (b) States which have notified the 1992 Fund that they are considering accession to the 1992 Fund Convention;
- (c) States which are Members of the 1971 Fund but not of the 1992 Fund; and
- (d) States which would be invited to send observers to meetings of the Assembly of the 1971 Fund, in accordance with the latter's Rules of Procedure

to send observers to sessions of the Assembly.

2.2 It appears clear that States which fall within categories (a) and (b) of this draft Rule should be invited to attend sessions of the Assembly as observers. These criteria are the same, *mutatis mutandis*, as those applied by the 1971 Fund.

2.3 It is proposed in paragraphs (c) and (d) of draft Rule 4 that States which are Members of the 1971 Fund but not of the 1992 Fund and States which have observer status with the 1971 Fund should also be invited to attend sessions of the Assembly of the 1992 Fund. The reason for this proposal is twofold. Firstly, it is hoped that by attending sessions of the Assembly of the 1992 Fund such States might be encouraged to consider acceding to the 1992 Fund Convention. Secondly, in view of the close link between the activities of the two Funds, it would be beneficial if all States which have been granted observer status by the 1971 Fund were granted observer status also by the 1992 Fund (and vice versa).

3 Grant of observer status to organisations

3.1 The following draft Rule of Procedure for the 1992 Fund Assembly is proposed for granting observer status to intergovernmental and international non-governmental organisations vis-à-vis the 1992 Fund:

Rule 5

The Director shall invite to be represented by observers at any session of the Assembly:

- (a) the 1971 Fund;
- (b) the United Nations;
- (c) the International Maritime Organization;
- (d) any other specialised agency of the United Nations whose interests and those of the 1992 Fund are of common concern;

- (c) any other intergovernmental organisation and any non-governmental international organisation which the Assembly has decided to admit to its meetings in accordance with Article 18.10 of the 1992 Fund Convention.

3.2 Under the proposed item (a), the 1971 Fund would be granted observer status with the 1992 Fund, so that it could attend sessions of the Assembly of the 1992 Fund. It would also seem appropriate for the 1992 Fund to be granted observer status with the 1971 Fund.

3.3 The proposed provisions under items (b) to (e) of this draft Rule are the same, *mutatis mutandis*, as those applied to the Assembly of the 1971 Fund.

3.4 The Assembly of the 1971 Fund adopted, at its 2nd session, guidelines containing detailed criteria for deciding which intergovernmental organisations and international non-governmental organisations should be invited to attend sessions of the Assembly as observers (document FUND/A.2/13/1). The Assembly of the 1992 Fund may wish to adopt corresponding guidelines. As was the case in respect of the 1971 Fund, these guidelines could also include provisions on the conclusion of co-operation agreements between the 1992 Fund and intergovernmental organisations.

3.5 Such draft guidelines are attached for consideration by the Assembly of the 1992 Fund. The text is, *mutatis mutandis*, the same as that adopted by the 1971 Fund Assembly.

4 Matters to be addressed

The Assembly of the 1992 Fund will be invited to consider:

- (a) the criteria for granting observer status to non-Member States and to intergovernmental and international non-governmental organisations; and
- (b) whether to adopt guidelines on relations between the 1992 Fund and intergovernmental and international non-governmental organisations.

* * *

ANNEX

DRAFT

Guidelines on relations between the International Oil Pollution Compensation Fund, 1992 and intergovernmental organisations and international non-governmental organisations^{<1>}

A Intergovernmental organisations

- 1 *The International Oil Pollution Compensation Fund, 1971 will be invited to be represented at all meetings of the Assembly and may be invited, as appropriate, to meetings of subsidiary bodies which may be established.*
- 2 The United Nations and the *International Maritime Organization* and any other specialised agency of the United Nations whose interests and those of the *1992 Fund* are of common concern, will be invited to be represented by observers at all meetings of the Assembly and may be invited, as appropriate, to *meetings of subsidiary bodies*.
- 3 The Assembly will consider requests to be represented by observers received from other intergovernmental organisations whose aims and activities are relevant to those of the *1992 Fund* or which are interested in the work of the *1992 Fund*. *An invitation to attend a session of the Assembly or other meeting may, subject to confirmation by the Assembly, be issued by the Director to any organisation making such a request.* The Assembly may decide that invitations be sent to such an organisation either for a specific session or meeting or on a regular basis.
- 4 An agreement for co-operation may, with the approval of the Assembly, be concluded between the *1992 Fund* and any intergovernmental organisation, if it is in their mutual interest to do so. The agreement may provide, where appropriate on a reciprocal basis, for admission as an observer, exchange of information, consideration of suggestions for agenda items, consultation on programmes and joint activities and other practical co-operation.

B International non-governmental organisations

- 1 Observer status may be granted by the Assembly to an international non-governmental organisation, at its request, if:
 - (a) the organisation concerned is of truly international character and its objectives are in harmony with those of the *1992 Fund*;
 - (b) it has aims, responsibilities or activities in the fields related to those of the *1992 Fund* or which are of concern or interest to the *1992 Fund*, particularly in connection with pollution and environmental matters, maritime and shipping affairs, marine insurance, production or transport of oil or relevant questions of international law; and
 - (c) it is able to make a contribution to the *work of the 1992 Fund*, for example by providing specialised information, advice or expertise, or by identifying or helping to procure the services of experts or consultants, or by otherwise furnishing technical assistance or by making research facilities available.
- 2 Observer status will be withdrawn if the Assembly considers that there is no further advantage to the *1992 Fund* in continuing with the same or if any *conflict of interests arises or is likely to arise between the respective activities of the 1992 Fund and the organisation concerned*.

<1> Changes in comparison with the text adopted by the 1971 Fund Assembly are indicated in italics.