



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1971

ASSEMBLY
4th extraordinary session
Agenda item 15

71FUND/AES.4/14
2 April 1998

Original: FRENCH/ENGLISH

ANY OTHER BUSINESS

OPERATION OF THE 1971 FUND FROM 16 MAY 1998

Note by the Chairman

Summary:	Attention is drawn to the possible consequences of the 1971 Fund Assembly not achieving a quorum after 16 May 1998.
Action to be taken:	Information to be noted.

1 As from 16 May 1998 the number of Member States of the 1971 Fund will be reduced from 76 to 52, as a result of the compulsory denunciation procedure laid down in the 1992 Fund Protocol. In the light of the experience in previous years of attendance at 1971 Fund Assembly sessions, it is likely that it will not be possible to achieve a quorum at sessions of the Assembly after that date, a quorum being constituted under Article 20 of the 1971 Fund Convention as a majority of the Members of the Assembly.

2 If it is not possible to achieve a quorum in the Assembly in October 1998, a number of serious consequences would arise for the operation of the 1971 Fund, inter alia:

- ▶ the budget could not be adopted by the Assembly and therefore no annual contributions could be fixed;
- ▶ no election of the Executive Committee could take place, with the result that there would be no body to deal with claims for compensation;
- ▶ no Director could be appointed for the period after the present Director's mandate expires on 31 December 1999, with the result that the 1971 Fund would have no legal representative after that date (cf Article 28.2 of the 1971 Fund Convention).

3 The extent of these problems has only been fully recognised during the preparations for this session of the Assembly, which may be the last Assembly session to have a quorum. In the light of this situation, the Assembly may wish to consider what measures could be taken at this session in order to overcome or minimise the difficulties envisaged and thereby enable the 1971 Fund to operate normally, at least for the next twelve months. Among the measures that could be considered would be the delegation of certain functions to the Executive Committee or to the Director, to the extent permitted under the 1971 Fund Convention.

4 In this context, attention is drawn to the following Articles of the 1971 Fund Convention:

Article 18

The functions of the Assembly shall, subject to the provisions of Article 26, be:

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4. to appoint the Director and make provisions for the appointment of such other personnel as may be necessary and determine the terms and conditions of service of the Director and other personnel;

5. to adopt the annual budget and fix the annual contributions;

6. to appoint auditors and approve the accounts of the Fund;

7. to approve settlements of claims against the Fund, to take decisions in respect of the distribution among claimants of the available amount of compensation in accordance with Article 4, paragraph 5, and to determine the terms and conditions according to which provisional payments in respect of claims shall be made with a view to ensuring that victims of pollution damage are compensated as promptly as possible;

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14. to perform such other functions as are allocated to it under the Convention or are otherwise necessary for the proper operation of the Fund.

Article 19

1. Regular sessions of the Assembly shall take place once every calendar year upon convocation by the Director; provided, however, that if the Assembly allocates to the Executive Committee the functions specified in Article 18, paragraph 5, regular sessions of the Assembly shall be held once every two years.

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Article 20

A majority of the members of the Assembly shall constitute a quorum for its meetings.

Article 26

1. The functions of the Executive Committee shall be:

- (a) to elect its Chairman and adopt its own rules of procedure, except as otherwise provided in this Convention;
- (b) to assume and exercise in place of the Assembly the following functions:
 - (i) making provision for the appointment of such personnel, other than the Director, as may be necessary and determining the terms and conditions of service of such personnel;
 - (ii) approving settlements of claims against the Fund and taking all other steps envisaged in relation to such claims in Article 18, paragraph 7;
 - (iii) giving instructions to the Director concerning the administration of the Fund and supervising the proper execution by him of the Convention, of the decisions of the Assembly and of the Committee's own decisions; and
- (c) to perform such other functions as are allocated to it by the Assembly.

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Article 28

- 1. The Secretariat shall comprise the Director and such staff as the administration of the Fund may require.
- 2. The Director shall be the legal representative of the Fund.

Article 44

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- 2. The Assembly shall take all appropriate measures to complete the winding up of the Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the Fund.

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Action to be taken by the Assembly

- 5 The Assembly is invited:
 - (a) to take note of the information contained in this document; and
 - (b) to take such decisions as it may consider appropriate to ensure the proper functioning of the 1971 Fund from 16 May 1998.
