



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1971

EXECUTIVE COMMITTEE
62nd session
Agenda item 1

71FUND/EXC.62/1
15 July 1999

Original: ENGLISH

PROVISIONAL ANNOTATED AGENDA OF THE SIXTY-SECOND SESSION OF THE EXECUTIVE COMMITTEE

to be held at the Headquarters of the
International Maritime Organization, 4 Albert Embankment,
London SE1, from Tuesday 19 October 1999, 9.30 am,
to Friday 22 October 1999

Opening of the Session

At its 4th extraordinary session, held in April 1998, the Assembly recognised that it might not be possible to achieve a quorum at future sessions of the Executive Committee, since many Member States would be denouncing the 1971 Fund Convention. The Assembly therefore adopted Resolution N°13 whereby, whenever the Executive Committee fails to achieve a quorum, all functions undertaken by the Committee (ie those allocated by the Assembly and those allocated in accordance with the 1971 Fund Convention) shall revert to the Assembly. This Resolution is reproduced in the Annex. Accordingly, if no quorum is achieved within 30 minutes of the time indicated on the Committee's provisional annotated agenda for the opening of its 62nd session, the agenda items set out below shall be dealt with by the Assembly, which is convened from 19 to 22 October 1999.

1 Adoption of the Agenda

2 Examination of Credentials

In accordance with Rule 10 of the Rules of Procedure, the Director will report to the Executive Committee on the credentials received from representatives of Members.

3 Incidents involving the 1971 Fund

The Director will inform the Executive Committee of recent developments regarding incidents involving the 1971 Fund. He will report to the Committee any settlements of claims against the 1971 Fund which have been made under his authority and submit for the Committee's consideration any claims or other issues requiring decisions. Information will be contained in various documents.

4 Consideration of items on the agenda of the 22nd session of the Assembly

At its 4th extraordinary session the Assembly recognised that it might not be possible to achieve a quorum at a later session of the Assembly, since many Member States would be denouncing the 1971 Fund Convention. The Assembly therefore adopted Resolution N°13 whereby, with effect from the first session of the Assembly at which the latter is unable to achieve a quorum, various functions of the Assembly shall be delegated to the Executive Committee, thereby enabling the Committee to take decisions in place of the Assembly. Accordingly, if no quorum is achieved within 30 minutes of the time indicated on the Assembly's provisional annotated agenda for the opening of its 22nd session, the agenda items set out in document 71FUND/A.22/1 shall be dealt with by the Executive Committee at this session.

If the Executive Committee's agenda is dealt with by the Assembly, this item shall not be considered.

5 Future sessions

If new members of the Executive Committee are elected at the 22nd session of the Assembly, the Committee may wish, following the practice of previous years, to hold its 63rd session immediately after the 22nd session of the Assembly, in order to elect its Chairman and to deal with other items which may arise. Such a session would thus probably be held on 22 October 1999.

The Committee may also wish to consider the schedule of its sessions for the coming year.

6 Any other business

The Executive Committee will be invited to consider other matters which may be proposed by Member States or by the Director.

7 Adoption of the Record of Decisions

The Executive Committee will be invited to adopt a Record of Decisions.

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ANNEX

Resolution N°13:
Operation of the 1971 Fund from 16 May 1998

THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND 1971 (1971 FUND),

NOTING that there are 76 States Parties to the 1971 Fund Convention;

AWARE that 24 of these States will cease to be Members of the 1971 Fund from 16 May 1998 and that a number of other States will in the near future also cease to be Members of the 1971 Fund,

RECOGNISING that, as a result of these States leaving the 1971 Fund, it is likely, despite considerable efforts to be made by the Director, that the Assembly of the Organisation will no longer be able to achieve a quorum and that the same may in the near future apply to its Executive Committee,

ACKNOWLEDGING that this would result in the 1971 Fund's being unable to operate in a normal way,

MINDFUL that the 1971 Fund's objective is to pay compensation to victims of oil pollution damage in Member States,

RECALLING that it is the task of the Assembly, under Article 18.14 of the 1971 Fund Convention, to perform such functions as are necessary for the proper operation of the 1971 Fund,

AWARE that the Assembly may allocate functions to the Executive Committee in accordance with Article 26.1(c) of the 1971 Fund Convention,

NOTING that, under Article 44.2, the Assembly should take all appropriate measures to complete the winding up of the 1971 Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the Fund,

CONSCIOUS of the need to establish a structure which will permit the 1971 Fund to operate from 16 May 1998 until such time as it is wound up,

RECOGNISING that it is the general responsibility of the Assembly to ensure the proper operation of the 1971 Fund and that it is therefore the duty of the Assembly to take the necessary measures to achieve this,

CONSIDERING that it is important to ensure that the interests of States which remain Members of the 1971 Fund are protected,

RECALLING Resolution N°11 of the 1971 Fund on co-operation between the 1971 Fund and its former Member States, in which it is recognised that former States Parties which have been affected by incidents covered by the 1971 Fund Convention but in respect of which settlements have not yet been finalised, should be entitled to present their views on pending cases in the competent bodies of the 1971 Fund,

- 1 **INSTRUCTS** the Director to convene a regular session of the Assembly of the 1971 Fund once every calendar year, and in the invitations to urge States to make every effort to be represented at the meeting, and to draw attention to the consequences of a quorum not being achieved.
- 2 **RESOLVES** that, in addition to those functions which are allocated to the Executive Committee

pursuant to Article 26.1 of the 1971 Fund Convention, the following functions of the Assembly shall be delegated to the Executive Committee with effect from the first session of the Assembly at which the latter is unable to achieve a quorum, on the condition that if the Assembly were to achieve a quorum at a later session or sessions, the Assembly would resume the functions previously allocated to the Committee:

- (a) to adopt the annual budget and fix the annual contributions;
- (b) to appoint auditors and approve the accounts of the 1971 Fund;
- (c) to supervise the proper execution of the 1971 Fund Convention and of its own decisions;
- (d) to perform such other functions as are otherwise necessary for the proper operation of the 1971 Fund;
- (e) to take all appropriate measures to complete the winding up of the 1971 Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the 1971 Fund;

3 **RESOLVES ALSO** that, whenever the Executive Committee fails to achieve a quorum, all functions undertaken by the Committee (ie those allocated by the Assembly and those allocated in accordance with the 1971 Fund Convention) shall revert to the Assembly;

4 **HEREBY CREATES** a body to be known as the Administrative Council, which shall have the following mandate:

- (a) to perform such functions as are allocated to the Assembly under the 1971 Fund Convention or which are otherwise necessary for the proper operation of the 1971 Fund;
- (b) to establish a subsidiary body to consider the settlement of claims;
- (c) to give instructions to the Director concerning the administration of the 1971 Fund;
- (d) to supervise the proper execution of the Convention and of its own decisions;
- (e) to take all appropriate measures to complete the winding up of the 1971 Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the 1971 Fund, at the earliest possible opportunity;

5 **FURTHER RESOLVES** that the Administrative Council shall assume its functions whenever the Assembly fails to achieve a quorum after the functions allocated to the Executive Committee in accordance with paragraph 2 have reverted to the Assembly pursuant to paragraph 3, on the condition that, if the Assembly were to achieve a quorum at a later session, it would resume its functions;

6 **DECIDES** that the following States and organisations shall be invited to take part in sessions of the Administrative Council:

- (a) 1971 Fund Member States;
- (b) former 1971 Fund Member States;
- (c) other States which would be invited to attend sessions of the 1971 Fund Assembly as observers; and
- (d) intergovernmental organisations and international non-governmental organisations which have observer status with the 1971 Fund; and

7 **FURTHER DECIDES:**

- (a) that decisions of the Administrative Council shall be taken by majority vote of those 1971 Fund Member States and former 1971 Fund Member States present and voting, provided that a former 1971 Fund Member State shall have the right to vote only in respect of issues relating to incidents which occurred while the 1971 Fund Convention was in force for that State;
- (b) that there shall be no quorum requirement for the Administrative Council;
- (c) that the Administrative Council shall meet at least once every calendar year at thirty days' notice upon convocation by the Director, either at his own initiative or at the request of its Chairman;
- (d) that the Rules of Procedure of the Administrative Council shall be those of the Assembly, to the extent applicable;
- (e) that the States invited to a session of the Administrative Council shall inform the Director of the person or persons who will attend; and
- (f) that the sessions of the Administrative Council shall be held in public, unless the Council decides otherwise;

- 8 **FURTHER RESOLVES** that the Director of the 1971 Fund shall *ex officio* be the person who holds the post of Director of the 1992 Fund, provided that the Assembly of the 1992 Fund agrees thereto and that the Director of the 1992 Fund agrees to carry out the functions of the Director of the 1971 Fund also, or, if these conditions are not met, that the Director shall be appointed by the Executive Committee in accordance with paragraph 2 above, or by the Administrative Council in accordance with paragraph 4 above.
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