



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

ASSEMBLY
2nd session
Agenda item 32

92FUND/A.2/29
24 October 1997
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RECORD OF DECISIONS OF THE 2ND SESSION OF THE ASSEMBLY

(held from 22 to 24 October 1997)

Chairman:	Mr C Coppolani (France)
First Vice-Chairman:	Professor H Tanikawa (Japan)
Second Vice-Chairman:	Mr P Gómez-Flores (Mexico)

Opening of the Session

The 2nd session of the Assembly was opened by Mr C Coppolani (France) in his capacity as representative of the delegation from which the Chairman of the previous session had been elected.

Procedural Matters

1 Adoption of the Agenda

The Assembly adopted the Agenda as contained in document 92FUND/A.2/1.

2 Election of the Chairman and two Vice-Chairmen

2.1 The Assembly elected the following delegates to hold office until the next regular session of the Assembly:

Chairman:	Mr C Coppolani (France)
First Vice-Chairman:	Professor H Tanikawa (Japan)
Second Vice-Chairman:	Mr P Gómez-Flores (Mexico)

2.2 The Chairman, on behalf of himself and the two Vice-Chairmen, thanked the Assembly for the confidence shown in them.

3 Examination of credentials

3.1 The following Member States were present:

Australia	Germany	Mexico
Denmark	Greece	Norway
Finland	Japan	Sweden
France	Liberia	United Kingdom

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

3.2 The following non-Member States were represented as observers:

States which have deposited instruments of ratification, acceptance, approval or accession to the 1992 Fund Convention:

Bahamas	Netherlands	Spain
Cyprus	Philippines	Tunisia
Ireland	Republic of Korea	Uruguay

Other States which have signed the 1992 Fund Convention:

Morocco	Poland
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Other States which are Members of the 1971 Fund but not of the 1992 Fund:

Algeria	Estonia	Nigeria
Belgium	Gabon	Russian Federation
Canada	India	Slovenia
China ^{<1>}	Indonesia	Syrian Arab Republic
Colombia	Italy	Venezuela
Côte d'Ivoire	New Zealand	

States which have observer status with the 1971 Fund:

Argentina	Egypt	Peru
Brazil	Latvia	Saudi Arabia
Chile	Panama	United States
Ecuador		

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

Intergovernmental organisations:

International Oil Pollution Compensation Fund 1971 (1971 Fund)
International Maritime Organization (IMO)
United Nations

International non-governmental organisations:

Comité Maritime International (CMI)
Cristal Limited
International Chamber of Shipping (ICS)
International Group of P & I Clubs
International Tanker Owners Pollution Federation Limited (ITOPF)
International Union for the Conservation of Nature and Natural Resources (IUCN)
Oil Companies International Marine Forum (OCIMF)

<1> The 1971 Fund Convention applies to the Hong Kong Special Administrative Region.

4 **Grant of observer status**

The Assembly decided to grant observer status to the European Chemical Industry Council (CEFIC).

General review

5 **Report of the Director**

5.1 The Director introduced his report on the activities of the 1992 Fund since its 1st session, contained in document 92FUND/A.2/3. In his presentation, the Director made reference to the fact that the number of States which had ratified the 1992 Fund Convention had nearly trebled in the 17 months since the Convention came into force in May 1996. He stated that it was expected that the growth in 1992 Fund membership would continue in the coming years, while there would be a steady reduction in the number of 1971 Fund Member States.

5.2 The Director referred to the fact that the 1992 Fund had been administered by the 1971 Fund Secretariat since June 1996, but that from 16 May 1998, the 1992 Fund would establish its own Secretariat which would administer also the 1971 Fund. The Director stressed that it was an essential task for the 1992 Fund Secretariat to consolidate and develop the international compensation system, and that the joint Secretariat of the 1971 and 1992 Funds would endeavour to work to this end, in the interests of both Organisations and their respective Member States.

5.3 The Assembly expressed its gratitude to the Director and the other members of the joint Secretariat. It also thanked the staff of the local claims office in Kobe (Japan) established following the *Nakhodka* incident as well as the lawyer and technical experts who had undertaken work for the 1992 Fund.

5.4 The Assembly congratulated the Secretariat on the 1996 Annual Report which contained an instructive presentation of the activities of the 1971 and 1992 Funds.

5.5 The Assembly noted the appointment of Mr Satoru Osanai as Legal Officer, with effect from 1 June 1997. It also noted that Mr Ranjit Pillai had joined the Secretariat as Finance Officer, with effect from 18 November 1996, as successor to Mr Sampson Nte, who had joined the 1971 Fund Secretariat in 1979 and would retire on 31 December 1997. The Assembly welcomed the staff members who had joined the Secretariat during the last twelve months.

5.6 The Assembly expressed its gratitude to Mr Nte for his outstanding service over 18 years and in particular for his having established and developed the financial operation of the Organisations.

Financial matters

6 **Report on investments**

6.1 The Assembly took note of the Director's report on the 1992 Fund's investments during the period January to June 1997, contained in document 92FUND/A.2/4.

6.2 The Director drew attention to the difficulties that were encountered in February 1997 in respect of the distribution of contributions received between the 1971 Fund and 1992 Fund. He informed the Assembly that this matter had been resolved to a large extent by having a computer link to one of the Funds' two "house" banks.

7 Report of the Investment Advisory Body

7.1 The Assembly took note of the report of the Investment Advisory Body, contained in the Annex to document 92FUND/A.2/5.

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

7.3 The Assembly noted the administrative instruction concerning payments, investments and cash management which had been proposed by the Investment Advisory Body and implemented by the Director in September 1997. The Assembly expressed its satisfaction that these instructions, together with the Internal Investment Guidelines and the Internal Foreign Exchange Transaction Guidelines, had improved the financial control of the IOPC Funds.

7.4 Some delegations suggested that the IOPC Funds should consider placing their investments with the banks of a greater number of countries. It was also suggested that the Funds should look at the possibility of investing in currencies other than Pound sterling.

7.5 The Director informed the Assembly that investments were placed only with institutions which fulfilled the strict requirements of rating laid down in the Internal Investment Guidelines (cf 1971 Fund document FUND/A.18/4, Appendix). He stated that he had understood that the Organisation should choose the banks with which investments were placed on the basis of objective criteria and added that a list of eligible banks was drawn up by the Director on the basis of a proposal by the Investment Advisory Body

7.6 The Assembly emphasised that the role of the 1992 Fund was to pay compensation for oil pollution damage, and not to act as a financial institution. It was stressed that the primary objective was that the Fund's investments should not be exposed to undue risks, in order to protect the assets of the Organisation. The Assembly endorsed the position taken by the Director as regards the criteria to be used for the selection of banks to be used for investment purposes.

7.7 As regards investments in currencies other than Pound sterling, it was recalled that, under Financial Regulation 7.1, the 1992 Fund's assets should be held in Pound sterling except that the assets could be held in other currencies required to meet claims arising out of a specific incident which had been settled or were likely to be settled in the near future. The Assembly took the view that policy reflected in this provision should be maintained.

8 Financial Statements and Auditor's Opinion

8.1 The Director introduced document 92FUND/A.2/6 containing the Financial Statements of the 1992 Fund for the period 30 May - 31 December 1996 and the External Auditor's Opinion thereon. A representative of the External Auditor, Mr J Higgins, Assistant Auditor General, introduced the Auditor's Opinion.

8.2 The Assembly noted with appreciation the External Auditor's Opinion contained in Annex II to document 92FUND/A.2/6.

8.3 In response to questions in relation to the validation of the claims expenditure, the representative of the External Auditor assured the Assembly that the audit tested the compliance of claims expenditure with decisions taken by the Assembly.

8.4 The representative of the External Auditor stated that the scope of the audit was a statutory audit. He mentioned that, if the Assembly so decided, the scope of the audit could be extended to consider value for money aspects, such as the use of experts and how best to handle claims. He added that such an extension would result in an increase in the annual audit fee.

8.5 Many delegations considered that the scope of the audit was an important issue and that this scope should be extended in light of the growth of the Funds and the significant sums involved. It was suggested that the Funds could use international audit companies to examine the operation of claims offices outside the United Kingdom.

8.6 The Assembly decided that the matter of an extension of the scope of the audit should be considered further. The Assembly therefore instructed the Director to study, in consultation with the External Auditor and the Chairman of the Assembly, the question of extending the audit of the IOPC Funds, and to submit the matter to the Assembly for consideration at its 3rd extraordinary session, to be held in April 1998.

8.7 The Assembly approved the accounts of the 1992 Fund for the financial period 30 May - 31 December 1996.

9 Appointment of members of the Investment Advisory Body

The Assembly reappointed Mr David Jude and Mr Simon Whitney-Long as members of the Investment Advisory Body for a term of one year. The Assembly noted that Mrs Maria Estella Beaman Gordon had left the United Kingdom and appointed as her replacement Mr Clive Ffitch for a term of one year.

10 System of financial control

10.1 In view of the fact that the question of the auditing of the 1992 Fund would be discussed at the next session of the Assembly (cf paragraph 8.6), the Assembly decided to defer consideration of the 1992 Fund's system of financial control, and in particular the issue of whether the 1992 Fund should establish an Audit Committee, until that session.

10.2 The Chairman informed the Assembly that he would hold discussions with the External Auditor in respect of the audit programme before the audit of the 1997 accounts commenced.

Contribution questions

11 Report on contributions

The Assembly took note of the Director's report on contributions contained in document 71FUND/A.2/9. It noted that over 97% of the 1996 contributions had been paid, including payments which were due on 1 September 1997. The Assembly expressed its satisfaction with the situation regarding the payment of contributions.

12 Submission of oil reports: consideration of sanction mechanisms

12.1 The Assembly recalled that, at its 1st extraordinary session, it had invited the Director to study further the issue of sanction mechanisms, in view of the importance of the submission of oil reports for the operation of the 1992 Fund and in the light of certain points raised in the discussion at that session. It was recalled that the Director had been instructed to study in particular whether, for contributors in States which had not submitted their oil reports, the assessment of contributions could be made on the basis of estimated quantities (document 92FUND/A/ES.1/22, paragraph 5.9).

12.2 The Assembly noted that, although the situation had recently improved as regards the 1971 Fund, there were still a significant number of 1971 Fund Member States which had failed to submit their reports for one or more years, and that some States had not submitted any reports since becoming a Member of the 1971 Fund. It was considered important to make efforts to prevent a situation from arising where the operation of the 1992 Fund would be impaired due to the fact that 1992 Fund Member States did not submit their reports.

12.3 The Assembly recalled that Article 15.4 of the 1992 Fund Convention addressed the situation where oil reports were not submitted in the time and manner prescribed in the Convention and the Internal Regulations, and read as follows:

Where a Contracting State does not fulfil its obligations to submit to the Director the communication referred to in paragraph 2 and this results in a financial loss for the Fund, that Contracting State shall be liable to compensate the Fund for such loss. The Assembly shall, on the recommendation of the Director, decide whether such compensation shall be payable by that Contracting State.

12.4 It was considered that it was an important obligation of a 1992 Fund Member State to submit reports on contributing oil receipts and that failure to submit reports constituted a breach of this obligation under the 1992 Fund Convention. The Assembly considered that States which failed to fulfil this obligation should in principle be ineligible for election to the 1992 Fund's Executive Committee and of holding office. It was recognised, however, that there might be cases in which States could have valid reasons for having been unable to fulfill their obligations to submit oil reports to the 1992 Fund, and that it would therefore be inappropriate to impose automatically the sanction of ineligibility in all cases of the non-submission of reports. Furthermore, it was considered that this sanction should be imposed on States only in cases of continued non-fulfilment of the obligation to report. It was agreed that in case of incomplete reports, sanctions should be imposed only if the reports were incomplete in a significant respect.

12.5 On the question of whether the 1992 Fund could refuse to pay compensation for pollution damage caused in a State which had not fulfilled its obligations in respect of the submission of oil reports, at least as regards claims from the Government or other public bodies, the Assembly considered that the 1992 Fund Convention did not allow the 1992 Fund to withhold payments of compensation in such cases, whether to the Government and other public bodies, or to other claimants. It was considered that, if the approach were to be taken that all claimants in such States would be refused compensation, victims of oil pollution in a particular State, such as fishermen and small businesses, would be penalised for the State's non-fulfilment of its obligations.

12.6 The Assembly noted that the compensation due to a State for oil pollution damage might be set off against compensation payable by that State under Article 15.4 of the 1992 Fund Convention.

12.7 The Assembly considered the question of whether, in the case of a State which had not submitted its reports on oil receipts during a given year, annual contributions to be based on quantities received during that year could instead be invoiced on the basis of the figures of the latest reports submitted by the State.

12.8 The Assembly took the view that the obligation to pay contributions arose under Article 10 of the 1992 Fund Convention when an entity had received more than 150 000 tonnes of contributing oil in a calendar year and that this obligation existed whether or not the State in question had submitted the relevant oil reports. The Assembly decided that this matter needed further consideration and instructed the Director to examine how the obligation to pay contributions could be enforced when a State had failed to submit its contributing oil reports.

Secretariat and administrative matters

13 Transfer of Secretariat functions

13.1 The Assembly recalled that it had decided at its 1st session that the 1971 Fund and the 1992 Fund should have a joint Secretariat and that the Assembly of the 1971 Fund had authorised the 1971 Fund Secretariat to administer also the 1992 Fund. It was also recalled that the Assembly had decided that the 1992 Fund should establish its own Secretariat from the date on which the transitional period ended, ie the date on which the

compulsory denunciations of the 1969 Civil Liability Convention and 1971 Fund Convention would take effect (16 May 1998). It was further recalled that the Assembly had decided that the 1992 Fund Secretariat would administer also the 1971 Fund, as requested by the 1971 Fund Assembly.

13.2 The Assembly considered certain issues resulting from the transfer of secretariat functions (cf document 92FUND/A.2/11).

13.3 The Assembly decided that the title of furniture, office equipment and other supplies should be transferred from the 1971 Fund to the 1992 Fund with effect from 16 May 1998, for a payment of an amount to be calculated as set out in the draft budget for 1998 (document 92FUND/A.2/24, paragraph 2.3), at present estimated at £60 000.

13.4 It was recalled that the Assembly, at its 1st session, adopted a Resolution (1992 Fund Resolution N°1) to the effect that, when the 1992 Fund established its own Secretariat, the personnel employed by the 1971 Fund would, if they so wished, be entitled to employment with the 1992 Fund Secretariat and that the terms and conditions of their service would be no less favourable than during their employment with the 1971 Fund (document 92FUND/A.1/34, Annex I). The Assembly noted that the Director intended to present to the extraordinary session of the 1992 Fund Assembly to be held in the spring of 1998 a proposal for Staff Regulations for the 1992 Fund Secretariat, with effect from 16 May 1998. The Assembly endorsed the Director's view that the 1992 Fund's Staff Regulations should be identical to those applicable at present to the 1971 Fund Secretariat, subject only to such amendments as would be required by the transfer of Secretariat functions from the 1971 Fund to the 1992 Fund.

13.5 The Assembly decided that the 1992 Fund should establish a Provident Fund, to be operated in the same way and give staff members of the 1992 Fund the same benefits as they were given by the Provident Fund of the 1971 Fund.

13.6 The Assembly endorsed the Director's proposal in respect of the staff members' share of the 1971 Fund's Provident Fund, viz that those staff members who wished to do so would be entitled to transfer their respective shares of the 1971 Provident Fund (or part thereof) to the 1992 Fund's Provident Fund in conjunction with the transfer of the Secretariat functions. It was noted that the United Kingdom tax authorities had confirmed that there would be no adverse tax consequences of such a transfer provided that the 1992 Fund's Provident Fund would be identical in all essential respects to the 1971 Fund's Provident Fund.

14 Co-operation agreement with the International Maritime Organization

The Assembly took note of the information provided in document 92FUND/A.2/12 concerning the draft Agreement for co-operation between the 1992 Fund and IMO and, in particular, that the IMO Council had decided that the privileges and facilities envisaged in the Agreement would be extended to the 1992 Fund by IMO on a provisional basis, pending final approval of the Agreement by the IMO Assembly at its session in November 1997.

15 Lease agreement with the International Maritime Organization

The Assembly noted that the Director and the Secretary-General of IMO had extended, through an exchange of letters, the application of the Lease Agreement, license to occupy and sublease relating to the premises of the 1971 Fund, so that these documents would cover also the activities of the 1992 Fund. It was also noted that the extension had been approved by the United Kingdom Government.

16 Headquarters Agreement

16.1 The Assembly considered document 92FUND/A.2/14 dealing with a proposed amendment to the 1992 Fund's Headquarters Agreement, by means of an exchange of letters, to provide for the refund by the United Kingdom Government of certain indirect taxes paid by the 1992 Fund.

16.2 The Assembly agreed to the following sub-paragraph being added to Article 8 of the Headquarters Agreement:

(4) The 1992 Fund shall be accorded a refund of insurance premium tax and air passenger duty paid by the 1992 Fund in the exercise of its official activities.

Compensation matters

17 Incidents involving the 1992 Fund

17.1 Incident in Germany

17.1.1 The Assembly took note of the developments in respect of the incident which occurred in Germany in June 1996, as reflected in section 2 of document 92FUND/A.2/15.

17.1.2 The German delegation stated that preparations were made to take legal action against the owner of the *Kuzbass* and that this action was expected to be brought early in 1998. This delegation mentioned that the German authorities would notify the 1992 Fund of this action.

17.1.3 The Director stated that, subject to any instructions which the Assembly may give him, he intended to have the 1992 Fund intervene in the legal proceedings.

17.2 Nakhodka incident

17.2.1 The Assembly took note of the developments in respect of the *Nakhodka* incident, as contained in section 3 of document 92FUND/A.2/15.

Level of 1992 Fund's payments

17.2.2 The Assembly recalled that the 1971 Fund Executive Committee and the 1992 Fund Assembly had decided to limit the payments to be made by the two Organisations to 60% of the amount of the damage actually suffered by the respective claimants as assessed by the experts employed by the Funds and the shipowner and his insurer at the time when the payment was made (documents 71FUND/EXC.54/10, paragraph 3.4.4 and 92FUND/A/ES.2/6, paragraph 3.1.16).

17.2.3 In the light of the continuing uncertainty as to the level of the total amount of the claims arising from the *Nakhodka* incident, the Assembly decided to maintain the limit of the 1992 Fund's payments at 60% of the amount of the claims actually suffered by the respective claimants. The Director was instructed to obtain as much additional information as possible on the estimated total amount of the claims, so that the percentage could be reviewed at the Assembly's next session.

Maximum amount payable under the 1992 Fund Convention

17.2.4 The Assembly addressed the question of how the maximum amount of compensation payable in respect of the *Nakhodka* incident under the 1992 Fund Convention (135 million SDR) should be converted into national currency, ie Japanese Yen.

17.2.5 The Assembly recalled that, at its 2nd extraordinary session, held on 16 and 17 April 1997, the 1992 Fund Assembly had authorised the Director to make payments on behalf of the 1992 Fund in respect of claims arising out of the *Nakhodka* incident within the 60% limit referred to in paragraph 17.2.3 above (document 92FUND/A/ES.2/6, paragraph 3.1.16). It was recalled that the Assembly had noted a statement by the Director that, in his view, the 1971 Fund should pay 60% of the damage suffered by each claimant up to a total amount of 60 million SDR, before the 1992 Fund commenced payments of compensation (document 92FUND/A/ES.2/6, paragraph 3.1.13)., and that there had been no views expressed to the contrary.

17.2.6 It was noted that the limit of the 1971 Fund's involvement, ie 60 million SDR, was to be converted into national currency on the basis of the rate of exchange applicable on the date when the shipowner constituted the limitation fund (Article 1.4 of the 1971 Fund Convention by reference to Article V.9 of the 1969 Civil Liability Convention) and that, since the limitation fund had not yet been established in respect of the *Nakhodka* incident, it was not possible to determine at this stage at what precise level the 1992 Fund would commence making payments in that case.

17.2.7 The Assembly recalled that, under Article 4.4(e) of the 1992 Fund Convention, the conversion of 135 million SDR into national currency should be made on the basis of the value of that currency by reference to the SDR on the date of the decision of the 1992 Fund Assembly as to the first date of payment of compensation. It was also recalled that in the *Nakhodka* case the Assembly had authorised the Director to make payments on behalf of the 1992 Fund, but that it had not - and could not have at that time - taken any decision as to the date of the first payment.

17.2.8 The Assembly decided that the conversion of 135 million SDR into national currency should be made on the basis of the value of that currency vis-à-vis the SDR on the date of the Assembly's (or the Executive Committee's) adoption of the Record of Decisions of the session at which the Assembly (or the Executive Committee) took the decision which made payments of claims possible. It was noted that as regards the *Nakhodka* incident, this date was 17 April 1997 and that the rate of exchange at that date (1 SDR = ¥171.589) would result in 135 million SDR equalling ¥23 164 515 000 (£114 million). It was further decided that if the Record of Decisions was not adopted during the session, the date for conversion should be that of the last day of session.

17.3 *Osung N°3 incident*

17.3.1 The Assembly took note of the information in respect of the *Osung N°3* incident, as contained in section 4 of document 92FUND/A.2/15.

17.3.2 It was noted that, at the time of the *Osung N°3* incident, the Republic of Korea was not Party to the 1992 Civil Liability Convention or to the 1992 Fund Convention, and that the amount available for compensation for pollution damage in Korea was therefore to be determined pursuant to the 1969 Civil Liability Convention and the 1971 Fund Convention, ie 60 million SDR (approximately £50 million).

17.3.3 The Assembly noted that Japan was Party to the 1992 Conventions (as well as to the 1969 and 1971 Conventions) at the time of the incident, and that the maximum amount available for damage in Japan was therefore to be determined in accordance with the 1992 Conventions, ie 135 million SDR (£112 million), including any payments made to Korean and Japanese claimants under the 1969 Civil Liability Convention and the 1971 Fund Convention. It was noted that, if the total amount of the claims arising out of the incident for damage in the Republic of Korea and Japan were to exceed 60 million SDR and payment under the 1971 Fund

Convention had to be pro rated, the Japanese claimants would be entitled to additional compensation under the 1992 Fund Convention.

17.3.4 It was noted that it was estimated that the claims for damage in Japan arising out of the incident would total ¥1 300 million (£6.7 million).

17.3.5 The Assembly noted that the 1971 Fund's Executive Committee, at its 54th session, had decided that, for the time being, the Director was authorised to make payments of 25% of the damage or loss actually suffered by each claimant, as assessed by the experts of the 1971 Fund at the time the payment was made (document 71FUND/EXC.54/10, paragraph 3.5.7).

17.3.6 The Assembly considered whether the 1992 Fund should pay claimants in Japan the balance of 75%, and then present subrogated claims against the 1971 Fund if and when the 1971 Fund's payments are increased beyond the 25% limit. The Assembly decided that it would be appropriate for the 1992 Fund to intervene at this stage, as a State for which the 1992 Fund had entered into force had thereby ensured that victims of oil pollution damage in that State had the benefit of a higher maximum amount of compensation than that provided by the 1971 Fund Convention. The Assembly therefore authorised the Director to pay the balance of the established claims relating to damage in Japan.

17.3.7 The Assembly invited the Director to study the legal situation of the 1992 Fund's subrogation right in respect of the sums paid by the 1992 Fund to claimants in Japan in the event that the limit of the 1971 Fund was not exceeded.

18 Establishment of a claims subsidiary body

18.1 It was recalled that, at its 1st session, the Assembly had decided that the 1992 Fund should have a subsidiary body to deal with claims for compensation and that it would be established at the Assembly's first session after the number of 1992 Member States had reached 25 (document 92FUND/A.1/34, paragraph 18.4). It was also recalled that the Assembly had decided, at its 1st extraordinary session, that the claims subsidiary body should be known as the Executive Committee, that it should be composed of 15 members elected for one year and that no State should serve on the Committee for more than two consecutive terms.

18.2 The Assembly took note of the Director's proposals for the formal establishment of the Executive Committee, and for its composition, mandate and Rules of Procedure, as contained in section 3 of document 92FUND/A.2/16.

18.3 It was noted that the number of 1992 Member States would reach 25 on 7 July 1998, the date on which the 1992 Fund Convention entered into force for the Philippines, and that, in accordance with the Assembly's decision at its 1st session, the Executive Committee would therefore be established at the Assembly's session following that date.

18.4 The Assembly adopted a Resolution (1992 Fund Resolution N°5, reproduced in Annex I) addressing both the mandate and the composition of the Executive Committee.

18.5 The Assembly confirmed the position taken at its 1st session that the 1992 Fund Executive Committee should deal with claims for compensation, that this body should consider new issues of principle and general policy questions as they arose (and not in the abstract) and take decisions on claims referred to it by the Director, and that the Committee would be able to extend the Director's general authority in respect of a given incident and make recommendations to the Assembly, for example on questions of principle of great importance (document 92FUND/A.1/34, paragraph 18.3).

18.6 It was recalled that the Assembly had decided, at its 1st extraordinary session, that the composition and structure of the 1992 Fund's Executive Committee should correspond largely to the composition and structure of the Executive Committee of the 1971 Fund. It was noted that this would mean that the 1992 Fund Executive

Committee's composition would be governed by the same criteria as those that applied to the 1971 Fund's Executive Committee, ie that seven of the fifteen Committee members would be elected from among the eleven Member States in the territory of which the largest reported quantities of oil to be taken into account under Article 10 of the 1992 Fund Convention were received during the preceding calendar year, and that eight members would be elected from among the other Member States, whilst securing an equitable geographical distribution of the seats on the Committee on the basis of an adequate representation of Member States particularly exposed to the risks of oil pollution and of Member States having large tanker fleets. The Assembly also recalled that it had decided that the Members of the 1992 Fund Executive Committee should be elected for one year and that no State should serve on the Committee for more than two consecutive terms. However, it was decided that, as provided in Article 23.2 of the 1971 Fund Convention in respect of the 1971 Fund Executive Committee, it was necessary to allow a State to serve for more than two consecutive terms on the 1992 Fund Executive Committee, to the extent necessary to comply with the eligibility requirements in respect of the group of States with the largest oil receipts.

18.7 It was recalled that it had been suggested at the 1st session of the Assembly that substitute members could be elected to the Executive Committee to take the place of a member of the Committee when decisions needed to be taken in respect of an incident which had occurred in the territory of that Committee member, although the interested Committee member would not be excluded from the discussions of that particular incident. The Assembly noted that, based on the Rules of Procedure of the 1971 Fund's Executive Committee, the proposed Rules of Procedure for the Executive Committee (cf paragraph 18.10 below) included a provision to the effect that a member of the Committee would not have the right to vote when its claim, or that of a public authority of that State, is being considered by the Committee. It was noted that, since in recent years, there had seldom been any problem in establishing a quorum for the Executive Committee of the 1971 Fund, there would be little advantage in electing substitute members of the Executive Committee for this purpose.

18.8 The Assembly discussed whether the criteria for election should be more flexible so as to accommodate situations where a State which had been elected to the Committee did not attend its session. The Assembly considered that, in view of the importance of the decisions to be taken by the 1992 Fund Executive Committee, it was crucial that all States which were elected to serve on the Committee did in fact attend all its sessions. It was recognised that it was impossible to foresee, at the time of the election, which States considered for election might not attend one or more of the Committee's sessions. However, the Assembly noted that if a State which was being considered for election were to believe that it might be prevented from attending, such a State might wish to inform other delegations so as to enable the Assembly to elect another State. The Assembly decided to include in the Resolution establishing the Committee a provision to this effect.

18.9 It was noted that Article 18.9 of the 1992 Fund Convention provided that the Rules of Procedure of the Assembly may be applied, *mutatis mutandis*, for the work of a subsidiary body established by the Assembly in accordance with that Article, and that Rule 24 of the Assembly's Rules of Procedure provided that subsidiary bodies should follow those Rules of Procedure so far as they were applicable.

18.10 The Assembly considered that the Rules of Procedure of the 1992 Fund Executive Committee should correspond largely to those of the Executive Committee of the 1971 Fund, rather than to those of the Assembly, and therefore decided to amend Rule 24 of the Assembly's Rules of Procedure to read:

Rule 24

The Assembly may establish, in accordance with Article 18.9 of the 1992 Fund Convention, such temporary or permanent subsidiary bodies as it considers necessary. Such subsidiary bodies shall follow the present Rules of Procedure so far as they are applicable, unless the Assembly decides otherwise.

18.11 It was decided that, since the Executive Committee was a subsidiary body established by the Assembly, the Committee's Rules of Procedure should be adopted by the Assembly. The Assembly adopted Rules of Procedure for the Executive Committee, as set out in Annex II.

18.12 It was recalled that, at its 1st session, the Assembly had decided that credentials should be required for representatives of Executive Committee members, since the Committee would take decisions of great importance for claimants and these decisions would also have consequences for the level of contributions required (document 92FUND/A.1/34, paragraph 18.7). It was noted that this requirement would follow from the Rules of Procedure.

19 Co-operation with P & I Clubs

19.1 It was noted that, in accordance with the authority given to him by the Assembly, the scope of the 1980 Memorandum of Understanding signed by the International Group of P & I Clubs and the 1971 Fund had been extended, by means of an exchange of letters, to cover also co-operation between the P & I Clubs and the 1992 Fund.

19.2 It was recalled that the Assembly had decided that the 1985 Memorandum of Understanding between the Japan Ship Owners' Mutual Protection and Indemnity Association (JPIA) and the 1971 Fund could be replaced by an exchange of letters covering the parts of the text of the Memorandum which were not covered by the Memorandum of 1980 with the International Group and that the Assembly had authorised the Director to agree with JPIA on the text of such letters.

19.3 The Assembly noted that JPIA had expressed the view that, since it was now a full member of the International Group of P & I Clubs, it was not necessary to have a special Memorandum covering co-operation between JPIA and the 1992 Fund and that, in JPIA's view, it would be more appropriate if the same Memorandum were to apply to JPIA as to the other members of the International Group.

19.4 It was noted that, in the light of the position taken by JPIA, the Director had not pursued the issue of an extension to the 1992 Fund of the 1985 Memorandum of Understanding. The Assembly noted that the Director intended to have further discussions with JPIA concerning co-operation between JPIA and the 1992 Fund, with particular reference to the provisions in the 1985 Memorandum concerning the payment of claims.

20 Alternative dispute settlement procedures

20.1 It was recalled that at its 1st extraordinary session the Assembly had decided to set up an intersessional Working Group to study the possibilities of introducing alternative settlement procedures in the compensation system established by the 1992 Civil Liability Convention and the 1992 Fund Convention for cases in which it had not been possible to reach out-of-court settlements.

20.2 The Chairman of the Working Group, Mr A Popp (Canada) introduced the Working Group report (document 92FUND/A.2/18). He mentioned that the Working Group had studied three options, namely:

- (1) states would present claims for compensation on behalf of national claimants;
- (2) a special international body (tribunal) should be established to deal with all claims for compensation; and
- (3) an independent compensation board should be established to deal with all claims before their submission to national courts, if necessary.

20.3 It was noted that the conclusions of the Working Group could be summarised as follows:

In conclusion, the Working Group considered that there was no support for Option 1, that some interest had been expressed in Option 2, but that that Option was not acceptable for many States *inter alia* for constitutional reasons, and that some interest had been shown in respect of Option 3, although there was not sufficient support to justify a further study of that Option at this stage. It was also generally considered that a cautious approach should be taken to any solution (such as Options 2 and 3) which would require amendments to the 1992 Civil Liability

Convention and the 1992 Fund Convention, and that Options 2 and 3 should be considered only in the context of a general revision of the Conventions, if such a revision were to take place in the future.

20.4 The Chairman expressed the Assembly's gratitude to Mr Popp for his work as Chairman of the Working Group.

20.5 The Assembly noted that the Working Group had invited the Director to carry out a preliminary study of the possibilities of the 1992 Fund using arbitration, mediation or conciliation to promote the out-of-court settlement of disputes, in order to study the claims settlement procedures of commercial insurers, such as the P & I Clubs, and to establish whether the experience gained from commercial insurers could be used to improve the claims settlement procedures applied by the 1992 Fund. The Director introduced his report on this study (document 92FUND/A.2/19).

20.6 The Assembly took note of the document submitted by the Australian delegation on this issue (document 92FUND/A.2/19/1). This delegation stressed the importance of reducing the number of disputes, and that this might be achieved if more information on the activities and operation of the IOPC Funds was made available to the general public including potential claimants and their advisers.

20.7 On the question of claim settlement procedures, the Assembly noted the information submitted to the Director by some P & I Clubs (including a Club with which the Fund has not had cases in common), as well as by Cristal Ltd and by an insurer outside the marine field (document 92FUND/A.2/19, paragraph 3.3).

20.8 On the question of flexibility, the Assembly noted that P & I Clubs were able to consider commercial factors and public relations aspects of a settlement, and that Clubs might consider it preferable in some circumstances to avoid the risk of an unfavourable court decision, thereby creating a precedent. In view of the need for the 1992 Fund to abide by the definitions laid down in the Conventions, as interpreted by the Fund's bodies, however, the Assembly decided that it would not be appropriate for the 1992 Fund to take such factors into account for the purpose of claim settlements.

20.9 Although the Assembly noted that arbitration might in many cases be a quicker and more convenient procedure for the settlement of disputes than court proceedings, it was recognised, however, that in many cases it would be difficult to use arbitration to settle disputes between the 1971 Fund/1992 Fund and claimants. The Assembly considered that this would be the case particularly where the need for speedy procedures was the greatest, namely in respect of incidents which gave rise to a large number of claims and where the total amount of the claims exceeded the maximum amount of compensation available. The Assembly took the view that the benefits of submitting claims to arbitration would be limited to certain particular cases. It was suggested that it might, for example, be appropriate, in respect of an incident where it was clear that the total amount of the claims would not exceed the maximum amount of compensation available, to submit to binding arbitration an individual large claim or a number of claims which gave rise to a particular question of principle. It was recognised that claimants might be reluctant to submit their claims to arbitration and might insist on having claims decided by the national courts in their own country.

20.10 In view of the position taken by the Assembly and the Executive Committee of the 1971 Fund (and endorsed by the 1992 Fund Assembly) that a claim is admissible only if it falls within the definitions of 'pollution damage' or 'preventive measures' laid down in the Conventions as interpreted by the 1971 Fund bodies, the Assembly recognised that the scope for the 1992 Fund to submit claims to arbitration would be limited.

20.11 As regards mediation and conciliation, it was suggested that many of the techniques used in the context of mediation and conciliation were already employed by the 1971 and 1992 Funds in their efforts to reach out-of-court settlements. Although it was recognised that it might be difficult to use such procedures, it was nevertheless decided that this matter should be examined further. In the context of claims settlements, it was suggested that the external consultants' review of the Secretariat working methods could provide input to this study.

20.12 It was recognised that improved information to claimants might in some cases contribute to claims being settled out of court. Some delegations took the view that the IOPC Funds should establish a website on the Internet, and indicated that this would be a very cost-effective method of disseminating information. One delegation explained that this method of making information available had been particularly useful following a major incident. The Director stated that, in his view, the 1992 Fund's public relations activities should be strengthened. The Assembly decided that the issue of public relations should be considered in the light of the review of the Secretariat working methods.

20.13 The Assembly considered that the prompt settlement of claims would be facilitated if, as was the case within the P & I Clubs, the Director were able to delegate to other staff members decisions on claims settlements to a greater extent than he was permitted to do at present (cf Internal Regulation 7.13). It was agreed that this issue should be examined in the light of the review of the Secretariat working methods. However, the Assembly was of the view that the 1992 Fund should not delegate such authority to experts or to staff at claims offices.

20.14 Some delegations took the view that alternative dispute settlement procedures should be reconsidered once the external consultants had completed their report on the Secretariat's working methods.

20.15 The Director undertook to prepare a short note for the next session of the Assembly on the legal issues arising from alternative dispute settlement procedures that would not be addressed by the external consultants.

21 Claims Manual

21.1 It was recalled that, at its 1st extraordinary session, the Assembly had authorised the Director to publish a joint Claims Manual for the 1992 Fund and 1971 Fund (based on 4th edition of the latter's Claims Manual), taking into account any comments submitted by delegations, and after consultation with the Chairman.

21.2 The Director informed the Assembly that no comments on the draft text of the Claims Manual had been received by 30 November 1996, and that he had therefore published the 5th edition of the Claims Manual in December 1996, in accordance with the draft submitted to the Assembly at its 1st extraordinary session.

21.3 The Assembly noted that a further revision of the Claims Manual would be required at the end of the transitional period, to reflect the different situation which would exist from 16 May 1998.

22 Application of the 1992 Fund Convention to the EEZ

22.1 The Assembly recalled that, at its 1st session, it had adopted a Resolution (1992 Fund Resolution N°4) to the effect that States which established an exclusive economic zone (EEZ) or designated an area under Article 3(a)(ii) of the 1992 Fund Convention before ratifying the 1992 Fund Convention were invited to notify the Secretary-General of the IMO accordingly when they deposited their instruments of ratification in respect of that Convention, and that States which established an EEZ or designated an area after ratification were invited to notify the Director accordingly.

22.2 The Director informed the Assembly that so far only six States had submitted such information (document 92FUND/A.2/21).

23 Applicability of the 1992 Civil Liability Convention and the 1992 Fund Convention to floating storage units (FSUs) and floating production storage and offloading units (FPSOs)

As proposed by the Director in document 71FUND/A.2/22, the Assembly decided to defer to its next session consideration of the question of whether the 1992 Civil Liability Convention and the 1992 Fund Convention applied to oil spills from floating storage units (FSUs) and floating production storage and offloading units (FPSOs).

Budgetary matters

24 Sharing of joint administrative costs with the 1971 Fund

24.1 The Assembly approved the Director's proposal that the costs of running the joint Secretariat for 1998 should be distributed with 60% to be paid by the 1971 Fund and 40% by the 1992 Fund.

24.2 It was noted that the Assembly of the 1971 Fund had agreed, at its 20th session, to the distribution proposed by the Director.

25 Budget for 1998

25.1 The Assembly considered the draft 1998 Budget for the administrative expenses of the 1992 Fund and 1971 Fund, as proposed by the Director in document 71FUND/A.2/24.

25.2 The Assembly adopted the budget appropriations for 1998, with a total administrative expenditure for the joint Secretariat of £1 791 820, as proposed by the Director.

25.3 It was noted that the Assembly of the 1971 Fund had, at its 20th session, adopted the same budget appropriations.

26 Working capital

The Assembly decided to increase the working capital of the 1992 Fund from £7 million to £9 million.

27 Assessment of contributions

27.1 The Director introduced document 92FUND/A.2/26 which contained proposals for the levy of 1997 contributions.

27.2 The Assembly recalled its decision (cf paragraph 17.3.6) that, in respect of the *Osung N°3* incident, the 1992 Fund should pay claimants in Japan the balance of 75% of their established claims, and then present subrogated claims against the 1971 Fund if and when the 1971 Fund's payments were increased beyond the 25% limit. In view of the fact that this incident occurred during the transitional period, the Assembly decided that contributions in respect of the first 4 million SDR (£3 383 624) should be levied for an Interim Major Claims Fund and not for the General Fund.

27.3 In the light of the Assembly's decisions in respect of the working capital and the payments in respect of the *Osung N°3* incident, the Director submitted a revised proposal for the levy of 1997 contributions, as set out in document 92FUND/A.2/26/Add.1.

27.4 The Assembly decided to levy contributions to the General Fund for a total of £6 million. It was decided that this levy should be due for payment by 1 February 1998.

27.5 In order to enable the 1992 Fund to meet payments in the relevant years for the satisfaction of claims for compensation under Article 4 of the 1992 Fund Convention arising out of the *Nakhodka* incident, to the extent that the aggregate amount of the payments made by the Fund in respect of each incident exceeded 4 million Special Drawing Rights (SDR), the Assembly decided, pursuant to Article 12.2(b) of the 1992 Fund Convention, to make a second levy of £30 million to the *Nakhodka* Major Claims Fund, as 1997 contributions. The Assembly also decided that the whole of this levy should be deferred. The Director was authorised to decide whether to invoice all or part of the deferred levy for payment during the second half of 1998.

27.6 The Assembly decided to make a levy of £3.5 million to an *Osung N°3* Interim Major Claims Fund, as 1997 contributions. It was decided that this levy should be due for payment by 1 February 1998.

27.7 The Assembly noted that its decisions in respect of the levy of the 1997 contributions could be summarised as follows:

Fund	Oil year	Estimated total oil receipts (million tonnes)	Total levy £	Payment by 1 February 1998		Maximum deferred levy	
				Levy £	Estimated levy per tonne £	Levy £	Estimated levy per tonne £
<i>General Fund</i>	1996	679	6 000 000	6 000 000	0.0088365	0	0.0000000
<i>Nakhodka</i>	1996	666	30 000 000	0	0.0000000	30 000 000	0.0450450
<i>Osung N°3</i>	1996	666	3 500 000	3 500 000	0.0052553	0	0.0000000
Total			39 500 000	9 500 000	0.0140918	30 000 000	0.0450450

Treaty questions

28 Status of the 1992 Civil Liability Convention and 1992 Fund Convention and related matters

28.1 The Assembly took note of the information contained in document 92FUND/A.2/27 concerning the ratification situation in respect of the 1992 Civil Liability Convention and the 1992 Fund Convention. It was noted that there were at present 15 Member States of the 1992 Fund, that by 16 May 1998 there would be 23 Member States, and that by October 1998 the 1992 Fund would have 26 Member States.

28.2 It was noted that three States which had recently deposited instruments of accession in respect of the 1992 Conventions had not previously been Parties to the 1969 Civil Liability Convention and 1971 Fund Convention.

Other matters

29 International Convention on liability and compensation for damage in connection with the carriage of hazardous and noxious substances by sea

29.1 The Assembly noted that the International Convention on liability and compensation for damage in connection with the carriage of hazardous and noxious substances by sea (HNS Convention) had been signed by eight States.

29.2 It was noted that the IOPC Funds had been represented at an informal meeting of European government experts on the follow-up to the HNS Convention, so that the discussions could benefit from the Funds' experience of administering organisations similar to the HNS Fund. The observer delegation of the Netherlands, which had hosted the meeting, informed the Assembly that a brief document was available regarding the initiatives of European States. The United Kingdom delegation informed the Assembly that a meeting open to any State interested in the HNS Convention would be hosted by the United Kingdom delegation on 17 April 1998, ie immediately before the next session of the IMO Legal Committee.

29.3 The Assembly noted that it was particularly important for the Secretariat to have an indication of the possible time-frame within which States might be envisaging accession to the HNS Convention, since it was important that the Secretariat's preparatory work was concluded in time for the entry into force of the Convention. The Assembly noted the Director's request that Governments keep the Secretariat informed of developments in their examination of the HNS Convention. It was also noted that the Secretariat would be pleased to provide States with information on administering an organisation similar to the HNS Fund (for example, on the contribution system), if it would be of assistance to States in their examination of the HNS Convention.

30 Future sessions

- 30.1 The Assembly decided to hold its next ordinary session during the week of 26 - 30 October 1998.
- 30.2 The Assembly decided to hold an extraordinary session during the week of 27 April - 1 May 1998.

31 Any other business

Introduction of Spanish as a working language

- 31.1 The Spanish delegation informed the Assembly that it intended to submit a proposal at the Assembly's next session to include Spanish as a working language of the 1992 Fund. This delegation stated that the introduction of Spanish as a working language would be a logical move, taking into account the number of Spanish speaking States which would be Members of the 1992 Fund in 1998, and would contribute to more Spanish speaking States becoming Members of the Organisation. The delegation also stated that in order to reduce the impact of the introduction of a third working language, this introduction could be made step by step.
- 31.2 The Assembly instructed the Director to examine the financial and practical consequences which would result if Spanish were introduced as a working language of the 1992 Fund.

32 Adoption of the Record of Decisions of the 2nd session

The draft Record of Decisions, as contained in documents 92FUND/A.2/WP.1 and 92FUND/A.2/WP.1/Add.1, was adopted, subject to some amendments.

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ANNEX I**Resolution N° [5] - Establishment of the Executive Committee**

THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND 1992 (1992 Fund),

NOTING that the Assembly may, in accordance with Article 18.9 of the 1992 Fund Convention, establish any temporary or permanent subsidiary body it considers to be necessary, define its terms of reference and give it the authority needed to perform the functions entrusted to it,

NOTING FURTHER that, in accordance with that Article, the Assembly shall, when appointing the members of such a subsidiary body, endeavour to secure an equitable geographical distribution of members and to ensure that the Member States, in respect of which the largest quantities of contributing oil are received, are appropriately represented,

RECALLING the decision of the Assembly at its 1st session that the 1992 Fund should have a claims subsidiary body to deal with claims for compensation and the decision by the Assembly at its 1st extraordinary session that this body should be known as the Executive Committee,

HEREBY CREATES an Executive Committee which shall be established at the first session of the Assembly after the number of 1992 Fund Member States has reached 25,

DECIDES that the Executive Committee shall be composed of 15 Member States elected by the Assembly to hold office until the end of the next regular session of the Assembly, and that a member may not serve on the Executive Committee for more than two consecutive terms, except to the extent necessary to comply with the eligibility requirements,

FURTHER DECIDES that the election of the Executive Committee should be governed in the following provisions:

- (a) Seven Executive Committee members shall first be elected from among the eleven Member States in the territory of which the largest quantities of oil to be taken into account under Article 10 of the 1992 Fund Convention were received during the preceding calendar year.
- (b) Eight members shall then be elected from among the other Member States.
- (c) A Member State which was eligible but was not elected under sub-paragraph (a) shall not be eligible for any remaining seat on the Committee.
- (d) The Assembly shall, when electing the members of the Committee, secure an equitable geographical distribution of the seats on the Committee on the basis of an adequate representation of Member States particularly exposed to the risks of oil pollution and of Member States having large tanker fleets. The Assembly may also take into account the extent to which a particular State has fulfilled its obligation to submit reports on receipts of contributing oil, in accordance with Article 15 of the 1992 Fund Convention.
- (e) Members of the Executive Committee shall hold office until the end of the next regular session of the Assembly.
- (f) Except to the extent that may be necessary to comply with the requirement set out under (a) above, no State may serve on the Executive Committee for more than two consecutive terms. However, if a State eligible under (a) declares before the election that it might not be able to attend the Committee's sessions, the Assembly may elect in its place another State from among the eleven States eligible under (a), even if the latter State has served for two consecutive terms.

ADOPTS the following mandate for the Executive Committee:

The functions of the Executive Committee shall be:

- 1 to take decisions in place of the Assembly on matters referred to in Article 18.7 of the 1992 Fund Convention, in particular on claims for compensation referred to it by the Director;
- 2 to consider new issues of principle and general policy questions relating to claims for compensation as they arise (and not in the abstract) and procedures for handling incidents involving the 1992 Fund;
- 3 to extend, to the extent it considers appropriate, the Director's authority to make final settlement of claims arising out of a given incident beyond that vested in him in accordance with the Internal Regulations;
- 4 to give the Director such instructions in respect of the handling of claims for compensation as may be required; and
- 5 to make such recommendations to the Assembly, for example on questions of principle of great importance, as the Executive Committee may deem appropriate.

* * *

ANNEX II**Rules of Procedure for the Executive Committee**

The Rules of Procedure for the Executive Committee shall be the same as those for the Assembly to the extent that they are relevant to and capable of applying to the proceedings of the Committee, subject to the following modifications:

- (i) Unless the context otherwise requires, and subject to the provisions set out below, references to "the Assembly", "sessions of the Assembly", "Chairman" and "Member" in the Rules of Procedure shall be read as if referring "the Executive Committee", "sessions of the Executive Committee", "Chairman of the Executive Committee" and "member of the Executive Committee".

- (ii) Rule 2 shall be replaced by the following text:

The Executive Committee shall meet at least once every calendar year at thirty days' notice upon convocation by the Director, either on his own initiative or at the request of its Chairman or of at least one-third of its members. It shall meet at such places as may be convenient.

- (iii) Rules 4 and 5 shall be replaced by the following text:

The Director shall invite Members of the 1992 Fund who are not Executive Committee members to attend meetings of the Executive Committee as observers.

The Director with the approval of the Chairman shall normally invite those States and organisations which would be invited to attend sessions of the Assembly. However, the Director shall have the discretion, after consultation with the Chairman, not to invite all or any of these States and organisations to be represented at meetings of the Executive Committee which are to be held in private.

- (iv) Rule 12 shall be replaced by the following text:

Sessions of the Executive Committee shall be held in public unless the Committee decides otherwise.

- (v) Rule 14 shall be replaced by the following text:

The provisional agenda of each regular session of the Executive Committee shall include items required to be dealt with by the application of the mandate of the Committee, as adopted by the Assembly, as well as items which have been requested by the Assembly or by a Member of the 1992 Fund.

- (vi) Rule 17 shall be replaced by the following text:

The provisional agenda for each session shall normally be communicated by the Director to the members of the Executive Committee and to other Member States at least 45 days before the session. Supporting documents should be distributed as early as possible, taking into account the need for Member States to prepare the sessions, the availability of the necessary information and the importance of claims for compensation and other urgent issues to be dealt with promptly.

(vii) Rule 19 shall not apply.

(viii) Rule 20 shall be replaced by the following text:

The Executive Committee shall elect a Chairman and a Vice-Chairman from among the representatives of the Committee members. The Chairman and Vice-Chairman shall hold office at all session of the Executive Committee until the next regular session of the Assembly.

(ix) Rule 21 shall be replaced by the following text:

The first session of the Executive Committee after an ordinary session of the Assembly shall be opened by the representative of former Chairman's delegation or, if that delegation is not a Committee member, of the Vice-Chairman's delegation or, if this delegation is not a Committee member either, by the Director.

(x) Rule 24 shall not apply.

(xi) Rule 33 shall apply subject to the following:

If a Committee member or a public authority of a Committee member has a claim against the 1992 Fund, such a member shall have no voting right when that claim is being considered by the Executive Committee.

(xii) Rule 42 shall be replaced by the following text:

At least two-thirds of the members of the Executive Committee shall constitute a quorum for its meetings.

(xiii) Rule 55 shall not apply.

(xiv) Rule 56 shall be replaced by the following:

These Rules of Procedure may be amended by the Assembly.
