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OIL POLLUTION  
COMPENSATION  
FUND 1992

ASSEMBLY  
7th session  
Agenda Item 16

92FUND/A.7/14  
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## CONSIDERATION OF REQUESTS FOR OBSERVER STATUS

### Note by the Director

**Summary:**

The document examines whether the 1992 Fund should introduce a procedure under which requests for observer status should be examined by a small group or Member States before being considered by the Assembly. Consideration is also given to whether the guidelines for granting observer status should mention specifically that such status may be granted to international non-governmental organisations provisionally. The document also considers whether the list of international non-governmental organisations having observer status should be reviewed periodically.

**Action to be taken:**

Consider whether requests for observer status should be screened by a small group of Member States, whether to formalise the grant of observer status on a provisional basis and whether the list of international non-governmental organisations having such status should be reviewed periodically.

### 1 Introduction

- 1.1 Pursuant to Article 18.10 of the 1992 Fund Convention, the Assembly shall determine which non-contracting States and which inter-governmental and international non-governmental organisations shall be admitted to take part, without voting rights, in meetings of the Assembly and subsidiary bodies.
- 1.2 Rule 5 of the 1992 Fund Assembly's Rules of Procedure reads:

“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 specialized agency of the United Nations whose interests and those of the 1992 Fund are of common concern;
  - (e) any other inter-governmental organisation and any international non-governmental organisation which the Assembly has decided to admit to its meetings in accordance with Article 18.10 of the 1992 Fund Convention.”
- 1.3 At its 1st session, held in June 1996, the Assembly adopted Guidelines on relations between the International Oil Pollution Compensation Fund 1992 and inter-governmental organisations and international inter-governmental organisations, which set out, *inter alia* the criteria for the granting of observer status (document 92FUND/A.1/34/1). These guidelines, which are reproduced in the Annex, are in substance identical to those adopted by the 1971 Fund Assembly at its 2nd session held in 1979.
- 1.4 The Assembly has granted observer status to the following intergovernmental organisations:
- United Nations
  - International Maritime Organization (IMO)
  - United Nations Environment Programme (UNEP)
  - Baltic Marine Environment Protection Commission (Helsinki Commission)
  - European Community
  - International Institute for the Unification of Private Law (UNIDROIT)
  - Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC)
- 1.5 The following international non-governmental organisations have been granted observer status:
- Advisory Committee on Protection of the Sea (ACOPS)
  - Baltic and International Maritime Council (BIMCO)
  - Comité Maritime International (CMI)
  - Conference of Peripheral Maritime Regions (CPMR)
  - Cristal Limited
  - European Chemical Industry Council (CEFIC)
  - Federation of European Tank Storage Associations (FETSA)
  - Friends of the Earth International (FOEI)
  - International Association of Independent Tanker Owners (INTERTANKO)
  - International Chamber of Shipping (ICS)
  - International Group of P & I Clubs
  - International Salvage Union (ISU)
  - International Tanker Owners Pollution Federation Limited (ITOPF)
  - International Union for the Conservation of Nature and Natural Resources (IUCN)
  - Oil Companies International Marine Forum (OCIMF)
- 1.6 Requests for observer status have so far been examined by the Director who has submitted them to the Assembly for decision.
- 1.7 At the Assembly’s 6th extraordinary session, held in April/May 2002, it was suggested that in the future requests for observer status should be considered in detail by a small working group as was the normal practice within the International Maritime Organization (IMO). The Assembly decided that this issue should be included in the agenda for the Assembly’s 7th session (document 92FUND/A/EC.6/10, paragraph 9.1.3).

## **2 Procedure used within the IMO**

- 2.1 Decisions on requests for consultative status with IMO are taken by the Council after having received the advice by the competent IMO committee.
- 2.2 At its June 2000 session the IMO Council decided that, in view of the increasingly large number of new applications for consultative status and some applicants displaying a total lack of knowledge of IMO, in future a small group of Council Members should meet informally during the Council session to screen the applications to see whether or not they were in line with the IMO Guidelines on the granting of consultative status adopted by the Council and endorsed by the IMO Assembly.
- 2.3 In accordance with the rules governing IMO's relationship with international non-governmental organisations and the IMO guidelines on the granting of consultative status, the screening by the small group is limited to whether the applicant organisation has permanent headquarters, a governing body and an executive officer, that it is truly international with branches or affiliated bodies in a sufficient number of countries and that it does not have membership or composition inconsistent with an IMO Resolution. The group also ascertains whether or not the applicant has or could have representation through one or more organisations already enjoying consultative status.

## **3 Director's consideration of the procedural issue**

- 3.1 The Director would first like to draw attention to the fact that there is a considerable difference between IMO and the 1992 Fund as regards granting consultative/observer status. Whereas 60 organisations have been granted consultative status with IMO and several requests for such status are submitted to IMO every year, the 1992 Fund has only granted observer status to 21 organisations and has since its establishment in May 1996 only received three requests for such status. Two of these requests (those of the European Chemical Industry Council and the Conference of Peripheral Maritime Regions) were granted, whereas the third (that of the World Wide Fund for Nature) was not accepted. Organisations requesting observer status with the 1992 Fund have normally a fairly good knowledge of the Fund's activities.
- 3.2 The Director considers, nevertheless, that it could be useful for the 1992 Fund to adopt a procedure similar to that used by IMO. He suggests, therefore, that the following procedure could be adopted:

At the beginning of a session at which a request for observer status by an international non-governmental organisation should be considered, the Assembly shall set up a small group of five Member States which shall during the session screen the request in order to establish whether the applicant fulfils the criteria set out in the 1992 Fund guidelines for the granting of observer status. The group shall report its findings to the Assembly before the end of its session so as to enable the Assembly to take a decision on the request.

## **4 Granting of observer status on a provisional basis**

- 4.1 At its 6th extraordinary session, held in April 2002, the Assembly granted observer status on a provisional basis to the Conference of Peripheral Maritime Regions (CRPM) and decided that its status would be re-examined at a later session (document 92FUND/A/ES.6/8 paragraph 9.13).
- 4.2 The 1992 Fund guidelines on the granting of observer status do not mention the granting of such status on a provisional basis. The same situation existed in IMO until November 2001, when the IMO Council decided to amend the IMO Rules and Guidelines to institutionalise the concept of

provisional consultative status and decided that any provisional grant should not exceed a period of four years.

- 4.3 The Director proposes that the 1992 Fund should also amend its guidelines on the granting of observer status so as to include the possibility of granting such status on a provisional basis. If this proposal were accepted by the Assembly, the following new paragraph B.2 could be inserted in the Guidelines, the present paragraph B.2 to be renumbered as B.3:

Observer status may be granted on a provisional basis for a period normally not exceeding [three] years.

## **5 Review of list of international non-governmental organisations having observer status**

- 5.1 The 1992 Fund Guidelines provide for the possibility of the withdrawal of the observer status granted to an international non-governmental organisation if the Assembly considers that there is no further advantage to the Fund in continuing with the same or if any conflict of interest arises or is likely to arise between the respective activities of the 1992 Fund and the organisation concerned (paragraph B.2).
- 5.2 The Director considers that it might be appropriate for the Assembly to review periodically whether the international non-governmental organisations having been granted observer status still fulfil the criteria set out in the Guidelines. It is proposed that a new paragraph B.4 be added to the Guidelines to read as follows:

The Assembly will review every [three] years the list of international non-governmental organisations having observer status in order to determine whether the continuance of observer status for any particular organisation is of mutual benefit.

- 5.3 The Assembly may wish to decide to adopt the same procedure for the review of the list as is proposed in paragraph 3.2 above for the screening of requests for observer status.
- 5.4 If the Assembly were to decide that a review of the list should be made, it is suggested that the first review should take place at the Assembly's October 2003 session.

## **6 Action to be taken by the Assembly**

The Assembly is invited to:

- a) to take note of the information contained in this document;
- b) to consider whether to introduce a procedure to the effect that requests for observer status should be screened by a small group of Member States before being considered by the Assembly;
- c) to decide whether to insert in the Guidelines for the granting of observer status to international non-governmental organisation a provision to the effect that such status may be granted on a provisional basis; and
- d) to consider whether to provide for a regular review of the list of international non-governmental organisation having observer status.

**GUIDELINES ON RELATIONS BETWEEN THE  
INTERNATIONAL OIL POLLUTION COMPENSATION FUND 1992  
(1992 FUND) AND INTERGOVERNMENTAL ORGANISATIONS  
AND INTERNATIONAL NON-GOVERNMENTAL ORGANISATIONS**

**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.
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