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ALTERNATIVE DISPUTE SETTLEMENT PROCEDURES

DISPUTE RESOLUTION AND THE ROLE OF EDUCATION

Submission by the Australian delegation

Introduction

1 This paper is submitted following discussions on alternative dispute resolution at the Intersessional Working Group of the 1992 Fund on dispute resolution and the suggestion made by the Australian delegation that adoption of a proactive education approach might assist in reducing the incidence of disputes.

2 The paper outlines some ideas for improving the general level of knowledge of the Fund's existence, its purpose and activity and suggests an approach which might be used to deliver this outcome.

Background

3 In Australia's view, the number of disputes and inadmissible claims being submitted to the IOPC Fund could be reduced by developing and implementing a structured education programme designed to provide potential claimants with an accurate and balanced understanding of the purpose and operation of the IOPC Fund:

- in advance of any incident occurring, and
- following the occurrence of an incident.

4 While Administrations of Member States are provided with information on procedures and limitations for claims, potential claimants (the general public, various industries and claims agents) may not be generally aware of valid claims available under Fund provisions and relevant procedures for making claims applicable to their particular circumstances. The current claims manual although wide in scope, does not provide enough detail for specific groups of claimants. In addition, the language used in the claims manual and other more legalistic material may not be suitable for some groups or the general community and may need to be simplified or expanded for educative purposes.

5 In aiming to reduce the incidence of disputes and inadmissible claims, particular groups need to be targeted together with providing them the right material at the right time.

6 The first step is the identification of how and why:

- claims reach the dispute stage, and
- inadmissible claims are being lodged.

7 The second step requires identifying the particular interest groups to provide with targeted information. Assuming these groups are the potential claimants, the type of questions that might be asked by these groups or the information they need should be identified.

8 It is likely that most interest in the subject will occur at the time of an incident. The target audience of potential claimants predictably will be found along the coastal fringe and include fishermen, tourist operators, yacht owners, local councils, lawyers etc.

9 The education component could also provide material directed at the general community. This may already be covered in Member States' existing public information on oil spills. However, the IOPC Fund may wish to consider the development of a short general information booklet that will enhance understanding and assist administrations provide relevant and focussed information.

Issues to be addressed

10 The following are possible questions that might be asked or should be known by potential claimants:

- what can be claimed, is it reasonable;
- what cannot be claimed;
- how to claim;
- what information is required in the claim (including supporting documentation);
- where to send claims or to seek assistance; and
- how is the claim arbitrated.

11 Examples of claims for a selection of target groups could be included based on information already contained in Fund paper "Criteria for the admissibility of claims for compensation - review of decisions". Material would need to be developed at an appropriate language level targeted to the specific audience.

Information format options

12 There are several options for the format of information which could be used individually or form part of an information "claims kit" made up of standard printed material designed to be readily available and distributed. This could include:

- standard articles designed to be reproduced in newspapers, magazines, organisations and community newsletters etc;

- fact sheets on specific issues to provide more detailed aspects of various topics (ie claims for specific losses or damage); and
- pamphlets to enhance general awareness of the Fund, and valuable for general community distribution.

13 An IOPC Fund Internet site would be most desirable. The site could contain general information about the Fund and contain all the relevant information material referred to earlier in this paper. Although a site can only be accessed by Internet users, it is the way of the future for enabling information to be widely available to the general public as well as specific target audiences and is a key to future school, university and professional education. It is best addressed alongside the development of printed material - and in the Australian experience can significantly reduce the costs of maintaining large stocks of up to date paper-based information.

14 Where possible, workshops and seminars could be held in Fund Member States to give first hand information to specific community groups. These could be organised by the state administration and arranged as far as possible to coincide with a visit by an IOPC Fund official.

15 A further option would be the production of an informative video designed to assist an understanding of the Fund and its operations and coverage.

Distribution

16 The most viable way to distribute material is by using networks of relevant contacts maintained by Member States. The State administration generally has access to the target audience through either direct contact with peak bodies, national organisations, industry/community groups or via mailing addresses. The IOPC Fund administration could consider providing stocks of material to state administrations for distribution in this way.

17 Members have a responsibility to promote their membership of the IOPC Fund and the benefits available from this membership. It is also greatly in the interests of administrations to promote the benefits and limits of the IOPC Fund compensation regime widely in their jurisdictions. Standard Fund information developed for the purpose could be incorporated in existing general public relations activities. Information provided by the Fund could be distributed by administrations to:

- industry peak bodies;
- targeted interest or industry groups in particular geographic locations;
- schools and other education facilities.

18 The Administration could also utilise other options for distribution such as mail outs via fishing or boating licence renewals.

When the incident occurs

19 As the most interest in preparing and submitting claims for damage will arise at the time of an incident, specific material should be readily available for distribution at this time.

20 In such an instance the best means of conveying information to the target audience is to advertise in the media in the area affected. Accordingly preparation in advance of "media ready" information relevant to the country concerned (eg language, contacts in the administration and the Fund etc) would allow the administration and the Fund to deal with concerns from the earliest possible moment. This information (at least in standard form) needs to be on the Internet site.

Proposal for implementation

21 This paper discusses options for developing an education strategy for the IOPC Fund. This will only succeed if developed by a professional with detailed knowledge of the Fund itself together with educational and media expertise to ensure the use of the best methods of providing effective information to target groups.

22 It must be stressed that education can only be part of the solution to the disputes problem and clearly the IOPC Fund may need to take the question of dispute resolution further.

23 It is suggested therefore that the Assembly consider arranging for a consultant to be engaged to develop an educational programme which aims to adequately inform various target groups and the general community of the availability of compensation for oil spills from tankers for certain types of damage or loss.

Action proposed to be taken by the Assembly

24 That the Assembly consider the matters raised in this paper and decide accordingly.
