



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

ASSEMBLY
10th session
Agenda item 13

FUND/A.10/10
27 July 1987
Original: ENGLISH

ASSESSMENT OF ANNUAL CONTRIBUTIONS

Note by the Director

1 Article 12 of the Fund Convention provides that the Assembly shall determine the amount of annual contributions to be levied, if any. For this purpose the Assembly shall make an estimate in the form of a budget of the IOPC Fund's expenditure and income for each calendar year, taking into account the necessity to maintain sufficient liquid funds.

2 The IOPC Fund's expenditure consists of:

- (a) costs and expenses of the administration of the IOPC Fund, and any deficit from preceding years;
- (b) payments of minor claims up to 15 million (gold) francs per incident; and
- (c) payments of claims to the extent that the aggregate amount of claims in respect of any one incident is in excess of 15 million (gold) francs (major claims).

Expenses mentioned in paragraphs (a) and (b) have to be met from the General Fund (Financial Regulation 5.1(c)) and expenses with respect to major claims as defined in paragraph (c) above have to be met from Major Claims Funds (Financial Regulation 5.2(d)).

3 General Fund

3.1 Financial Regulation 5.1 provides that the General Fund shall be maintained at such a level as the Assembly may decide from time to time and that the monies in the General Fund shall be used to meet the costs and expenses of the administration of the IOPC Fund and for the satisfaction of minor claims.

The amount of annual contributions needed for the General Fund in 1988 is estimated as follows:

(i) Expenditure	£
(a) Administrative expenses	344 130
(b) Minor claims	945 338
(c) Working capital	2 000 000
	<hr/>
	3 289 468
(ii) Income	<hr/>
(a) Surplus as at 31.12.87	2 374 116
(b) Interest to be earned in 1988	160 000
(c) Annual contributions required for General Fund	755 352
	<hr/>
	3 289 468

This estimate is based on the following considerations.

Expenses

3.2 Administrative Expenses

The administrative expenses of the IOPC Fund for 1988, as proposed by the Director in the draft budget for 1988, amount to £344 130 (document FUND/A.10/9).

3.3 Minor Claims

3.3.1 The known incidents in respect of which payments may have to be made from the General Fund during 1988 are listed in Annex I. The estimates for these incidents are based on the information contained in documents FUND/A.10/5 (Annex IV, Schedule III), FUND/EXC.18/3 and FUND/EXC.18/4.

3.3.2 Included in the estimated expenditure for 1988 in Annex I are payments from the General Fund of compensation and indemnification regarding the THUNTANK 5 incident. The clean-up operations have not been completed at the time of drafting this document, and no claims have yet been submitted to the IOPC Fund. For this reason, it is not possible to predict a figure at which this incident will eventually be settled. Claims are expected to be submitted in the autumn of 1987, and negotiations with the claimants will take place thereafter. On the basis of the information available concerning the oil pollution damage caused by this incident and the clean-up operations that have been carried out, the Director estimates that the total payments to be made by the IOPC Fund before the end of 1988 will reach the maximum amount to be paid from the General Fund, ie 15 million (gold) francs, corresponding to £839 338. It should be noted that this estimate is made solely for the purpose of the assessment of annual contributions and is without prejudice to the position of the IOPC Fund in respect of the claims that will be submitted to it.

3.3.3 It is anticipated that small payments of fees will have to be made in respect of the EIKO MARU N°1 and KOSHUN MARU N°1 incidents, whilst it is expected that considerable fees will be incurred in the PATMOS case.

3.3.4 With regard to the ANTONIO GRAMSCI incident, the Director has not yet been able to obtain sufficient information to establish whether the IOPC Fund will be liable to pay any compensation and, if so, in what amount (document FUND/EXC.18/4, Annex, paragraph 10). For this reason, it is not yet possible to make any estimate regarding this incident.

3.3.5 It is estimated that the total payments from the General Fund in 1988 will amount to £945 338, as set out in Annex I. This estimate does not include any provision for the payment of claims in respect of incidents which may occur after the drafting of this document for which payments may have to be made before the end of 1988. Such payments would have to be met from the working capital. This would also apply to payments which, although envisaged as not being due before 1989, actually have to be made earlier.

3.4 Working Capital

The Assembly decided at its second session that the IOPC Fund should maintain a working capital of £2 million. This capital is needed to cover payments in respect of claims not included in the estimated expenses for minor claims.

Income

3.5 Surplus

3.5.1 As mentioned above, the IOPC Fund should, in accordance with the decision of the Assembly, have a working capital of £2 million. As shown in the draft budget for 1988 (document FUND/A.10/9, Annex, page 7, section B.I), the surplus at the end of 1987 is estimated at £2 374 116. This figure has been arrived at on the basis of an estimated General Fund Claim expenditure in 1987 of £1 032 702, as shown in Annex II to this document.

3.5.2 Included in the estimated expenditure in 1987 are payments from the General Fund of £753 727 in respect of the JAN incident. This amount plus the expenses of £455 paid up to the end of 1986 correspond to the first 15 million (gold) francs (£754 182). This estimate has been made by the Director for the purpose of the assessment of annual contributions without prejudice to the position of the IOPC Fund in respect of the claims submitted to it, on the basis of the examination carried out so far of the various claims submitted to the IOPC Fund. The Director hopes to settle and pay all claims arising out of this incident before the end of 1987. As for the possible establishment of a Major Claims Fund, reference is made to paragraph 4.2 below.

3.5.3 The estimated expenditure from the General Fund in 1987 also includes payments of compensation, indemnification and fees in respect of the OUED GUETERINI incident, totalling £107 000. This estimate is made on the basis of the examination carried out of the claims submitted so far. Negotiations with the claimants have not yet begun, and additional claims may be submitted.

3.5.4 With regard to the BRADY MARIA incident, payment of £846 438, representing the total of the accepted items minus the owner's liability under the Civil Liability Convention, was made by the IOPC Fund to the German authorities in October 1986. This sum exceeds the amount corresponding to 15 million (gold) francs (£758 315), which is the maximum amount to be paid from the General Fund. In addition, a small amount has been paid in fees. At the time of drafting this document, no final settlement has been reached in respect of the remaining items. In view of the uncertainty as to the amount at which a final settlement may be reached, the Director has not included any estimate for further payments in respect of this incident. If a final settlement is arrived at before the 10th session of the Assembly, the Director will propose the establishment of a Major Claims Fund regarding this incident (cf paragraph 4.3 below).

3.6 Interest

The income in interest from the IOPC Fund's investments in 1988 is estimated at £160 000 (Budget 1988, document FUND/A.10/9, Annex, section B.II). This estimate is based on an average principal of about £2 million generating a yield of around £160 000 during the calendar year.

3.7 Initial Contributions

At the time of drafting this document no States are known in respect of which initial contributions will have to be paid in 1988.

3.8 General Fund Assessment

3.8.1 The total amount of contributions required is estimated at £755 352, as shown in the table in paragraph 3.1 above. The Assembly may wish to assess the 1987 annual contributions to the General Fund at £800 000.

3.8.2 According to Article 12.2(a) of the Fund Convention, the calculation of the 1987 annual contributions to the General Fund shall be based on the quantity of contributing oil received during 1986.

4 Major Claims Funds

4.1 TANIO

Regarding the TANIO incident, the remaining amount in the TANIO Major Claims Fund should be sufficient to make the necessary payments (documents FUND/A.10/5, Annex IV, Statement IV, and FUND/EXC.18/2).

4.2 JAN

4.2.1 The total claims arising out of this incident submitted so far amount to DKr11 839 453 (£1 067 000) (cf document FUND/EXC.18/4, Annex, paragraph 4.7). Negotiations have been held between the Director and the Danish authorities. Agreement has been reached on a number of items, but it has not yet been possible to reach a final settlement of the major part of the claim submitted by the Danish authorities.

4.2.2 As mentioned above (paragraph 3.5.2), the estimates for the General Fund are based on the assumption that an amount of £753 727 will be paid for the JAN incident during 1987, ie the maximum amount to be paid from the General Fund in respect of any one incident (15 million (gold) francs or £754 182) less the expenses incurred in 1985 and 1986 (£455).

4.2.3 It is possible that the total payments by the IOPC Fund resulting from the incident will exceed 15 million (gold) francs. If this amount were exceeded a Major Claims Fund would have to be established and contributions levied to that Fund. In view of the uncertainty of the level of the final settlement, the Director considers it premature to make any proposal for the amount of contributions to be levied to such a Major Claims Fund. If, as the Director hopes, a final settlement were to be reached before this session of the Assembly and if the limit of 15 million (gold) francs were to be exceeded, the Director will, in an addendum to this document, make a proposal to the Assembly in this regard. However, if no final settlement were to be reached in time for the Director to make such a proposal to this session, any payments over the limit of 15 million (gold) francs would have to be made from money to be borrowed from the General Fund or from the TANIO Major Claims Fund; the loan would be repaid with interest to the General Fund or the TANIO Major Claims Fund, as the case may be, when contributions to the JAN Major Claims Fund have been levied and received (cf Financial Regulations 5.1(c)(iv), 5.2(b)(iii) and 5.2(d)).

4.3 BRADY MARIA

4.3.1 As mentioned in paragraph 3.5.4 above, an amount of £846 438, representing the total of the accepted items minus the owner's liability under the Civil Liability Convention, was paid by the IOPC Fund to the German authorities in October 1986. The total payments made from the General Fund in 1986 with respect to this incident, including fees, amount to £883 327. In 1987, a further amount of £2 705 has so far been paid in fees. These payments already exceed the maximum amount to be paid from the General Fund in respect of one incident, ie 15 million (gold) francs, corresponding to £758 315. The excess, £127 717, was paid from the General Fund and will be reimbursed, with interest, to the General Fund from the BRADY MARIA Major Claims Fund when contributions to that Major Claims Fund have been levied and received (cf Financial Regulations 5.1(c)(iv) and 5.2(d)(iii)), and

also document FUND/A.10/5, Annex I, pages 8 and 9). The same will apply to any further payments made from the General Fund in respect of this incident before these contributions have been received.

4.3.2 At the time of drafting this document, it has not yet been possible to reach a final agreement in respect of this incident, and negotiations are being carried out concerning the outstanding items of the claims.

4.3.3 If, as the Director hopes, a final settlement were to be reached regarding all claims arising out of this incident before this session of the Assembly, the Director would, in an addendum to this document, propose the establishment of a Major Claims Fund and indicate the amount of contributions which, in his view, should be levied to this Major Claims Fund.

4.4 THUNTANK 5

4.4.1 As mentioned in paragraph 3.3.2 above, the estimates for the General Fund are based on the assumption that an amount corresponding to 15 million (gold) francs (£839 338), ie the maximum amount to be paid from the General Fund in respect of any one incident, will be paid for the THUNTANK 5 incident before the end of 1988.

4.4.2 It is possible that the total payments by the IOPC Fund resulting from this incident will exceed 15 million (gold) francs. In view of the uncertainty of the level of any final settlement, the Director considers it premature to make any proposal at this session of the Assembly for the establishment of a Major Claims Fund.

5 Date of Payment

Internal Regulation 3.8 (as amended at the 9th session of the Assembly) provides that, unless the Assembly decides otherwise, payment of annual contributions shall be due on 1 February of the year following that in which the Assembly decides on the levy of annual contributions. It is suggested that the date of payment for the 1987 annual contributions should be 1 February 1988.

6 Action to be Taken by the Assembly

6.1 The Assembly is invited, in accordance with Article 12 of the Fund Convention, to decide on:

- (a) the assessment of the 1987 annual contributions to the General Fund (paragraph 3.8); and
- (b) the date of payment of annual contributions (paragraph 5).

6.2 The Assembly may later be invited, in an addendum to this document, to decide on:

- (a) the assessment of the 1987 annual contributions to the JAN Major Claims Fund (paragraph 4.2); and
- (b) the assessment of the 1987 annual contributions to the BRADY MARIA Major Claims Fund (paragraph 4.3).

* * *

ANNEX I

CLAIMS THAT MAY HAVE TO BE PAID FROM THE GENERAL FUND DURING 1988 (estimates)
(Figures in £ Sterling)

Incident	Compensation/Indemnification	Miscellaneous	Total
EIKO MARU N°1	-	8 000	8 000
KOSHUN MARU N°1	-	8 000	8 000
PATMOS	-	100 000	100 000
*			
THUNTANK 5	824 338	5 000	829 338*
*			
ANTONIO GRAMSCI	-	-	-
EXPENDITURE 1988			945 338

* First 15 million (gold) francs (Article 12.1(i)(b) of the Fund Convention) minus miscellaneous expenses paid in 1987.

ANNEX II

CLAIMS EXPENDITURE IN 1987 (General Fund)
 (Figures in £ Sterling)

Incident	Compensation/Indemnification			Miscellaneous			1987 Total
	Paid by 31.12.86	Paid 1.1.87 - 30.6.87	Estimate 31.12.87	Paid by 31.12.86	Paid 1.1.87 - 30.6.87	Estimate 31.12.87	
JOSE MARTI	-	-	-	6 225	4 717	4 000	8 717 14 942
EIKO MARU N°1	108 740	-	-	4 740	-	4 000	4 000 117 480
KOSHUN MARU N°1	81 512	-	2 000	7	-	2 000	4 000 85 519
PATMOS	-	-	-	142 399	61 003	70 000	131 003 273 402
JAN	-	-	748 067	455	660	5 000	753 727 754 182*
BRADY MARIA	846 438	-	-	36 889	2 705	3 000	5 705 889 032
TAKE MARU N°6	-	-	6 550	-	-	2 000	8 550 8 550
OUED GUETERINI	-	-	100 000	-	-	7 000	107 000 107 000
THUNTANK 5	-	-	-	-	-	10 000	10 000 10 000
ANTONIO GRAMSCI	-	-	-	-	-	-	- - -
EXPENDITURE 1987							1 032 702

* First 15 million (gold) francs (Article 12.1(i)(b) of the Fund Convention)