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OIL POLLUTION
COMPENSATION
FUND

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CONTRIBUTIONS TO THE PROVIDENT FUND

Note by the Director

1 Introduction

1.1 New scales of pensionable remuneration were adopted within the United Nations in 1984. Since the scale of pensionable remuneration is of direct relevance for the contributions to the IOPC Fund's Provident Fund, the Assembly, at its 8th and 9th sessions, considered certain questions which related to contributions to the Provident Fund, on the basis of documents submitted by the Director (documents FUND/A.8/10/1 and FUND/A.9/10/1). One of the questions was which scale of pensionable remuneration should be applied in respect of two of the professional staff members (the Director and the Legal Officer). In view of the decision taken by the Assembly at its 9th session (document FUND/A.9/18, paragraph 13.1) and recent developments, the Director has considered it necessary to refer this question to the Assembly for new consideration.

1.2 The United Nations system operates a pension scheme, the United Nations Joint Staff Pension Fund (UNJSPF).

1.3 The IOPC Fund operates a Provident Fund instead of a pension scheme. Both the IOPC Fund and staff members contribute to the Provident Fund on such terms and conditions as may be approved by the Assembly (Staff Regulation 23(b)) <1>. The rates of contributions to the Provident Fund are, as from 1 January 1985, 7.25% for staff members and 14.5% for the IOPC Fund, calculated on the basis of the "pensionable remuneration" (document FUND/A.8/15, paragraph 13.2). As regards levels of pensionable remuneration, the IOPC Fund has followed the scales applied by IMO for contributions to the United Nations Joint Staff Pension Fund (document FUND/A.2/5/1, paragraph 13). Further details on the operations of the IOPC Fund's Provident Fund are given in document FUND/A.8/10/1, paragraphs 1.1 - 1.4.

<1> Under the original wording of Staff Regulation 23(b), these terms and conditions should be approved by the Executive Committee. The Staff Regulations were amended on this point at the 9th session of the Assembly (document FUND/A.9/18, paragraph 19).

2 1984 Increases in the Levels of Pensionable Remuneration for Staff Members in the Professional and Higher Categories

2.1 The Secretary-General of IMO implemented an increase in the levels of pensionable remuneration for staff members in the professional and higher categories with effect from 1 October 1984, in accordance with IMO Staff Rule 103.11 and Article 54(b) of the Regulations of the United Nations Joint Staff Pension Fund (IMO documents C.53/12(b) and C.53/12(b)/Add.1).

2.2 The Director decided to implement this revised scale of pensionable remuneration to the professional staff of the IOPC Fund as from 1 October 1984. This scale is shown in Annex I to this document.

3 Decisions by the General Assembly of the United Nations at its 1984 session

3.1 The UN Joint Staff Pension Fund has, in recent years, had an actuarial deficit. Various measures have been discussed in order to reduce this deficit. The consideration of this problem by various bodies within the United Nations is set out in detail in document FUND/A.8/10/1, paragraphs 3.1 - 3.3. In addition, the General Assembly of the United Nations has requested a number of studies on the level of pensionable remuneration for the professional and higher categories.

3.2 Following a study requested by the General Assembly, the International Civil Service Commission (ICSC) in 1984 proposed a new scale of pensionable remuneration. The proposal entailed reductions in the level of pensionable remuneration for staff at higher grades and increases for staff at lower grades. The proposal would have protected the acquired rights of existing staff members in grades where there was a reduction. Staff members whose pensionable remuneration at 31 December 1984 was higher than the amount provided in the new scale would thus have retained their pensionable remuneration as at that date, by freezing their pensionable remuneration until such time as it is overtaken by application of the normal adjustment mechanism to be applied to the new scale.

3.3 At its 1984 session, the General Assembly of the United Nations decided to adopt the new scale of pensionable remuneration as recommended by ICSC, as from 1 January 1985; this scale is set out in Annex II to this document. The General Assembly did not, however, approve the introduction of the transitional measures to protect the acquired rights of existing staff members as suggested by ICSC. The General Assembly requested the Pension Fund Board to prepare recommendations on new transitional measures, for consideration at the session of the General Assembly in 1985. In the meantime, the General Assembly suspended the operation of the current adjustment procedure which is laid down in Article 54(b) of the Regulations of the UN Joint Staff Pension Fund.

4 Implementation of the New Scale Adopted in 1984 by the General Assembly of the United Nations

4.1 The Secretary-General of IMO decided in January 1985 to implement, in principle, the new scale of pensionable remuneration adopted in 1984 by the General Assembly of the United Nations. He also decided to apply certain measures on an interim basis with respect to staff members who joined IMO before 1 January 1985 and whose pensionable remuneration under the new scale would be lower than under the scale in operation on 31 December 1984 (document FUND/A.8/10/1, paragraph 4.1).

4.2 The Director followed IMO and decided to introduce the new scale as regards the professional staff of the IOPC Fund with effect from 1 January 1985, subject to interim measures corresponding to those applied within IMO. With respect to two staff members (the Director and the Legal Officer) whose pensionable remuneration under the new scale would be lower than under the scale applicable on 31 December 1984, the Director decided to apply the following interim measures:

Contributions to the Provident Fund will continue to be based on the pensionable remuneration scale in operation as at 31 December 1984. However, the difference between the contributions based on the old and the new scales will be reserved in a separate account, but within the Provident Fund, pending a decision by the Executive Committee.

5 Consideration at the 8th Session of the IOPC Fund's Assembly

5.1 At its 8th session, the Assembly of the IOPC Fund considered whether any special measures should be taken within the IOPC Fund with regard to those professional staff members who were given contracts of employment before the new scale became effective (ie 1 January 1985) and whose pensionable remuneration under the new scale would be lower than under the old one. This question concerned only two staff members, the Director (grade D.2) and the Legal Officer (grade P.4); the third staff member in the professional category, the Finance/Personnel Officer (then grade P.1, but from 1 July 1986 grade P.2), would get a higher pensionable remuneration under the new scale than under the old one. The previous Legal Officer's contract was concluded on 1 November 1982, and he took up office on that date. The Director's contract was concluded on 12 October 1984. He did not take up office until 1 January 1985, but his contract of 12 October 1984 was definite and unconditional; a corresponding situation does not exist for any staff member within IMO.

5.2 The questions that the Assembly had to consider were set out in detail in document FUND/A.8/10/1, paragraphs 5.2 - 5.5, indicating the options that, in the view of the Director, were available.

5.3 The Assembly decided at its 8th session that the interim measures mentioned in paragraph 4.2 should be applied in respect of the Director and the Legal Officer, pending a final decision within the United Nations. If a solution were adopted within the United Nations protecting the rights of staff members in respect of whom the pensionable remuneration under the scale in operation as at 31 December 1984 was more favourable than under the new scale, then such a solution should also be applied, *mutatis mutandis*, to the Director and the Legal Officer. Should the Director not be able to apply the solution adopted, the Director should continue to apply these interim measures and refer the matter to the Assembly at its next session for decision (document FUND/A.8/15, paragraph 13.2).

5.4 It should be noted that in 1986 the problem concerned only one staff member, the Director. The previous Legal Officer was promoted as from 1 January 1986 from grade P.4 to grade P.5. His pensionable remuneration under grade P.5 step I was higher than the level of pensionable remuneration under his previous salary grade (grade P.4 step IV). For this reason, no interim measures were applied with respect to the former Legal Officer from 1 January 1986 until his separation from the IOPC Fund on 7 November 1986.

5.5 Following IMO, the Assembly of the IOPC Fund likewise decided at its 8th session to raise the rates of contributions to the Provident Fund from 7% to 7.25% for staff members and from 14% to 14.5% for the IOPC Fund, as from 1 January 1985 (document FUND/A.8/15, paragraph 13.3).

6 Developments within the United Nations between the 8th and 9th Sessions of the IOPC Fund's Assembly

6.1 At its 1985 session, the General Assembly of the United Nations decided that all staff should be placed on the new scale of pensionable remuneration and did not introduce any transitional measures in respect of the levels of pensionable remuneration, ie with regard to the basis on which contributions to the UN Joint Staff Pension Fund are made.

6.2 However, the General Assembly approved more limited transitional measures concerning the pension benefits to be paid from the UN Joint Staff Pension Fund to staff members who were adversely affected by the new lower scale of pensionable remuneration which came into effect on 1 January 1985. These transitional measures apply to staff members who were in service on 31 December 1984 and ensure that no staff member will, on retirement, get a smaller benefit than if he had retired at an earlier date. The method of calculation for the purpose of establishing the level of pension benefits is somewhat complex.

6.3 It should be mentioned that the decision on transitional measures contains a further condition for it to be applied, ie that the staff member concerned should have been serving for at

least 36 months on 31 December 1984. However, one reason for this requirement was that, under the UN pension scheme, the pension is calculated on the basis of the average of the best three years of pensionable remuneration during the last five years of service. In view of the difference between a pension scheme of this kind and the IOPC Fund's Provident Fund scheme, it appears that this requirement is not directly relevant to the IOPC Fund.

6.4 The Secretary-General of IMO decided in January 1986 to terminate the application of the transitional measures referred to in paragraph 4.1 above. The amounts held on the special accounts in the name of the staff members and of IMO as a consequence of the application of these measures were returned to their respective sources (IMO document C.56/14(a), paragraph 11).

6.5 In view of the differences between the United Nations pension system and the IOPC Fund's Provident Fund scheme, the Director decided to continue to apply the corresponding transitional measures, pending a decision by the IOPC Fund's Assembly.

6.6 The General Assembly of the United Nations also decided at its 1985 session to continue the suspension of the operation of the provisions of the Regulations of the UN Joint Staff Pension Fund providing for adjustments in pensionable remuneration.

7 Consideration at the 9th Session of the IOPC Fund's Assembly

7.1 At its 9th session, the IOPC Fund's Assembly reconsidered the question of which level of pensionable remuneration should be applied in respect of the Director and the Legal Officer. The discussion was based on a document submitted by the Director where the problems were analysed and various solutions discussed (document FUND/A.9/10/1, paragraphs 7.1 - 7.8). The main elements of these paragraphs are reproduced in paragraphs 9.1 - 9.7 below.

7.2 The Assembly confirmed its decision at the 8th session that the interim measures referred to in paragraph 4.2 of this document should be applied until the situation within the United Nations pension scheme had become clearer. However, as regards the Legal Officer who would be leaving his post shortly, that part of the separate account contributed by him should be payable to him upon his separation from the IOPC Fund, if he so desired (document FUND/A.9/18, paragraph 13.1).

8 Developments Within the United Nations Since the 9th Session of the IOPC Fund's Assembly

8.1 At its 1986 session, the General Assembly of the United Nations decided to adopt another new scale of pensionable remuneration for staff in the professional and higher categories, to become effective from 1 April 1987. This new scale represents a further reduction in pensionable remuneration for all grades in these categories. Transitional measures corresponding to those

introduced in respect of the previous reductions of 1 January 1985 referred to in paragraph 6.2 above will apply. The new scale is attached to this document as Annex III.

8.2 The following table shows the differences between the three scales in question for step I of each grade, ie (a) the scale applicable at 31 December 1984, (b) that applicable from 1 January 1985 to 31 March 1987, and (c) that applicable from 1 April 1987 (amounts in US \$).

Grade Step I	(a) To 31.12.84	(b) 1.1.85- 31.3.87	(c) From 1.4.87
P.1	26 338	27 500	27 100
P.2	35 069	35 500	34 500
P.3	44 164	43 800	42 600
P.4	55 233	53 300	52 100
P.5	70 419	66 100	64 300
D.1	80 923	74 500	71 400
D.2	96 971	84 800	81 800
ASG	124 257	103 900	98 100
USG	140 032	115 700	106 100

8.3 Pursuant to a decision of the IMO Council, the Secretary-General of IMO decided to introduce the new scale and the transitional measures with effect from 1 April 1987.

8.4 In view of the decision taken by the IOPC Fund's Assembly at its 8th session, the Director decided to introduce the new scale of pensionable remuneration with effect from 1 April 1987 in respect of all three IOPC Fund staff members in the professional and higher category. He also decided to continue the application of the interim measures described in paragraph 4.2 above in respect of these staff members, pending a decision by the Assembly, as follows:

An amount corresponding to the difference between the contributions to the Provident Fund which would result from the use of the scale in application as at 31 March 1987 and the contributions that would result from the use of the new scale with effect from 1 April 1987 will be paid into a special account for each of these staff members. For the Director, the payment into the special account will continue to reflect the difference between the scale applicable as at 31 December 1984 and that applicable as at 1 April 1987.

8.5 The interim measures referred to in paragraph 8.4 apply to all three staff members in the professional and higher category, ie the Director, the present Legal Officer (who took up his post on 1 November 1986) and the Finance/Personnel Officer.

8.6 It should be noted that, at its 1986 session, the General Assembly of the United Nations decided that it would not request any further comprehensive reviews of the United Nations pension system until 1990, except in respect of a possible increase in the rates of contributions to the Pension Fund.

9 Analysis of the Situation

9.1 The decision of the IOPC Fund's Assembly at its 8th session, instructing the Director to implement the solution adopted within the United Nations, referred to a solution protecting the rights of staff members in respect of which the pensionable remuneration under the scale in operation as at 31 December 1984 was more favourable than under the new scale. The solution adopted within the United Nations does protect "acquired rights", but in a way which is not directly applicable to the IOPC Fund.

9.2 Under Staff Regulation 14, the IOPC Fund's staff members' salaries, allowances and grants, and the conditions of entitlement thereto, shall, except as may otherwise be provided in the Staff Regulations, conform whenever appropriate to the United Nations common system, as applied by IMO. The IOPC Fund's Provident Fund, however, is established and operated outside the UN Joint Staff Pension Fund. The Pension Fund has at present an actuarial deficit. An actuarial deficit can never arise in the Provident Fund, as the staff member will, on separation, receive exactly the amount corresponding to his share in the Provident Fund, and the IOPC Fund would have no further pension obligation towards the staff member.

9.3 The terms and conditions as regards the contributions to the Provident Fund are determined by the Assembly (Staff Regulation 23(b)). The Assembly is not obliged to follow the terms and conditions applied within the UN system for contributions to the UN Joint Staff Pension Fund. However, in the document that was the basis for the decision of the IOPC Fund's Assembly to establish a Provident Fund, it was stated that the staff member's remuneration would, for the purpose of calculating contributions to the Provident Fund, be an amount equal to the pensionable remuneration of an IMO staff member of identical grade and step (FUND/A.2/5/1, paragraph 13). The question is whether, due to the development within the UN Joint Staff Pension Fund, there are reasons for a temporary deviation, in respect of three IOPC Fund staff members, from the levels of pensionable remuneration applied by IMO, in view of the differences between the two systems.

9.4 One solution would be for the Assembly to decide that the new scale of pensionable remuneration should be applied to all staff members without any transitional measures of any kind.

9.5 As mentioned in paragraph 6.2, the UN General Assembly has accepted the need for protection of "acquired rights" in respect of payments of pension benefits. The solution adopted by the General Assembly cannot be applied directly to the IOPC Fund's

Provident Fund. The payment from the Provident Fund to a staff member on his separation corresponds exactly to the amount which has been paid into the Provident Fund by the IOPC Fund and the staff member concerned (plus interest). It is not possible, therefore, to apply a new lower scale of pensionable remuneration as the basis of the contributions to the Provident Fund, and at the same time to retain the benefits to be paid to the staff members on separation at the level which would have existed if the old scale had still been in effect. Unless the IOPC Fund were to apply higher rates of contributions than those applied within the UN system, the protection of "acquired rights" with regard to the level of benefits payable can be obtained only by using a higher scale as the basis for the contributions, ie the scale applicable on 31 December 1984 as regards the Director and the previous Legal Officer, and the scale applicable during the period 1 January 1985 - 31 March 1987 in respect of the present Legal Officer and the Finance/Personnel Officer.

9.6 If the IOPC Fund's Assembly were to consider that the level of benefits which would follow from the applicable old scales should be preserved for the staff members concerned, it appears that the appropriate solution would be to apply the relevant old scales until such time as they are overtaken by the new scale, by means of the normal adjustment procedure.

9.7 Should a solution in accordance with paragraph 9.6 be adopted, the contributions to the Provident Fund payable by the IOPC Fund in respect of the two staff members concerned would be £1 643 higher in 1985; in 1986, the amounts payable by the IOPC Fund in respect of the only staff member concerned (the Director) would be £1 203 higher. These amounts are reserved in a special account. In 1987 and 1988 the payments by the IOPC Fund in respect of the three staff members concerned would be approximately £1 600 and £1 800, respectively, higher than if the new scale were applied.

10 Action to be Taken by the Assembly

The Assembly is invited to take such decisions as it considers appropriate with regard to the levels of pensionable remuneration in respect of the Director, the Legal Officer and the Finance/Personnel Officer.

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PENSIONABLE REMUNERATION FOR PROFESSIONAL AND HIGHER CATEGORIES
FOR PURPOSES OF PENSION BENEFITS AND PENSION CONTRIBUTIONS

(in US dollars)

(Effective 1 October 1984)

Level	Steps												
	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	XIII
P.1	26338	27443	28567	29689	30851	32011	33190	34332	35473	36591			
P.2	35069	36319	37578	38829	40094	41373	42679	43974	45274	46575	47868		
* P.3	44164	45714	47247	48788	50381	52009	53623	55218	56730	58228	59741	61235	62770
* P.4	55233	57014	58797	60580	62374	64205	66029	67852	69768	71702	73637	75501	
P.5	70419	72481	74521	76490	78461	80469	82494	84520	86565	88610			
D.1	80923	83546	86150	88770	91449	94061	96604						
D.2	96971	99753	102614	105536									
ASG	124257												
USG	140032												

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ANNEX I

PENSIONABLE REMUNERATION FOR PROFESSIONAL AND HIGHER CATEGORIES
FOR PURPOSES OF PENSION BENEFITS AND PENSION CONTRIBUTIONS

(in US dollars)

(Effective 1 January 1985)

Grade	Steps												
	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	XIII
P.1	27500	28600	29700	30800	31900	33000	34100	35200	36300	37400			
* P.2	35500	36700	38000	39200	40500	41700	43000	44200	45400	46700	47900		
* P.3	43800	45300	46900	48400	49900	51500	53000	54500	56100	57600	59100	60700	62200
* P.4	53300	54900	56500	58100	59700	61300	62900	64500	66100	67700	69300	70900	
P.5	66100	68100	70100	72000	74000	76000	78000	80000	82000	83900			
D.1	74500	76700	79000	81200	83400	85700	87900						
D.2	84800	87300	89900	92400									
ASG	103900												
USC	115700												

ANNEX II

SCALE OF PENSIONABLE REMUNERATION FOR CONTRIBUTION AND BENEFIT PURPOSES

PROFESSIONAL AND HIGHER CATEGORIES

(in US dollars)

Effective 1 April 1987

Level	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	XIII
USG	106,100												
ASG	98,100												
D-2	81,800	83,900	85,900	88,000									
D-1	71,400	73,200	75,000	76,800	78,600	80,400	82,100						
P-5	64,300	65,800	67,200	68,600	70,100	71,400	72,900	74,300	75,800	77,200			
P-4	52,100	53,600	55,100	56,500	58,100	59,500	60,900	62,200	63,700	65,300	66,800	68,300	
P-3	42,600	44,100	45,500	46,800	48,200	49,600	51,100	52,500	53,600	55,000	56,300	57,500	58,800
P-2	34,500	35,700	36,800	38,000	39,200	40,300	41,500	42,600	43,900	45,100	46,300		
P-1	27,100	28,100	29,000	29,900	30,900	31,800	32,900	34,000	35,100	36,100			

ANNEX III

FUND/A.10/9/1