



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

ASSEMBLY  
11th session  
Agenda item 17

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INTERNATIONAL CONFERENCE ON SALVAGE 1989

Note by the Director

1 The Legal Committee of the International Maritime Organization (IMO) has prepared draft Articles on salvage intended to replace the 1910 Brussels Convention for the unification of certain rules of law relating to assistance and salvage at sea. The Committee concluded its examination of the draft articles at its 58th session in October 1987.

2 At its 15th session in November 1987, the IMO Assembly decided that a Diplomatic Conference on Salvage should be convened for a two-week period in 1989, for the purpose of considering and adopting a new convention on salvage. The Director has been informed that the Diplomatic Conference will be held in London from 17 to 28 April 1989.

3 The draft Articles for the proposed new Convention on Salvage, as elaborated by the Legal Committee, are contained in document LEG/CONF.7/3. The draft Articles cover both private and public law issues. From the point of view of the IOPC Fund, Chapter III of the draft is of particular importance, since this Chapter deals with questions relating to salvage rewards. Chapter III contains four Articles (Articles 9 - 12) relating to conditions for reward, criteria for assessing the reward, special compensation for a salvor who has prevented or minimised damage to the environment, and apportionment of rewards between salvors.

4 It will be recalled that the relationship between salvage costs and oil pollution damage under the Civil Liability Convention and the Fund Convention has been considered by the IOPC Fund in connection with the PATMOS incident. The question in that context was whether and to what extent salvage operations fell within the definition of "pollution damage" laid down in the Civil Liability Convention, ie whether these operations could be considered as "preventive measures" as defined in that Convention. An analysis of this question was given in document FUND/EXC.16/4, paragraphs 2.9 - 2.18. At its 16th session, the Executive Committee endorsed the position taken by the Director on this issue that operations could be considered as "preventive measures", as defined in the Civil Liability Convention, only if the primary purpose was to prevent pollution damage; if the operations primarily had

another purpose, such as salvaging hull or cargo, the operations would not be covered by that definition (document FUND/EXC.16/8 paragraph 3.3.2). This question will be further discussed by the Executive Committee at its 20th session on the basis of document FUND/EXC.20/3.

5 The Diplomatic Conference which will be held in 1989 has no authority to amend the 1969 Civil Liability Convention, nor to decide on its interpretation. Nevertheless, certain decisions taken by that Conference in the context of the elaboration of the new Convention may have an impact on questions of compensation under the Civil Liability Convention and the Fund Convention. For this reason, the Director considers that it is in the interests of the IOPC Fund that the Fund participates as an observer at the Conference.

6 The Director's intention is to represent the IOPC Fund at the Diplomatic Conference and to make such interventions as may be appropriate for the purpose of explaining the position taken by the IOPC Fund's organs in respect of the notions of "pollution damage" and "preventive measures", as defined in the Civil Liability Convention, as well as in respect of other matters of interest to the IOPC Fund that may be dealt with by the Conference.

#### Action to be Taken by the Assembly

7 The Assembly is invited to take note of the information contained in this document.

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