



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

ASSEMBLY  
12th session  
Agenda item 13

FUND/A.12/10/Add.1  
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## ASSESSMENT OF ANNUAL CONTRIBUTIONS

Note by the Director

### 1 Introduction

1.1 In document FUND/12.10, the Director proposed that the Assembly assess the 1989 annual contributions to the General Fund at £1 600 000 (paragraph 2.5.1). In that document, the Director stated that he would make proposals to the Assembly, in an addendum, in respect of contributions to the THUNTANK 5 Major Claims Fund, the ANTONIO GRAMSCI Major Claims Fund and the KASUGA MARU N°1 Major Claims Fund, if settlements of the claims arising out of these incidents were reached before the 12th session of the Assembly.

1.2 Final settlement has now been reached in respect of all claims arising out of the THUNTANK 5 incident, subject to the approval of the Executive Committee (cf document FUND/EXC.22/3/Add.1, paragraph 3.9). Considerable progress has also been made in respect of the claims arising out of the KASUGA MARU N°1 incident. The present document contains, therefore, the Director's proposal in respect of the levy of annual contributions to Major Claims Funds for the THUNTANK 5 and the KASUGA MARU N°1 incidents. As regards the ANTONIO GRAMSCI incident, a settlement has been reached in respect of the claim submitted by the Finnish Government at a level which makes it unlikely that a Major Claims Fund will have to be established for that incident (cf document FUND/EXC.22/3/Add.1, paragraphs 4.9 and 4.13). For this reason, the Director is not making any proposal to levy contributions to such a Major Claims Fund.

### 2 THUNTANK 5 Major Claims Fund

2.1 In document FUND/EXC.22/3/Add.1, it is reported that all claims arising out of the THUNTANK 5 incident have been settled at an aggregate amount of SKr21 980 593 (£2 123 216), subject to the approval of the Executive Committee (paragraphs 3.9 and 3.13). It is estimated that total payments by the IOPC Fund in compensation, inclusive of interest, will amount to SKr23 217 632 (£2 271 783). The IOPC Fund will also have to pay indemnification of the shipowner in the amount of SKr685 437 (£67 068). The payments by the IOPC Fund in respect of miscellaneous expenses will amount to approximately £57 030.

2.2 In view of the high rate of interest that will accrue on the amounts to be paid to the Swedish Government (cf the Annex to document FUND/EXC.22/3/Add.1),

the Director considers it important that payment is made as soon as possible. Due to the increase of the working capital decided by the Assembly at its 11th session, it will be possible to make this payment very rapidly, if the proposed settlement is approved by the Executive Committee. Any payment made from the General Fund over the maximum amount payable from that Fund in respect of the THUNTANK 5 incident, ie 15 million (gold) francs (corresponding to £839 338), would be reimbursed with interest to the General Fund from the THUNTANK 5 Major Claims Fund, when contributions to that Major Claims Fund have been received.

2.3 The amount to be paid from the THUNTANK 5 Major Claims Fund is calculated as follows (conversion from Swedish Kronor to Pound Sterling made on the basis of the rate of exchange on 18 October 1989, ie £1=SKr10.22):

	SKr	£
Swedish Government	21 931 232	
Private claimants	<u>49 361</u>	
Total claims as settled	21 980 593	
Plus		
Interest on Swedish Government's claim up to 2.11.89 (estimate)	3 978 785	
	<u>25 959 378</u>	
Less		
Shipowner's limitation amount	<u>-2 741 746</u>	
	23 217 632	
Plus		
Indemnification of shipowner	<u>685 437</u>	
Total payment by IOPC Fund to third parties	23 903 069	2 338 852
Plus		
Fees and other expenses: Paid by end of 1988	£30 477	
Paid Jan-Oct 1989	£22 553	
Future expenses (estimate)	£4 000	
	<u>£57 030</u>	57 030
		<u>2 395 882</u>
Plus		
Interest payable to General Fund from THUNTANK 5 Major Claims Fund (estimate)		<u>77 827</u>
Total cost to IOPC Fund		2 473 709
Less		
First 15 million (gold) francs payable from General Fund		<u>839 338</u>
Payments from THUNTANK 5 Major Claims Fund		<u>1 634 371</u>

2.4 On the basis of this information and taking into account the risks of currency fluctuations until the date of payment, the Assembly may wish to assess 1989 annual contributions to the THUNTANK 5 Major Claims Fund at £1 700 000.

2.5 In accordance with Article 12.2(b) of the Fund Convention, the calculation of annual contributions to the THUNTANK 5 Major Claims Fund shall be based on the quantities of contributing oil received during the calendar year preceding that in which the incident occurred, ie the quantities received during 1985.

### 3 KASUGA MARU N°1 Major Claims Fund

3.1 The situation in respect of the settlement of claims arising out of the KASUGA MARU N°1 incident is reported in paragraph 7 of document FUND/EXC.22/3/Add.1. The Director has submitted certain claims to the Executive Committee for consideration and approval at its 22nd session and has invited the Committee to consider whether it would be prepared to authorise him to settle further claims arising out of this incident.

3.2 The Director has made the following estimate of the IOPC Fund's payments in respect of this incident (conversion from Japanese Yen to Pound Sterling made on the basis of the rate of exchange on 18 October 1989, ie £1=¥225):

	¥	£
Claims submitted to Executive Committee for approval	387 928 351	
Other claims (estimate)	<u>85 000 000</u>	
Total claims (estimate)	472 928 351	
Plus		
Fees and expenses (estimate)	<u>10 000 000</u>	
	482 928 351	
Less		
Shipowner's limitation amount	<u>-17 015 040</u>	
	465 913 311	
Plus		
Indemnification of shipowner	<u>4 253 760</u>	
	470 167 071	2 089 631
Plus		
Interest payable to General Fund from KASUGA MARU N°1 Major Claims Fund (estimate)		<u>67 507</u>
Total cost to IOPC Fund		2 157 138
Less		
First 15 million (gold) francs payable from General Fund		<u>739 496</u>
Payments from KASUGA MARU N°1 Major Claims Fund		<u>1 417 642</u>

3.3 On the basis of the information given above and taking into account the risks of currency fluctuations until the date of payment, the Assembly may wish to assess 1989 annual contributions to the KASUGA MARU N°1 Major Claims Fund at £1 500 000.

3.4 In accordance with Article 12.2(b) of the Fund Convention, the calculation of annual contributions to the KASUGA MARU N°1 Major Claims Fund shall be based on the quantities of contributing oil received during the calendar year preceding that in which the incident occurred, ie the quantities received during 1987.

#### 4 Date of Payment

The Director has suggested that the date of payment for the 1989 annual contributions to the General Fund should be 1 February 1990 (document FUND/A.12/10, paragraph 4). The same date of payment is suggested for 1989 annual contributions to the THUNTANK 5 and the KASUGA MARU N°1 Major Claims Funds.

#### 5 Action to be Taken by the Assembly

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

- (a) the assessment of 1989 annual contributions to the THUNTANK 5 Major Claims Fund (paragraph 2.4);
- (b) the assessment of 1989 annual contributions to the KASUGA MARU N°1 Major Claims Fund (paragraph 3.3); and
- (c) the date of payment of annual contributions to these Major Claims Funds (paragraph 4).