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LOANS FROM CONTRIBUTORS' ACCOUNTS

Note by the Director

Introduction

1 At its 11th session, in October 1988, the Assembly considered the question of whether the IOPC Fund should be entitled to take loans from the contributors' accounts, on the basis of document FUND/A.11/18, paragraphs 14-17. The Assembly decided to postpone until its 12th session any consideration of this question (document FUND/A.11/20, paragraph 20.3.3).

2 This question is submitted to the Assembly for renewed consideration. The presentation in this document follows, to some extent, paragraphs 14-17 of document FUND/A.11/18, but has been adjusted to take into account the discussions at the 11th session of the Assembly and the development in respect of the repayment of the balance on the TANIO major claims fund.

Present Situation

3 The Director's authority to take loans is governed by Internal Regulation 10.1, which reads:

"10.1 Where annual contributions determined by the Assembly do not in fact produce sufficient and timely funds for the payments to be made by the Fund for the satisfaction of claims, provisional payments or other expenses incurred in the operation of the Fund, the Director may make arrangements for obtaining short-term credit facilities or loans meeting the cash-flow requirements of the Fund. If the Director is unable to arrange the required credit facilities or loans on terms which he feels are reasonable, he shall refer the matter to the Assembly."

Loans from Contributors' Accounts

4 The question of whether the IOPC Fund should be entitled to take loans from the contributors' accounts was raised in connection with the issue of the

reimbursement to contributors of the balance on the TANIO major claims fund (documents FUND/A.11/10 and FUND/A.11/10/Add.1). The Assembly decided that an amount of £13.9 million of that balance should be reimbursed pro rata, on 1 February 1989, to the persons who had made contributions to that major claims fund. In addition, the Assembly decided that each contributor should be given the option to choose whether the amount to which he was entitled should be repaid to him, or whether the amount should be credited to his account with the IOPC Fund for set-off against annual contributions to be levied in subsequent years (document FUND/A.11/20, paragraph 13.2).

5 The aggregate amount of the balance remaining on the contributors' accounts would depend on the extent to which the contributors chose the option of having the amount to which they were entitled credited to their accounts. If most contributors had chosen that option, the balance would have represented a substantial amount. However, as set out in document FUND/A.12/11, the majority of the contributors decided to request repayment, and the aggregate amount of the balance on the contributors' accounts after repayments were made was slightly over £1 million. Any amount credited to a contributor's account would be used to off-set future annual contributions levied against the contributor in question. For this reason, the balance will be lower after 1 February 1990, when the 1989 contributions are likely to be due.

6 There could be situations where, in the Director's view, it would be useful if the IOPC Fund were to have the possibility of taking loans from the contributors' accounts. This would be the case, for example, if the payments made by the Fund had resulted in a major part of the working capital (at present £4 million) having been used during the calendar year, and there are further claims to be settled before the next levy of annual contribution is due. Without this possibility, the Director may in such a situation have to choose between taking a bank loan, and deferring payments to claimants until the next levy of annual contributions would be due (usually on 1 February of the following year). Although the possibility of taking bank loans is foreseen in the Internal Regulations, the Director considers that an intergovernmental organisation such as the IOPC Fund should not resort to taking loans from external sources unless there is no other way of obtaining access to sufficient and timely funds. For this reason, the Director is of the opinion that it would be in the interest of the smooth running of the Fund to open the possibility for the Director to take loans from the contributors' accounts in situations of this kind.

7 It should be pointed out that the balance on the contributors' account is not invested separately but together with the other assets of the IOPC Fund, for reasons set out in document FUND/A.11/18, paragraph 10.

8 If the IOPC Fund were to take loans from the contributors' accounts, it would obviously have to pay interest on the loans at a rate to be fixed in the Internal Regulations, say at an annual rate of 1.5% higher than the lowest London clearing bank base rate. On the basis of the information given by banks, it is estimated that the IOPC Fund would have to pay interest at approximately that rate on loans from external sources.

9 If the Assembly were to decide that the IOPC Fund should be entitled to take loans from the contributors' accounts, amendments would have to be made to

the Internal Regulations. This could be made by renumbering the present Internal Regulation 10.1 as 10.1.1, and by inserting a new Internal Regulation 10.1.2. The Director submits the following text of a new Regulation for consideration by the Assembly.

"10.1.2 If the Director considers it to be in the interest of the Fund, he may use the aggregate credit balance on the contributors' accounts, in the form of a loan to the Fund, for the purpose of expediting the payment of claims against the Fund. Interest shall be paid on such loans at an annual rate of 1.5% higher than the lowest London clearing bank base rate, taking into account any changes in the London clearing bank base rates during the period of the loan."

Action to be Taken by the Assembly

10 The Assembly is invited to consider whether the IOPC Fund should be entitled to take loans from the contributors' accounts, and, if so, to adopt the necessary amendments to the Internal Regulations.
