



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

ASSEMBLY
12th session
Agenda item 24

FUND/A.12/19
27 October 1989

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RECORD OF DECISIONS OF THE TWELFTH SESSION OF THE ASSEMBLY

(held from 25 to 27 October 1989)

Opening of the Session

The 12th session of the Assembly was opened by Mr J Bredholt (Denmark), in his capacity as representative of the delegation from which the Chairman of the previous session was elected.

1 Adoption of the Agenda

The Assembly adopted the Agenda as contained in document FUND/A.12/1.

2 Election of the Chairman and Two Vice-Chairmen

The Assembly elected the following delegates to hold office until the next regular session of the Assembly:

Chairman:	Mr J Bredholt (Denmark)
First Vice-Chairman:	Professor H Tanikawa (Japan)
Second Vice-Chairman:	Mr A Al-Yagout (Kuwait)

3 Examination of Credentials

The following Contracting States were present:

Bahamas	Kuwait
Canada	Liberia
Côte d'Ivoire	Monaco
Cyprus	Netherlands
Denmark	Norway
Fiji	Poland
Finland	Spain
France	Sweden
Germany, Federal Republic of	Syrian Arab Republic
Greece	Tunisia
Indonesia	Union of Soviet Socialist Republics
Italy	United Kingdom
Japan	Yugoslavia

The Assembly took note of the information given by the Director that all Contracting States participating had submitted credentials which were in order.

The following non-Contracting States were represented as observers:

Argentina	Ireland
Belgium	Mexico
Brazil	United States of America
China	

The following inter-governmental and international non-governmental organisations participated as observers:

International Maritime Organization (IMO)
Advisory Committee on Pollution of the Sea (ACOPS)
International Chamber of Shipping (ICS)
International Group of P & I Clubs
International Tanker Owners Pollution Federation Ltd (ITOPF)
Oil Companies International Marine Forum (OCIMF)

4 Consideration of the Report of the Director

4.1 The Director introduced the report contained in document FUND/A.12/2. It was noted that some of the incidents mentioned in paragraph 11.1 of that document had not resulted in any payments of compensation by the IOPC Fund.

4.2 The Assembly expressed its gratitude to the Director and the other members of the Secretariat for the efficient way in which they had administered the IOPC Fund.

4.3 The Assembly expressed its appreciation of the valuable contribution to the IOPC Fund made by the Legal Officer, Mr K Wada, who would be leaving the Secretariat before the next session of the Assembly.

4.4 The Assembly congratulated the Director on the IOPC Fund's 1988 Annual Report, which had been more elaborate and extensive than previous Reports, as it had reviewed the major developments of the Organisation during its first ten years.

4.5 The Assembly noted the progress made since the 11th session in respect of the settlement of claims, with particular regard to the claims arising out of the OUED GUETERINI, THUNTANK 5, ANTONIO GRAMSCI and KASUGA MARU N°1 incidents.

4.6 The Assembly took note of the change in personnel that had taken place within the Secretariat of the IOPC Fund.

4.7 The Assembly noted with satisfaction the continued growth of the membership of the IOPC Fund and instructed the Director to continue his efforts to increase the number of Member States.

5 Consideration of the Report on Investments

The Assembly took note of the Director's report on investments contained in document FUND/A.12/3.

6 Consideration of the External Auditor's Report on Financial Statements for the Financial Period 1 January to 31 December 1988

6.1 The Director introduced document FUND/A.12/4 containing the External Auditor's Report and the Financial Statements of the IOPC Fund for the period ended 31 December 1988. The Assembly took note of the information given and noted with appreciation the External Auditor's opinion contained in Annex III to that document.

6.2 The Assembly approved the accounts of the IOPC Fund for the financial period 1 January to 31 December 1988.

7 Report on Contributions

The Assembly took note of the Director's report on contributions contained in documents FUND/A.12/5 and FUND/A.12/5/Add.1. The Assembly expressed its satisfaction with the positive response of contributors in Member States regarding the payment of contributions and expressed the hope that the small amounts which were in arrears would be paid in the near future.

8 Consideration of the Reports of the Executive Committee on its 21st and 22nd sessions

8.1 The Chairman of the Executive Committee, Mr P Novia (Italy), informed the Assembly of the work of the Executive Committee during its 21st and 22nd sessions and reported to the Assembly the decisions taken by the Executive Committee at these sessions (documents FUND/EXC.21/2 and FUND/EXC.22/5).

8.2 The Assembly approved the reports of the Executive Committee. The Assembly endorsed the position taken by the Executive Committee in respect of the principles embodied in IOPC Fund Resolution N°3 adopted by the Assembly in 1980.

8.3 In the context of the ANTONIO GRAMSCI incident, it was stated that the definition of "pollution damage" laid down in Article I.6 of the Civil Liability Convention was to be interpreted by the national courts of various Member States and that these courts might arrive at different interpretations. The Assembly stressed that the interpretation of that definition, which had been adopted by the Assembly in Resolution N°3 and amplified by the endorsement of the report of the 5th Intersessional Working Group, remained the position of the IOPC Fund.

8.4 The Chairman expressed the thanks of the Assembly to the Chairman of the Executive Committee for the work of the Committee achieved under his Chairmanship.

9 Appointment of Director

9.1 The Assembly unanimously appointed Mr Måns Jacobsson to serve as Director of the IOPC Fund for a second term of office.

9.2 The Assembly approved the proposal made by the Chairman that the Director should be given another fixed-term contract for a period of five years, with effect from 1 January 1990, and on the same basis as his existing contract, as amended, ie with a salary based on the grade of Assistant Secretary-General in the United Nations system and a representation allowance of US\$6 000.

9.3 The Director accepted his reappointment and expressed his gratitude for the renewed confidence shown in him.

10 Election of Members of the Executive Committee

The Assembly elected the following Contracting States as members of the Executive Committee:

<u>Elected under</u> <u>Article 22.2(b) of</u> <u>the Fund Convention</u>	<u>Elected under</u> <u>Article 22.2(a) of</u> <u>the Fund Convention</u>
Canada	Bahamas
Germany, Federal Republic of	Côte d'Ivoire
Japan	Cyprus
Netherlands	Finland
Spain	Liberia
Sweden	Monaco
Union of Soviet	Poland
Socialist Republics	Syrian Arab Republic

11 Appointment of Members and Substitute Members of the Appeals Board

The Assembly appointed the following members and substitute members of the Appeals Board for a term of two years:

<u>Members</u>	<u>Substitute Members</u>
Mr D M Jayasekera (Sri Lanka)	Dr P Seidel (Federal Republic of Germany)
Mr H Bergaoui (Tunisia)	Mr S Mittiga (Italy)
Mr F D Berman (United Kingdom)	Mr S Kanazawa (Japan)

12 Budget 1990

The Assembly adopted the Budget appropriations for 1990 as proposed by the Director in the Annex to document FUND/A.12/9 with a total appropriation of £485 530. It also reclassified the post of Messenger/Storekeeper at grade G.3/G.4 and promoted the present holder of the post, Mr M Zotti, to grade G.4.

13 Assessment of Annual Contributions

13.1 The Director introduced documents FUND/A.12/10 and FUND/A.12/10/Add.1.

13.2 The Assembly decided to raise £1 600 000 for 1989 annual contributions to the General Fund, £1 700 000 for 1989 annual contributions to the THUNTANK 5 Major Claims Fund and £1 500 000 for 1989 annual contributions to the KASUGA MARU N°1 Major Claims Fund. It was decided that the contributions should be paid by 1 February 1990.

13.3 It was noted that, based on the reports of contributing oil receipts submitted so far, the levies decided by the Assembly would correspond to a

contribution per tonne of contributing oil of approximately £0.0019512 in respect of the General Fund, £0.0022027 in respect of the THUNTANK 5 Major Claims Fund and £0.0018797 in respect of the KASUGA MARU N°1 Major Claims Fund.

13.4 As all known claims arising out of the JAN incident had been settled and all expenses paid, and the applicable period for bringing actions in respect of that incident had expired, the Assembly decided that the amount remaining in the JAN Major Claims Fund be transferred to the General Fund on 31 December 1989.

14 Reimbursement to Contributors of the Balance on the TANIO Major Claims Fund

The Assembly took note of the information contained in document FUND/A.12/11 with regard to the reimbursement to contributors on 1 February 1989 of £13.9 million of the balance on the TANIO Major Claims Fund.

15 Loans from Contributors' Accounts

The Assembly considered the question of whether the IOPC Fund should be entitled to take loans from the contributors' accounts, as set out in document FUND/A.12/12. The Assembly decided that it was at present not necessary to open the possibility of taking such loans, while recognising that this may be reconsidered later in the light of experience in the operation of the £4 million working capital.

16 Replacement of Instruments Enumerated in Article 5.3 of the Fund Convention

The Assembly decided not to include the October 1988 Amendments to SOLAS 74 and the March 1989 Amendments to MARPOL 73/78 in the list of instruments contained in Article 5.3 of the Fund Convention, because it considered that these amendments were not of major importance for the purpose of Article 5 of the Convention. The Assembly also decided that it was premature to take any decisions at its present session regarding the other amendments referred to in paragraph 14 of document FUND/A.12/13 and in respect of certain other amendments which had recently been adopted.

17 Definition of "Contributing Oil"

17.1 The Assembly decided that the definition of "contributing oil" in Article 1.3 of the Fund Convention should not be construed to cover catalytic cracker feedstock, visbreaker feedstock and aromatic tar (cf document FUND/A.12/14).

17.2 The Assembly adopted the list of contributing and non-contributing oil contained in the Annex to this report, to serve as a guide for the Director when dealing with reports on receipts of contributing oil. The Assembly noted that the list of contributing and non-contributing oil would be kept under constant review.

18 Reports on Oil Receipts

18.1 The Assembly took note of the information contained in document FUND/A.12/15 concerning reports on receipts of contributing oil and expressed its appreciation of the new form used for the submission of such reports.

18.2 The Assembly decided that the list of contributing and non-contributing oil contained in the Annex to this report should be attached to the form used for the submission of oil reports, to serve as a guide for contributors.

19 Review of Investment Policy

19.1 The Director introduced document FUND/A.12/16 setting out the present investment policy of the IOPC Fund and inviting the Assembly to review this policy.

19.2 The Assembly examined a proposal by the Director to broaden the IOPC Fund's investment policy by allowing investment of the Fund's assets with building societies. The Assembly decided to postpone any decision on that proposal until its 13th session, in order to enable the Director to investigate whether the yield on such investments would be subject to United Kingdom taxation.

20 International Conference on Salvage

The Assembly took note of the information contained in document FUND/A.12/17 on the International Conference, held in London in April 1989 under the auspices of the International Maritime Organization, which adopted the International Convention on Salvage, 1989. It expressed its appreciation of the valuable contribution made by the IOPC Fund Secretariat to the work of that Conference.

21 Amendments to Staff Rules

The Assembly took note of the amendments to the Staff Rules which had been issued by the Director, as set out in document FUND/A.12/18.

22 Date of Next Session

The Assembly decided to hold its next ordinary session during the week 24 to 28 September 1990 in London.

23 Any Other Business

No matters were raised under this agenda item.

24 Adoption of the Report of the 12th Session

The draft report, as contained in document FUND/A.12/WP.1, was adopted, subject to some amendments.

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ANNEXList of Contributing Oil and Non-Contributing OilContributing Oil*Crude Oils*

All naturally occurring crude oils
 Topped crudes
 Spiked crudes
 Reconstituted crudes

Finished Products

N°4 fuel (ASTM)
 Navy special fuel
 Light fuel oil
 N°5 fuel (ASTM) - light
 Medium fuel oil
 N°5 fuel (ASTM) - heavy
 Bunker C fuel oil
 Heavy fuel oil
 Marine fuel oil
 N°6 fuel oil (ASTM)
 Blended fuel oils by viscosity
 or sulphur content

Intermediate or Process Stocks

Fuel oil blend stocks

Non-Contributing Oil*Crude Oils*

Natural gas liquids
 Condensate
 Casinghead naphtha
 Natural gasoline

Finished Products

LNG and LPG
 Aviation gasolines
 Motor gasoline (petrol, essence)
 White spirit
 Kerosene
 Aviation kerosene
 - Jet 1 A
 - N1 fuel (ASTM)
 Gas oil
 Heating oil
 N°2 fuel (ASTM)
 Marine diesel
 Lubricating oil

Intermediate or Process Stocks

Straight run naphthas
 Light cracked naphtha
 Heavy cracked naphtha
 Platformate
 Reformate
 Steam-cracked naphtha
 Polymers
 Isomers
 Alkylates
 Catalytic cycle oil
 Reformer feed
 Steam cracker feed
 Gas oil blend stocks
 Catalytic cracker feedstock
 Visbreaker feedstock
 Aromatic tar