



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

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## CONFERENCE ON INTERNATIONAL CO-OPERATION ON OIL POLLUTION PREPAREDNESS AND RESPONSE

Note by the Director

### Introduction

1 In October 1989, the Assembly of the International Maritime Organization (IMO) directed the Organization to hold a Conference for the purpose of considering a draft international convention on oil pollution preparedness and response which would provide the framework for international co-operation for combating major oil pollution incidents. The Director has been informed that this International Conference will be held in London from 19 to 30 November 1990.

### International Conference

2 A draft International Convention on Oil Pollution Preparedness and Response has been elaborated within IMO. The draft is contained in IMO document OPPR/CONF/3.

3 The draft Convention deals, inter alia, with oil pollution emergency plans, oil pollution reporting procedures, national and regional systems for preparedness and response and contains provisions on international co-operation in pollution response.

4 From the point of view of the IOPC Fund, Article 6 of the draft Convention is of particular importance since it deals with international co-operation in pollution response, and in that context with the financing of costs for assistance between States. Under the Article, the financing of the cost of assistance given by one State Party to another shall be based on the provisions set out in an Annex to the draft Convention. Under the Annex, the requesting State shall reimburse to the assisting State the cost of its action, unless an agreement concerning the financial arrangements has been concluded. Article 6 and the Annex are reproduced in the Attachment to this document.

5 It should be noted that, in a number of cases, the IOPC Fund has dealt with claims from governments or public authorities relating to costs incurred during clean-up operations and preventive measures. Over the years, the IOPC Fund has developed certain principles concerning the admissibility of claims of this kind.

6 The Director's intention is to represent the IOPC Fund at the Conference and to make such interventions as may be appropriate in order to explain the position taken by the IOPC Fund's organs in respect of claims for compensation from governments and public authorities relating to clean-up operations or preventive measures, as well as in respect of other matters of interest to the IOPC Fund which 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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**ATTACHMENT**

**DRAFT INTERNATIONAL CONVENTION ON OIL  
POLLUTION PREPAREDNESS AND RESPONSE**

**ARTICLE 6**

*International co-operation in pollution response*

- (1) Parties agree that, subject to their capabilities and the availability of relevant resources, they will co-operate and provide technical support and equipment for the purpose of responding to a significant oil pollution incident upon the request of the affected Party. The financing of cost for such assistance shall be based on the provisions set out in Annex 1 to this Convention.
- (2) A Party, which has requested assistance, may request the Organization to assist in identifying sources of financial guarantees for the cost referred to in paragraph (1) above.
- (3) In accordance with applicable international agreements, each Party shall, subject to its laws and regulations, facilitate:
  - (a) the arrival in and departure from its territory of ships, aircraft and other modes of transport engaged in responding to an oil pollution incident or transporting personnel, cargoes, materials and equipment required to deal with such an incident; and
  - (b) the expeditious movement into, through, and out of its territory of personnel, cargoes, materials and equipment referred to in subparagraph (a) above.

ANNEX

*Reimbursement of costs of assistance*

- (1) (a) Unless an agreement concerning the financial arrangements governing actions of Parties to deal with oil pollution incidents has been concluded [prior to such an incident] on a bilateral or multilateral basis, Parties shall bear the costs of their respective actions in dealing with pollution in accordance with subparagraph (i) or subparagraph (ii) below:
    - (i) If the action was taken by one Party at the express request of another Party, the requesting Party shall reimburse to the assisting Party the cost of its action. The requesting Party may cancel its request at any time, but in that case, it shall bear the costs already incurred or committed by the assisting Party.
    - (ii) If the action was taken by a Party on its own initiative, this Party shall bear the costs of its action.
  - (b) The Party requesting assistance may request the assisting Party to waive, in whole or in part, the reimbursement of the cost which cannot be recovered under existing international legal regimes. It may also request for postponement of reimbursement of the cost. In considering such a request for waiver or postponement, assisting Parties shall give due consideration to the needs of developing countries.
- (2) Unless otherwise agreed, the costs of action taken by a Party at the request of another Party shall be calculated according to the law and current practice in the assisting Party concerning the reimbursement of such costs.
- (3) The provisions of this Convention and this Annex shall not be interpreted as in any way prejudicing the rights of Parties to recover from third parties the costs of actions to deal with pollution or the threat of pollution under other applicable provisions and rules of national and international law.
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