



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

ASSEMBLY
13th session
Agenda item 25

FUND/A.13/21
27 September 1990

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RECORD OF DECISIONS OF THE THIRTEENTH SESSION OF THE ASSEMBLY

(held from 25 to 27 September 1990)

Opening of the Session

The 13th 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.13/1.

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 Grant of Observer Status

The Assembly decided to grant observer status to the Kingdom of Saudi Arabia, Australia and the Kingdom of Morocco, pursuant to requests set out in documents FUND/A.13/2, FUND/A.13/2/Add.1 and FUND/A.13/2/Add.2, respectively.

4 Examination of Credentials

The following Contracting States were present:

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

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:

India	China
Argentina	Mexico
Australia	Morocco
Belgium	Saudi Arabia
Brazil	United States of America
Chile	

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

International Maritime Organization (IMO)
 International Association of Independent Tanker Owners (INTERTANKO)
 International Chamber of Shipping (ICS)
 International Group of P & I Clubs
 International Tanker Owners Pollution Federation Ltd (ITOPF)
 International Union for the Conservation of Nature and Natural Resources (IUCN)
 Oil Companies International Marine Forum (OCIMF)

5 Report of the Director

5.1 The Director introduced the report contained in document FUND/A.13/3.

5.2 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.

5.3 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.

5.4 The Assembly congratulated the Director on the IOPC Fund's 1989 Annual Report which contained an instructive presentation of the activities of the Organisation.

5.5 The Assembly noted that a revised version of the IOPC Fund's Claims Manual had been published in January 1990.

5.6 The Assembly took note of the progress made since the 12th session in respect of the settlement of claims, in particular as regards the THUNTANK 5, ANTONIO GRAMSCI and KASUGA MARU N°1 incidents.

5.7 The Director referred to one incident, viz the KHARK 5 incident which occurred in December 1989 in the Atlantic ocean off the coast of Morocco, which did not involve the IOPC Fund, since Morocco was not Party to the Fund Convention. He informed the Assembly that, at the request of the Government of Morocco, the shipowner and the P & I insurer, he had agreed to use his good offices concerning the admissibility of the claims arising out of this incident, in order to facilitate an out-of-court settlement of these claims. The Director mentioned that, in accepting this task, he had stressed that any opinion expressed by him on these claims would be without prejudice to the IOPC Fund's position in future cases.

5.8 The Assembly took note of the changes in personnel that had taken place within the Secretariat of the IOPC Fund and, in particular, welcomed Mr Ryoichi Sonoda, who had joined the IOPC Fund as Legal Officer, and Miss Pauline van Romunde who had taken up the post of Secretary to the Finance/Personnel Officer.

6 Report on Investments

The Assembly took note of the Director's report on investments contained in document FUND/A.13/4.

7 External Auditor's Report on Financial Statements for the Financial Period 1 January to 31 December 1989

7.1 The Director introduced document FUND/A.13/5 containing the External Auditor's Report and the Financial Statements of the IOPC Fund for the period ended 31 December 1989. A representative of the External Auditor introduced the Auditor's report on the Financial Statements.

7.2 The Assembly took note of the information given and noted with appreciation the External Auditor's opinion contained in Annex III to document FUND/A.13/5.

7.3 The Assembly approved the accounts of the IOPC Fund for the financial period 1 January to 31 December 1989.

8 Appointment of IOPC Fund's Auditors

The Assembly decided to reappoint the Comptroller and Auditor General of the United Kingdom as the IOPC Fund's External Auditor for a further term of four years from 1991.

9 Report on Contributions

The Assembly took note of the Director's report on contributions contained in documents FUND/A.13/7 and FUND/A.13/7/Add.1. It expressed its satisfaction with the positive response of contributors in Member States regarding the payment of contributions and expressed the hope that the amounts which were in arrears would be paid in the near future.

10 Reports of the Executive Committee on its 23rd and 24th sessions

10.1 The Chairman of the Executive Committee, Mr W W Sturms (Netherlands), informed the Assembly of the work of the Executive Committee during its 23rd and 24th sessions and reported to the Assembly the decisions taken by the Executive Committee at these sessions (documents FUND/EXC.23/2 and FUND/EXC.24/6). The Assembly approved the reports of the Executive Committee.

10.2 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.

10.3 In view of the considerable number of incidents in which the IOPC Fund had been involved since the 23rd session of the Executive Committee and the ensuing extensive documentation presented to the Committee at its 24th session, the Assembly discussed ways of facilitating the examination of this documentation by delegations. The Director was invited to consider restructuring the documentation so as to stimulate discussion on the important issues.

11 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	Côte d'Ivoire
France	Cyprus
Greece	Fiji
Italy	Finland
Netherlands	Indonesia
Spain	Poland
United Kingdom	Sri Lanka
	Tunisia

12 Appointment of Member of the Appeals Board

The Assembly appointed Mr N R Meemaduma (Sri Lanka) as a member of the Appeals Board, replacing Mr D M Jayasekera (Sri Lanka).

13 Budget 1991

13.1 The Director introduced document FUND/A.13/10/1 regarding the levels of contributions to the Provident Fund. The Assembly decided to increase the levels of contributions to the Provident Fund to 7.9% and 15.8% for staff members and the IOPC Fund, respectively, with effect from 1 January 1990.

13.2 The Assembly confirmed that it was within the Director's authority, pursuant to Staff Regulation 28, to implement increases in the levels of contributions to the Provident Fund corresponding to those adopted within the United Nations in respect of the United Nations Joint Staff Pension Fund.

13.3 The Assembly adopted the Budget appropriations for 1991 as proposed by the Director in the Annex to document FUND/A.13/10, with an additional allocation of £12 000 to cover the cost of the Intersessional Working Group referred to in paragraph 15.2 below, bringing the total appropriation to £520 390. Chapter III of the budget was therefore amended to read as follows:

III	<u>Meetings</u>	<u>1991 Budget Appropriation</u>
	(a) Session of Assembly and sessions of Executive Committee in autumn	20 000
	(b) One further meeting (Assembly or Executive Committee)	8 000
	(c) Intersessional Working Group	<u>12 000</u>
		<u>40 000</u>

13.4 The Assembly approved the promotion of the present incumbents of the posts of Secretary to the Legal Officer and Secretary to the Finance/Personnel Officer, Miss Rachel Booth and Miss Pauline van Romunde, respectively, to grade G.7 with effect from 1 January 1991.

13.5 The Assembly approved the establishment of a new post of Clerk-Secretary with effect from 1 October 1990, this post to be classified at grade G.5. The Director mentioned that, although it was stated in the notes to the draft Budget that his intention was to employ a part-time Secretary, it might be necessary to employ this Secretary on a full-time basis.

13.6 The Director informed the Assembly that he intended to review the present structure of the IOPC Fund's Secretariat, in view of the heavy increase in workload which had taken place in recent years, and submit proposals to the 14th session of the Assembly for any changes to this structure which he might consider appropriate.

14 Assessment of Annual Contributions

14.1 The Director introduced document FUND/A.13/11.

14.2 The Assembly decided to raise £500 000 for 1990 annual contributions to the General Fund, payable by 1 February 1991. No annual contributions to any Major Claims Fund were levied.

14.3 It was noted that, based on the reports of contributing oil receipts submitted so far, the levy decided by the Assembly would correspond to a contribution per tonne of contributing oil of approximately £0.0006024.

14.4 The Assembly decided to postpone any decision in respect of the surplus on the BRADY MARIA Major Claims Fund until it can be established whether there will be any surplus on the THUNTANK 5 Major Claims Fund, and, if so, the amount of that surplus, for the reasons set out in paragraph 5.5 of document FUND/A.13/11.

15 Future Development of the Intergovernmental Oil Pollution Liability and Compensation System based on the 1969 Civil Liability Convention and the 1971 Fund Convention

15.1 The delegation of the United Kingdom of Great Britain and Northern Ireland introduced document FUND/A.13/12 in which it was proposed that the IOPC Fund should undertake a thorough review of the 1969 Civil Liability Convention and the 1971 Fund Convention, in view of the fact that the assumption of an early entry into force of the 1984 Protocols to the Conventions would not be fulfilled.

15.2 The Assembly decided to set up an Intersessional Working Group with the following mandate:

To consider the future development of the intergovernmental oil pollution liability and compensation system by:

- (a) examining the prospects for the entry into force of the 1984 Protocols to the Civil Liability Convention and the Fund Convention;

- (b) considering whether it would be possible to facilitate the entry into force of the content of the 1984 Protocols possibly by amending their entry into force provisions;
- (c) considering which substantive provisions in the existing Conventions and the 1984 Protocols appear to form the main obstacles to their continued relevance, including an examination of the present contribution scheme.

15.3 The Director was instructed to convene the Working Group for a meeting to be held from 13 to 15 March 1991. Participation in the Working Group should be open to all Members States, whereas States which have observer status with the IOPC Fund should be invited to attend the meeting as observers, as should the International Maritime Organization. In view of the important issues to be discussed, it was decided that there should be simultaneous interpretation between the two official languages of the IOPC Fund, English and French.

15.4 The Director was also instructed to prepare documentation, in consultation with the Secretary-General of the International Maritime Organization, as a basis for the discussions of the Working Group, giving information on the issues set out above. Member States were invited to provide the Director with information, by 15 December 1990, on their position in respect of these issues and to submit any observations which could be of assistance to the Director in preparing such documentation.

15.5 The United Kingdom delegation indicated that, if the Working Group should feel that a further meeting were necessary to complete its deliberations, the United Kingdom Government would be willing to reimburse the IOPC Fund for the cost of such an additional meeting. The Assembly noted this possibility and thanked the United Kingdom Government for its offer.

15.6 The Assembly decided that the report of the Working Group should be submitted to the 14th session of the Assembly for consideration. The Assembly, on considering the report, would then decide what further action would be appropriate, bearing in mind that any proposal to amend the Conventions or Protocols would have to be referred to the Secretary-General of the International Maritime Organization for consideration by the Legal Committee.

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

16.1 The Assembly decided, in accordance with Article 5.4 of the Fund Convention, to include the November 1988 Amendments to SOLAS 74 in the list of instruments contained in Article 5.3(a) of the Fund Convention, with effect from 1 February 1992. The reference to the instrument listed in Article 5.3(a)(ii) was amended to read:

- "(ii) the International Convention for the Safety of Life at Sea, 1974, as modified by the Protocol of 1978 relating thereto, and as amended by Resolutions MSC.1(XLV) and MSC.6(48) adopted by the Maritime Safety Committee of the International Maritime Organization on 20 November 1981 and 17 June 1983, respectively, and as amended by Resolution 1 adopted on 9 November 1988 by the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 on the Global Maritime Distress and Safety System;"

16.2 The Assembly decided not to include the November 1988 Amendments to the 1978 Protocol to SOLAS 74, the 1990 Amendments to SOLAS 74, the October 1989 Amendments to MARPOL 73/78 and the 1989 Amendments to COLREG 72 in that list of instruments, because they were not considered relevant for the purpose of Article 5 of the Convention.

16.3 The Assembly also decided that it was premature to take any decisions at its present session regarding the April 1989 Amendments to SOLAS 74 and regarding certain amendments to SOLAS 74,

the International Convention on Load Lines and MARPOL 73/78 which introduce a harmonised system of survey and certification.

17 Review of Investment Policy

17.1 The Assembly decided to broaden the IOPC Fund's investment policy by allowing investment of the Fund's assets with building societies, as proposed by the Director in document FUND/A.13/14.

17.2 Accordingly, the Assembly amended Financial Regulations 7.1(b) and (c) to read as follows:

"7.1(b) the assets shall be placed on term deposit with banks or building societies enjoying a high reputation and standing in the financial community, or they shall be invested with discount houses which are members of the London Discount Market Association by the purchase of bank bills; the term of these investments shall in neither case exceed one year;

7.1(c) the maximum investment in any bank, building society or discount house shall not normally exceed £2 million;"

18 Lease of IOPC Fund's Offices

18.1 The Director introduced document FUND/A.13/15.

18.2 The Assembly noted that the IOPC Fund's present lease agreement with IMO in respect of the IOPC Fund's offices in the Headquarters building of IMO expires on 31 October 1992. The Assembly expressed the view that it was preferable that the IOPC Fund's offices should remain within the IMO building after that date, and emphasised the necessity that any new lease contract with IMO should give an adequate guarantee that additional office space be made available to the IOPC Fund, if the need arose.

18.3 The Assembly instructed the Director to examine the matter and discuss it with the Secretary-General of IMO and the United Kingdom Government, in order to find the best solution, and to report the results of his examination to the Assembly at its 14th session.

18.4 It was noted that the Director had taken up the option provided for in the present lease agreement with IMO, under which the IOPC Fund would be entitled to two additional rooms in the building. The Assembly emphasised that it was important for the efficient operation of the IOPC Fund that the Director's request be granted by IMO and that the required additional space be located adjacent to the offices at present occupied by the Fund.

19 Conference on International Co-operation on Oil Pollution Preparedness and Response

19.1 The Assembly took note of the information contained in document FUND/A.13/16 and of the Director's intention to represent the IOPC Fund at the Conference on International Co-operation on Oil Pollution Preparedness and Response to be held in November 1990.

19.2 The Assembly considered that an efficient international system of compensation was of great importance for ensuring rapid response and assistance between States, since such a system would make it easier for the States involved to recover costs incurred for the assistance given. For this reason, the Assembly invited the Director to submit a document to the above-mentioned Conference setting out the advantages of the system of compensation established by the Civil Liability Convention and the Fund Convention in the context of response to oil pollution incidents.

20 Amendments to the Financial Regulations

The Assembly decided to increase the limits of authority for making payments and giving instructions to the IOPC Fund's bankers by IOPC Fund officers, as proposed by the Director in document FUND/A.13/17. Accordingly, Financial Regulation 6.2 was amended to read as follows:

"The Fund's bankers shall only be empowered to accept instructions on behalf of the Fund if such instructions are signed by the Director and, in respect of payment instructions for any sum in excess of £14 000, countersigned by one other properly authorized officer. The Director may empower another officer or other officers to sign instructions to the Fund's bankers on his behalf only in respect of payment instructions for any sum of less than £5 000. For payment of salaries the Director may exceptionally, in circumstances where he is unable to sign, empower two other officers to sign jointly instructions for any sum up to £20 000."

21 Amendments to the Staff Regulations

The Assembly decided to increase the retirement age of members of the Secretariat from 60 to 62 years, as proposed by the Director in document FUND/A.13/18. Accordingly, Staff Regulation 17 was amended to read as follows:

"The normal age of retirement for staff members of the Secretariat shall be 62 years. However, for staff members appointed before 1 January 1990, the normal age of retirement shall be 60 years. These age limits may be extended in the interest of the Fund in exceptional cases."

22 Amendments to the Staff Rules

The Assembly took note of the amendments to the Staff Rules which had been issued by the Director, as set out in documents FUND/A.13/19 and FUND/A.13/19/Add.1.

23 Date of Next Session

The Assembly decided to hold its next ordinary session during the week 7 to 11 October 1991 in London.

24 Any Other Business

The Assembly took note of the information contained in document FUND/A.13/20 submitted by the delegation of the Federal Republic of Germany concerning the effects of the unification of the Federal Republic of Germany and the German Democratic Republic on the applicability of the Fund Convention.

25 Adoption of the Report of the 13th Session

The draft report, as contained in document FUND/A.13/WP.1, was adopted, subject to some amendments.
