



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

ASSEMBLY  
18th session  
Agenda item 24

FUND/A.18/21  
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## REFUND OF INDIRECT TAXES

### Note by the Director

**1** Under Article 34.2 of the Fund Convention, the Governments of Member States shall take, whenever possible, appropriate measures for the remission or refund of indirect taxes and sales taxes paid by the IOPC Fund in the exercise of its official activities. This provision reads as follows:

When the Fund makes substantial purchases of movable or immovable property, or has important work carried out which is necessary for the exercise of its official activities and the cost of which includes indirect taxes or sales taxes, the Governments of Member States shall take, whenever possible, appropriate measures for the remission or refund of the amount of such duties and taxes.

**2** At its 15th session the Director informed the Assembly that in one Member State fees paid by the IOPC Fund to lawyers and other experts had been subject to the payment of VAT and that requests made by the Director for a refund of the amounts thus paid in VAT had not resulted in a refund being granted. The Assembly agreed with the Director that work carried out by lawyers and other experts on behalf of the IOPC Fund in connection with incidents involving the Fund should be considered as fulfilling the criterion of "important work which is necessary for the exercise of its official activities", and that the Governments of Member States were thus under an obligation, pursuant to Article 34.2 of the Fund Convention, to take appropriate measures for the remission or refund of the amount of indirect taxes or sales taxes included in the cost of such services. The Director was instructed to inform the Governments of States where the IOPC Fund had encountered problems regarding the application of Article 34.2 of the Fund Convention of the position taken by the Assembly and to request a refund of any amounts paid by the IOPC Fund as indirect taxes or sales taxes for services of this kind (document FUND/A.15/28, paragraphs 23.2 and 23.3).

3 The Assembly noted at its 16th session that the Director had raised this matter with representatives of the Government of the State in which the IOPC Fund had encountered problems regarding the application of Article 34.2 of the Fund Convention but that, so far, no detailed discussions on the subject had been held between the Government concerned and the IOPC Fund. The Assembly instructed the Director to pursue the question under consideration and submit a report to the Assembly at its 17th session (document FUND/A.16/32, paragraphs 32.2 and 32.3).

4 The Director informed the Assembly at its 17th session, in October 1994, that he had discussed this matter with representatives of the Ministry of Finance of the State in question at a meeting held in January 1994. The Assembly was also informed that the position of the IOPC Fund had been set out in some detail by the Director in a letter addressed to that Ministry in April 1994, but that no reply had been received from the Government concerned (document FUND/A.17/35, paragraphs 32.1 and 32.2).

5 The Director is pleased to inform the Assembly that in June 1995 the Ministry of Finance of the State in question acknowledged in a letter addressed to the IOPC Fund's lawyer that fees paid by the IOPC Fund to lawyers and other experts should not be subject to the payment of VAT and that the IOPC Fund was entitled to a refund of the amounts thus paid in VAT.

6 The amounts paid by the IOPC Fund in VAT in the State concerned add up to the equivalent of £338 800.

7 The IOPC Fund is preparing the documents necessary for a refund to be made.

**Action to be taken by the Assembly**

8 The Assembly is invited to take note of the information contained in this document.

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