

INTERNATIONAL OIL POLLUTION COMPENSATION FUND

FONDS INTERNATIONAL D'INDEMNISATION POUR LES DOMMAGES
DUS A LA POLLUTION PAR LES HYDROCARBURES

ASSEMBLY
2nd session
Agenda item 21

FUND/A.2/16/1
20 April 1979

Original: ENGLISH

RECORD OF DECISIONS

1. Adoption of the Agenda (Agenda item 1)

The Assembly adopted the Agenda as contained in document FUND/A.2/1.

2. Election of the Chairman and two Vice-Chairmen (Agenda item 2)

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:	Mr. V. Stalio (Yugoslavia)
Second Vice-Chairman:	Mr. H. Boussoffara (Tunisia)

3. Admission of Observers (Agenda item 3)

The Assembly decided to invite the non-Contracting States, the inter-governmental organizations and the non-governmental organizations which were admitted as observers to the first session, and also the International Group of P and I Clubs, to participate as observers at the second session. The United Nations, the Inter-Governmental Maritime Consultative Organization and the United Nations Environment Programme were also invited to participate as observers.

4. Examination of Credentials (Agenda item 4)

The Director informed the Assembly that the representatives of all fourteen Contracting States participating had submitted credentials to the Fund and that they were in order.

5. Consideration of Report of the Director on the Operations of the Fund (Agenda item 5)

The Assembly considered and discussed an oral report made by the Director on the activities of the Fund since the first session, particularly on the measures taken to set up the Fund Secretariat, the preparation of documentation for the second session, the financial activities of the Fund including the position regarding the reports by Contracting States on contributing oil for 1977 and 1978 and payment of initial contributions and the investment of the Fund's assets and other activities of the Fund.

6. Adoption of Rules of Procedure (Agenda item 6)

The Assembly adopted the Rules of Procedure contained in document FUND/A.2/2, subject to the following amendments:

Rule 3

The following sentence was added at the end of Rule 3:

"Such majority approval should be communicated to Members at least thirty days before the commencement of that session."

Rule 4

Rule 4 was amended so as to read as follows:

"The Director with the approval of the Chairman shall invite States which have signed the Convention or which have deposited the appropriate instrument in respect of the Convention, but for which the Convention is not yet in force and also States which have notified the Fund that they are considering accession to the Convention to send observers to sessions of the Assembly."

Rule 7

The word "also" from the first line of Rule 7 was deleted.

Rule 28

The word "non-classified" was changed to "non-confidential".

Rule 33

Paragraph (ii) of Rule 33 was amended so as to read as follows:

"(ii) the phrase "Members present and voting" means Members present and casting an affirmative or negative vote. Members who abstain from voting or who cast an invalid vote shall be considered as not voting."

Rule 38

The second sentence of Rule 38 was amended so as to read as follows:

"All invalid votes cast shall be reported to the Assembly."

7. Adoption of Internal Regulations (Agenda item 7)

The Assembly adopted the Internal Regulations referred to in document FUND/A.2/4, subject to the following recommendation and amendments:

Regulation 5.1

The Assembly took note of the recommendation of the Intersessional Working Group that Governments of Contracting States should keep the list of contributors referred to in Article 15.1 of the Fund Convention up to date and should inform the Director of any change in the names or addresses of contributors.

Regulation 5.4

The second sentence of this paragraph was amended so as to read:

"Any differences between the contributions paid or **invoiced** and the recalculated contributions shall be taken into account in preparing the invoice for the persons concerned for the next year in respect of which annual contributions are raised."

Regulations 8.6 and 8.7

The square brackets in those Regulations were deleted.

Regulation 9.3

This Regulation was amended so as to read as follows:

"Where in respect of any incident referred to in Article 3, paragraph 2 of the Fund Convention, an owner or his guarantor has paid compensation for pollution damage to satisfy a judgment enforceable under Article X of the Liability Convention, the Director shall promptly indemnify the owner or his guarantor to the extent that the aggregate amount of such compensation thus paid falls within the limits laid down in Article 5, paragraph 1 of the Fund Convention unless he considers that the Fund may be exonerated under Article 5, paragraph 3 of that Convention from its obligations."

Regulation 10

The footnote to paragraph 2 was deleted.

Regulation 13

This regulation was deleted.

ANNEX TO INTERNAL REGULATIONS

The Assembly authorized the Director to make provision in the form of the Report on Contributing Oil Receipts for the name of the competent officer in the company or other body receiving the relevant oil.

8. Adoption of Staff Regulations and Staff Rules (Agenda item 8)

The Assembly adopted as the Staff Regulations of the Fund, the provisional Staff Regulations annexed to document OPCF/A.1/2/1 subject to:

- (a) the proposed amendments referred to in Annex I to document FUND/A.2/5 including Appendices I and II to that Annex;

- (b) the inclusion of new Regulation 23 as set forth in document FUND/A.2/5/1;
- (c) the inclusion of the new regulation on disciplinary measures as set forth in document FUND/A.2/5/1.

The Assembly invited the Governments of Indonesia, Tunisia and the United Kingdom to nominate members for the Appeals Board, and the Governments of France, Ghana and Norway to nominate the substitute members.

The Assembly adopted as the Staff Rules of the Fund, a set of rules based on the Staff Rules of IMCO subject to the proposed changes and new rules set forth in Annex II to document FUND/A.2/5 and in document FUND/A.2/5/1.

9. Adoption of Financial Regulations and Financial Rules
(Agenda item 9)

The Assembly decided to refer the consideration of the draft Financial Regulations (document FUND/A.2/6) to an intersessional working group to be appointed by the Executive Committee. This group would also be requested to consider the establishment of guidelines for the investment policy of the Fund and the appointment of an Advisory Committee which the Director could consult in connexion with the investments of the assets of the Fund.

The Assembly also decided that the Fund should establish and maintain working capital up to £2 million. The working capital shall include the initial contributions and annual contributions raised to meet claims of the kind referred to in Article 12.1.i(b) of the Fund Convention and it would be available to meet such claims and the recurring administrative expenses of the Fund. If the working capital falls below an amount reasonably required to meet the administrative expenses and anticipated claims, annual contributions shall be raised to restore the working capital to the level of £2 million.

The Director was authorized to continue to invest the assets of the Fund in accordance with the general policy so far followed, until the next session of the Executive Committee or Assembly.

10. Consideration of Headquarters Agreement between the Fund and the United Kingdom Government (Agenda item 10)

The Assembly approved the draft Headquarters Agreement negotiated by the Intersessional Working Group with the United Kingdom Government and set forth in document FUND/A.2/7.

In relation to Article 8 of the Headquarters Agreement, the United Kingdom delegation informed the Assembly that the United Kingdom authorities would, as an administrative act, exempt the Fund from stamp duty on the acquisition of premises, but not on transfers of equities.

The Director informed the Assembly that the United Kingdom Department of Inland Revenue had confirmed that a staff assessment as applied by IMCO and provided for in the Fund's Staff Regulations and Staff Rules would meet the condition referred to in Article 19 of the Headquarters Agreement relating to the exemption of salaries and emoluments of staff members of the Fund from United Kingdom income tax.

The United Kingdom delegation informed the Assembly that the Fund's proposed social security scheme referred to in document FUND/A.2/5/1 would satisfy the condition contained in Article 20 of the Headquarters Agreement for the exemption of the Fund from the provisions of any social security scheme established by the law of the United Kingdom.

11. Structure of the Secretariat (Agenda item 11)

The Assembly approved the Director's proposals on the structure of the Fund Secretariat set forth in document FUND/A.2/8.

12. Budget 1978-1979 (Agenda item 12)

- (i) The Assembly approved the Director's report on the investments made of the Fund's assets.
- (ii) The Assembly adopted as the budget of the Fund for 1978-1979 the draft budget referred to in document FUND/A.2/9.
- (iii) The Assembly accepted the offer of the United Kingdom Government to reimburse to the Fund 80 per cent of the rent payable by the Fund for its premises.

- (iv) The Director was authorized to make transfers between different items of the expenditure and also to exceed the total expenditure if unforeseen circumstances make this necessary.
- (v) Until approval of the budget for 1980 by the Assembly or the Executive Committee, the Assembly authorized the Director to incur expenditure in 1980 at the same level, and for the same purposes as are contained in the budget for 1978-1979.
- (vi) Future draft budgets should continue to be confidential, but the budget once adopted, together with the explanatory notes suitably redrafted by the Director, if necessary, should be non-confidential, unless otherwise decided by the Assembly or the Executive Committee or the Director.

13. Assessment of Annual Contributions (Agenda item 13)

The Assembly decided to fix the annual contributions for 1979 at a total amount of £750,000. The Director was authorized to call for these contributions if he considered this necessary to maintain sufficient liquid funds and in such a case to decide the date of payment.

This decision was taken in view of the Assembly's decision on maintaining a working capital of £2,000,000 and in the light of expected claims arising out of recent incidents in Japan and Sweden.

The French delegation expressed the view that as a consequence of the coming into force of the Fund Convention nationals of Contracting States to the Fund Convention should withdraw from CRISTAL.

Other delegations disassociated themselves from that recommendation and declared that it was inappropriate for an inter-governmental organization to comment upon the membership of a private body.

14. Increase of Maximum Liability of the Fund (Agenda item 14)

A vote was taken by roll-call on a proposal that the Assembly should increase the aggregate amount of compensation payable by the Fund in respect of any one incident to 900 million francs as provided in Article 4, paragraph 6 of the Fund Convention.

<u>In favour</u>	<u>Against</u>	<u>Abstaining</u>
Bahamas	Indonesia	Japan
Denmark	Yugoslavia	Liberia
France		
Germany, Federal Republic of		
Ghana		
Norway		
Sweden		
Syrian Arab Republic		
Tunisia		
United Kingdom		

As the required three-fourths majority was not obtained, the proposal was rejected.

The Assembly decided by a vote of 13 in favour and 1 against (Indonesia) to increase this amount to 675 million francs. This decision was taken on 20 April 1979.

15. Replacement of Instruments Enumerated in Article 5(3)
(Agenda item 15)

The Assembly decided not to take any action at present in respect of the matters referred to in document FUND/A.2/11.

16. Establishment of Executive Committee (Agenda item 16)

The Assembly established an Executive Committee and unanimously elected seven Members to hold office until the next regular session of the Assembly.

Members elected were:

Elected under
Article 22.2(b)

France
Japan
United Kingdom

Elected under
Article 22.2(a)

Liberia
Sweden
Tunisia
Yugoslavia

17. Possible Allocation of Functions to the Executive Committee
(Agenda item 17)

The Assembly decided not to allocate any functions to the Executive Committee in addition to those referred to in Article 26 of the Fund Convention.

18. Relations with IMCO and other Inter-governmental and Non-governmental Organizations (Agenda item 18)

The Assembly approved the draft Agreement for Co-operation between the Fund and IMCO annexed to document FUND/A.2/14.

The draft guidelines on relations between the Fund and inter-governmental organizations and non-governmental international organizations as annexed to document FUND/A.2/13 were adopted by the Assembly subject to the following amendments:

(i) paragraph (i) of Part A reads as follows:

"The United Nations and the Inter-Governmental Maritime Consultative Organization and any other specialized agency of the United Nations whose interests and those of the Fund are of common concern, will be invited to be represented by observers at all meetings of the Assembly and may be invited, as appropriate, to meetings of the Executive Committee and subsidiary bodies."

(ii) paragraph (iv) of Part B is deleted.

19. Date of Next Session (Agenda item 19)

The Assembly decided to hold its next meeting from 17-20 March 1980, thereby leaving one day of this week for a meeting of the Executive Committee.

20. Any Other Business (Agenda item 20)

(a) The Assembly decided to dispense with translation and interpretation at meetings of working groups for the reasons set forth in document FUND/A.2/15.

(b) It was agreed between the Assembly and the Director to amend paragraph 6 of the Director's contract so as to read as follows:

"The Director shall receive from the International Oil Pollution Compensation Fund in his first year a salary of US \$48,270.00 gross (US \$31,400.00 net). From his second year he will receive a salary equivalent to that of a Director (D.2) in the United Nations salary scale, subject to post adjustment, commencing from the first step on that scale. If otherwise eligible, he will receive the allowances available to staff members generally, together with an annual representation allowance of US \$2,250.00."

(c) The Assembly adopted the Resolution, document FUND/A.2/17, attached to this Record of Decisions.
