

INTERNATIONAL OIL POLLUTION COMPENSATION FUND

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

ASSEMBLY-
2nd session
Agenda item 9

FUND/A.2/6
6 April 1979
Original: ENGLISH

DRAFT FINANCIAL REGULATIONS OF THE INTERNATIONAL
OIL POLLUTION COMPENSATION FUND

Note by the Director

The Assembly may consider it desirable for the Fund to have Financial Regulations. The Director has, accordingly, prepared the annexed draft set of Regulations for consideration by the Assembly.

The Director recommends, however, that the External Auditor should be given the opportunity to comment on the draft Regulations, and also that the draft should be reviewed in the light of further experience of the financial management of the Fund.

The Assembly may, therefore, wish to consider the attached draft for adoption as the provisional Financial Regulations of the Fund.

The Director will submit to the Assembly or the Executive Committee, at the earliest opportunity, a revised draft set of Financial Regulations.

In view of this recommendation, the Director does not consider it necessary that Financial Rules implementing the Regulations should be issued at this stage. A set of Financial Rules will be submitted to the Assembly or the Executive Committee together with the revised draft Financial Regulations.

Regulation 7.2 provides for the appointment of an Advisory Committee to be consulted by the Director from time to time as to the Fund's policy on investments. If this draft Regulation is approved, the Assembly is invited to appoint [three] of its Members for this purpose.

ANNEX

DRAFT FINANCIAL REGULATIONS
OF
THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND

REGULATION 1
APPLICABILITY

- 1.1 These Regulations shall govern the financial administration of the International Oil Pollution Compensation Fund.
- 1.2 The Director shall issue Financial Rules necessary to implement these Regulations and shall report such Rules and any amendments thereto to the Executive Committee.
- 1.3 The Director may employ external assistance in exercising any of his responsibilities for the financial management of the Fund.

REGULATION 2
THE FINANCIAL PERIOD

The first financial period of the Fund shall end on 31 December 1979. Thereafter the financial period shall be the calendar year.

REGULATION 3
THE BUDGET

- 3.1 The budget shall be established in pounds sterling.
- 3.2 The budget estimates to be prepared by the Director shall cover income and expenditure for the financial period to which they relate. They shall be prepared on a gross basis.
- 3.3 The budget estimates shall include the information referred to in Article 12.1 of the Fund Convention and shall be accompanied by such information as may be required by the Assembly or Executive Committee and such further information as the Director may deem necessary.

3.4 The Director shall submit the estimates for the ensuing financial period at least six weeks prior to the session of the /Assembly/ /Executive Committee/ at which they are to be considered.

3.5 The /Assembly/ /Executive Committee/ may authorize the Director to make transfers between appropriations in the budget, and, in granting such authority may direct that no single item of expenditure as approved shall be increased beyond a percentage fixed by the /Assembly/ /Executive Committee/.

3.6 The /Assembly/ /Executive Committee/ shall prescribe the conditions under which unforeseen and extraordinary expenses may be incurred.

3.7 Supplementary estimates may be submitted by the Director whenever necessary and particularly when additional annual contributions are required.

REGULATION 4

APPROPRIATIONS

The appropriations voted by the /Assembly/ /Executive Committee/ shall constitute an authorization to the Director to incur obligations and make payments for the purposes for which the appropriations were voted and up to the amounts so voted.

REGULATION 5

SPECIAL FUNDS

/ALTERNATIVE A

5.1 Working Capital Fund

- (a) There shall be established a Working Capital Fund which shall consist of the initial contributions paid by Members, to the extent determined by the Assembly or the Executive Committee as well as any other income not required to be credited to any other account under this Regulation.

- (b) The monies in the Working Capital Fund shall be invested and the income used to cover the costs and expenses of the administration of the International Oil Pollution Compensation Fund in the financial period, as well as any deficit from operations in preceding years and also any other expenditure which may be authorized by the Assembly or Executive Committee.
- (c) Advances made from the Working Capital Fund to finance other budgetary appropriations or to meet any other liabilities of, or payments by, the International Oil Pollution Compensation Fund, (other than payments in respect of claims referred to in Article 12.1(i)(c) of the Fund Convention) shall be reimbursed to this fund as soon as, and to the extent that, income is available for that purpose.
- (d) Income from the Working Capital Fund not required for the foregoing purposes shall be reinvested in this fund.
- (e) There shall also be credited to this fund as miscellaneous income any voluntary contributions. Such contributions may be accepted by the Director on the condition that the purposes for which the contributions are made are consistent with the aims and activities of the International Oil Pollution Compensation Fund and that their acceptance does not directly or indirectly involve additional financial liability.

5.2 General Claims Fund

- (a) There shall be established a General Claims Fund which shall consist of annual contributions and any other monies levied or paid for claims referred to in Article 12.1(i)(b) of the Fund Convention. This account shall be used to finance appropriations to satisfy such claims.

- (b) Income received from the investment of monies in this fund, and any monies borrowed pursuant to Internal Regulation 10 or otherwise in connexion with such claims, shall also be credited to the General Claims Fund.⁷

ALTERNATIVE B

5.1 General Fund

- (a) There shall be established a General Fund which shall consist of:
 - (i) the initial contributions paid by Members, to the extent determined by the Assembly or the Executive Committee;
 - (ii) annual contributions levied and other monies received in respect of claims referred to in Article 12.1(i)(b) of the Fund Convention and any monies borrowed in connexion with such claims;
 - (iii) income received from the investment of monies in the General Fund and other miscellaneous income;
 - (iv) any voluntary contributions. Such contributions may be accepted by the Director on the condition that the purposes for which they are made are consistent with the aims and activities of the International Oil Pollution Compensation Fund and that their acceptance does not directly or indirectly involve additional financial liability.
- (b) The monies in the General Fund shall be used:
 - (i) for the satisfaction of claims referred to in Article 12.1(i)(b) of the Fund Convention;

- (ii) the costs and expenses of the administration of the International Oil Pollution Compensation Fund in the financial period, as well as any deficit from operations in preceding years and also any other expenditure which may be authorized by the Assembly or the Executive Committee.7

5.3 Major Claims Funds

- (a) There shall be established Major Claims Funds for each claim of the kind referred to in Article 12.1(i)(c) of the Fund Convention.
- (b) Contributions to these funds shall be separately credited to the individual contributors. These contributions, together with any interest earned thereon shall be used to finance the particular claims in respect of which they were levied or otherwise be applied in accordance with Internal Regulation 4.4.
- (c) Any loans taken pursuant to Internal Regulation 10 in connexion with such claims shall also be credited to the respective fund.

REGULATION 6

MANAGEMENT OF MONIES

6.1 The Director shall administer all banking accounts operated by the Fund, maintaining a proper cash account in which all receipts and payments shall be recorded in chronological order. A separate ledger account shall be kept for each bank account.

- 6.2 (a) All cheques drawn on the Fund's bank accounts and all written instructions relating to the Fund's investments shall be signed by the Director.

- (b) The Director may authorize such cheques and written instructions to be signed by two other persons jointly or, in exceptional circumstances, by one other person, up to such limits and for such purposes as he may prescribe from time to time.

6.3 All securities shall be deposited either in the custody of duly appointed bankers, or in safe deposit vaults maintained by a recognized financial institution designated by the Director.

REGULATION 7

INVESTMENT OF ASSETS

- 7.1 The assets of the Fund shall be invested by the Director in accordance with Internal Regulation 10.2.
- 7.2 The Assembly shall appoint three of its members to act as an Advisory Committee which the Director shall consult from time to time as to the Fund's policy on investments.

REGULATION 8

INTERNAL CONTROL

8.1 The Director shall:

- (a) give such detailed directions as are necessary to ensure effective financial administration and the exercise of economy;
- (b) cause all payments to be made on the basis of supporting vouchers and other documents which ensure that the services or goods have been received except where normal commercial practice requires payment to be made in advance;
- (c) designate the officers who may receive monies, incur obligations, purchase goods and make payments on behalf of the Fund;

(d) maintain an internal financial control which shall provide for an effective current examination and/or review of financial transactions in order to ensure:

(i) the regularity of the receipt, custody, and disposal of all monies and other financial resources of the Fund;

(ii) the conformity of obligations and expenditures with the appropriations or other financial provision voted by the Assembly
Executive Committee;

(iii) the economic use of the resources of the Fund.

8.2 No obligations shall be incurred without the prior authorization of the Director.

8.3 Imprest cash advances may be made to staff members who must at all times be in a position to account for them.

8.4 The cost of all property acquired other than real property will be immediately charged as an expense. Records will be kept of all real property, non-expendable and expendable supplies and equipment acquired by the Fund. A physical inventory will be taken at the end of each financial period of all assets, supplies and materials in hand, and a copy of the inventory will be furnished to the External Auditor.

8.5 The Director may make such ex gratia payments as he deems to be necessary in the interests of the Fund, provided that a statement of such payments shall be submitted to the Assembly
Executive Committee with the accounts.

8.6 The Director may, after full investigation, authorize the writing off of losses of cash, stores and other assets, provided that a statement of all such amounts written off shall be submitted to the External Auditor with the accounts.

REGULATION 9

THE ACCOUNTS

9.1 The Director shall maintain such accounts as are necessary for each financial period. The accounts shall show:

- (a) the income and expenditure of all funds;
- (b) the status of appropriations, including:
 - (i) the original budget appropriations;
 - (ii) the appropriations as modified by any transfers;
 - (iii) the amounts charged against those appropriations;
- (c) the assets and liabilities of the Fund.

The Director shall also give such other information as may be appropriate to indicate the current financial position of the Fund.

9.2 The accounts of the Fund shall be presented in pounds sterling. The accounts may be kept in such currency or currencies as the Director may deem necessary.

9.3 Appropriate separate accounts shall be maintained for all Special Funds.

9.4 The accounts for the financial period shall be submitted by the Director to the External Auditor by 31 March following the end of that financial period.

REGULATION 10

EXTERNAL AUDIT

10.1 An External Auditor, who shall be the Auditor-General (or officer holding the equivalent title) of a Member State, shall be appointed in the manner and for the period decided by the Assembly.

10.2 The audit shall be conducted in conformity with generally accepted common auditing standards and, subject to any special directions of the Assembly or the Executive Committee, in accordance with paragraphs 10.10 to 10.18 of this Regulation.

10.3 The External Auditor may make observations with respect to the efficiency of the financial procedures, the accounting system, the internal financial controls and, in general, the administration and management of the Fund.

10.4 The External Auditor shall be completely independent and solely responsible for the conduct of the audit.

10.5 The Assembly or the Executive Committee may request the External Auditor to perform certain specific examinations and issue separate reports on the results.

10.6 The Director shall provide the External Auditor with the facilities he may require in the performance of the audit.

10.7 For the purpose of making a local or special examination or of effecting economies of audit cost, the External Auditor may engage the services of any national Auditor-General (or equivalent title) or commercial public auditors of known repute or any other person or firm who, in the opinion of the External Auditor, is technically qualified.

10.8 The External Auditor shall issue a Report on the audit of the financial statements and relevant schedules, which shall include such information as he deems necessary in regard to matters referred to in Financial Regulation 10.3.

10.9 The External Auditor's Reports shall be transmitted together with the audited financial statements, to the [Assembly] [Executive Committee].

10.10 The External Auditor shall perform such audit of the accounts of the Fund as he deems necessary in order to satisfy himself:

- (a) that the financial statements are in accordance with the books and records of the Fund;
- (b) that the financial transactions reflected in the statements have been in accordance with the rules and regulations, the budgetary provisions and other applicable directives;
- (c) that the securities and monies on deposit and on hand have been verified by certificates received direct from the Fund's depositaries or by actual count;
- (d) that the internal controls are adequate in the light of the extent of reliance placed thereon;
- (e) that procedures satisfactory to the External Auditor have been applied to the recording of all assets, liabilities, surpluses and deficits.

10.11 The External Auditor shall be the sole judge as to the acceptance in whole or in part of certifications and representations by the Director and may proceed to such detailed examination and verification as he chooses of all financial records including those relating to supplies and equipment.

10.12 The External Auditor and his staff shall have free access at all convenient times to all books, records and other documentation which are, in the opinion of the External Auditor, necessary for the performance of the audit. Information classified as privileged and which the Director agrees is required by the External Auditor for the purposes of the audit and information classified confidential shall be made available on application.

The External Auditor and his staff shall respect the privileged and confidential nature of any information so classified which has been made available and shall not make use of it except in direct connexion with the performance of the audit. The External Auditor may draw the attention of the Assembly Executive Committee to any denial of information classified as privileged which in his opinion was required for the purpose of the audit.

10.13 The External Auditor shall have no power to disallow items in the accounts but shall draw to the attention of the Director for appropriate action any transaction concerning which he entertains doubt as to legality or propriety. Audit objections to these or any other transactions arising during the examination of the accounts shall be immediately communicated to the Director.

10.14 The External Auditor shall give an audit opinion on the financial statements.

10.15 The Report of the External Auditor on the financial statements should mention:

- (a) the type and scope of his examination;
- (b) matters affecting the completeness and accuracy of the accounts, including where appropriate:
 - (i) information necessary to the proper interpretation of the accounts;
 - (ii) any amounts which ought to have been received but which have not been brought to account;
 - (iii) any amounts for which a legal or contingent obligation exists and which have not been recorded or reflected in the financial statements;

- (iv) expenditures not properly substantiated;
 - (v) whether proper books of accounts have been kept. Where in the presentation of statements there are deviations of material nature from the generally accepted accounting principles applied on a consistent basis, these should be disclosed;
- (c) other matters which should be brought to the notice of the Assembly Executive Committee such as:
- (i) cases of fraud or presumptive fraud;
 - (ii) wasteful or improper expenditure of the Fund's money or other assets (notwithstanding that the accounting for the transaction may be correct);
 - (iii) expenditure likely to commit the Fund to further outlay on a large scale;
 - (iv) any defect in the general system or detailed regulations governing the control of receipts and disbursements or of supplies and equipment;
 - (v) expenditure not in accordance with the intention of the Assembly Executive Committee after making allowance for duly authorized transfers within the budget;
 - (vi) expenditure in excess of appropriations as amended by duly authorized transfers within the budget;
 - (vii) expenditure not in conformity with the authority which governs it;

- (d) the accuracy or otherwise of the supplies and equipment records as determined by stocktaking and examination of the records;

In addition, the reports may contain reference to:

- (e) transactions accounted for in a previous year concerning which further information has been obtained or transactions in a later year concerning which it seems desirable that the Assembly Executive Committee should have early knowledge.

10.16 The External Auditor may make such observations with respect to his findings resulting from the audit and such comments on the Director's financial report as he deems appropriate to the Assembly Executive Committee or to the Director.

10.17 Whenever the External Auditor's scope of audit is restricted, or he is unable to obtain sufficient evidence, the External Auditor shall refer to the matter in his Report, making clear the reasons for his comments and the effect on the financial position and the financial transactions as recorded.

10.18 In no case shall the External Auditor include criticism in his Report without first affording the Director an adequate opportunity of explanation on the matter under observation.

REGULATION 11

RESOLUTIONS INVOLVING EXPENDITURES

11.1 No decision shall be taken by any organ of the Fund involving expenditure unless it has before it a report from the Director on the administrative and financial implications of the proposal.

11.2 Where, in the opinion of the Director, the proposed expenditure cannot be made from the existing appropriations, it shall not be incurred until the Assembly or the Executive Committee has made the necessary appropriations, unless the Director certifies that provision can be made on the conditions laid down under Financial Regulation 3.6.
