

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

ASSEMBLY - 4th session
Agenda item 13

FUND/A.4/10/2
15 September 1981
Original: ENGLISH

CONSIDERATION OF THE CHAIRMAN'S REPORT OF
THE FIFTH INTERSESSIONAL WORKING GROUP

Note by the Director

1. The fifth Intersessional Working Group endorsed the Director's suggestion that the Fund should prepare and publish a brochure setting out in detail the claims procedure followed by the Fund and the formalities required for the submission of claims (see paragraph 11 of the Chairman's report, document FUND/A.4/10). A draft claims manual is attached as the Annex.
2. The Assembly is invited to consider this draft and make suggestions for amendments.

ANNEX

INTERNATIONAL OIL POLLUTION COMPENSATION FUND

C L A I M S M A N U A L

Submitted by the Director of the
International Oil Pollution Compensation Fund

Claims Manual1. Introduction

This manual is a guide for the filing of claims against the International Oil Pollution Compensation Fund (IOPC Fund). Its purpose is to assist claimants in making claims against the IOPC Fund by listing the particulars which a claim should contain and by setting out how claims can best be made. It does not seek to set out legal details. In case of doubt legal advice should be sought.

Claimants should be aware of the fact that the length of time within which claims will be settled by the IOPC Fund depends largely on how long it takes for claimants to provide the IOPC Fund with the information required. It is therefore in the interest of claimants to follow this manual as closely as possible. However, it is suggested that claimants should always get in contact with the Director of the IOPC Fund as soon as possible after the incident and discuss with him the presentation of claims which they may have.

Claimants are advised that the basis for their claim against the IOPC Fund is the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (Fund Convention), as implemented by national law. The International Convention on Civil Liability for Oil Pollution Damage, 1969 (Civil Liability Convention or CLC), as implemented by national law, may also be relevant. The IOPC Fund's procedure regarding the settlement of claims is contained in the IOPC Fund's Internal Regulations.

The Civil Liability Convention and the Fund Convention provide for compensation for oil pollution damage up to an amount of approximately US.\$...million per any one incident. The oil causing the damage must have been "persistent" and must have escaped or been discharged from a sea-going vessel actually carrying oil in bulk as cargo. The term "pollution damage" is defined as "loss or damage caused outside the ship carrying oil by contamination resulting from the discharge of oil from

the ship, wherever such escape or discharge may occur,...". It includes the costs of preventive measures and further loss or damage caused by preventive measures. Only damage caused on the territory, including the territorial sea, of a State Party to the Fund Convention can be claimed against the IOPC Fund.

2. Who is Eligible to Claim?

Any person who has suffered pollution damage may make a claim against the IOPC Fund. It may be a private person, a company, the Government of a State or any other public authority.

It is the claimant's option whether to request an appropriate organisation or authority or a lawyer to represent his interests and to file the claim against the IOPC Fund on his behalf. In some cases it may be helpful for several claimants suffering similar damage to present co-ordinated claims.

3. To Whom Should a Claim be Addressed?

Any claimant may make his claim directly to the IOPC Fund at the following address:

International Oil Pollution Compensation Fund
1-4 Yarmouth Place
LONDON W1Y 7DW
United Kingdom

Telephone: 01 - 493 6932
Telex: 23588

4. Within What Period Has a Claim to be Made?

It is in the interest of claimants to make their claim as quickly as possible after the damage has occurred. If a formal claim cannot be made shortly after the incident, the IOPC Fund would appreciate being notified as soon as possible of the claimant's intention to file a claim at a later stage.

Rights to compensation shall be extinguished unless an action is brought within three years of the date when the damage occurred. However, in no case may an action be brought after six years

from the date of the incident which caused the damage. Since these "actions" mean court actions, claimants would be advised to bring their claim against the IOPC Fund well in advance of the expiry of the dates mentioned above, in order to be in a position to bring Court actions within that period should they feel it necessary to sue the IOPC Fund for compensation. Such a Court action would be necessary if the claimant and the IOPC Fund could not agree on an amicable settlement of the claim.

5. How Should a Claim be Presented?

A claim against the IOPC Fund should be made in writing (including cable or telex) in one of the two working languages of the IOPC Fund, i.e. in either English or French. A claim must be supported by the appropriate documentation (e.g. invoices and vouchers). However, this documentation need not be translated into one of the working languages if the contents of a particular document is evident or if a summary of its contents in English or French is attached. If the documentation is very voluminous, claimants should discuss its presentation with the Director.

6. What Particulars Should a Claim Contain?

Each claim should contain the following particulars:

- (a) the name and address of the claimant and his representative, if any;
- (b) the identity of the ship involved in the incident;
- (c) the date, the place and specific details of the incident;
- (d) the type of pollution damage and the place where it was experienced;
- (e) the amount of the claim.

Depending on the amount claimed and the sort of pollution damage suffered, a claim should be broken down into different items. Examples for claims which may be admissible under the relevant national law and their break-down, are given below.

6.1 Clean-up costs

6.1.1 Work carried out in different areas (e.g. on-shore and off-shore cleaning, work on different boats).

6.1.2 Dates on which work was carried out (weekly or daily costs).

6.1.3 Labour costs (number of labourers, rates of pay, days/hours worked, total costs).

6.1.4 Material costs (types of materials used, rate of hire or cost of purchase, quantity used, total costs).

6.1.5 Transport costs (number and type of vehicles used, number of days/hours operated, rate of hire or cost of purchase, total cost).

6.2 Replacement and repair costs

6.2.1 Extent of pollution damage to property.

6.2.2 Description of the item written off or damaged and needing replacement or repairs (e.g. fishing net or sail or boat).

6.2.3 Cost of replacement or of repair work.

6.2.4 Age of item to be replaced.

6.2.5 Labour costs incurred.

6.3 Loss of profits

6.3.1 Nature of loss.

6.3.2 Comparative figures for profits earned in previous periods and for the period during which damage was suffered.

6.3.3 Method of assessment of loss.

6.4 There may be other categories of claims. In all cases the break-down of the amount claimed has to be done in such a way that the IOPC Fund is in a position to assess the amount of damage suffered on the basis of the facts and the documentation presented.

7. Claims Procedure

Claims submitted to the IOPC Fund will be dealt with immediately. Claims arising out of incidents in respect of which the aggregate amount of all claims is not likely to exceed the limit of 25 million (gold) francs (approximately £1 million) can be settled by the Director without prior approval of the IOPC Fund's Executive Committee. These claims will normally be paid out with minimum delay.

Generally, the IOPC Fund will try to co-operate closely with the ship's third party insurer (P & I Club). The investigation into the incident and the assessment of the damage will be done jointly by the P & I Club and the IOPC Fund. It will not normally, therefore, be necessary for claims for pollution damage to be submitted to the P & I Club and the IOPC Fund separately; a claim sent to the P & I Club will generally be treated as a claim against the IOPC Fund.
