

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

ASSEMBLY - 5th session
Agenda item 18

FUND/A.5/15
8 October 1982
Original: ENGLISH

RECORD OF DECISIONS OF THE ASSEMBLY
(held from 29 September to 1 October 1982)

1 Adoption of the Agenda (Agenda item 1)

The Assembly adopted the Agenda as contained in document FUND/A.5/1.

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: Professor H Tanikawa (Japan)
Second Vice-Chairman: Mr J Plantard (France)

3 Examination of Credentials (Agenda item 3)

The following Contracting States were present:

Algeria	Japan
Bahamas	Liberia
Denmark	Monaco
Finland	Norway
France	Spain
Gabon	Sweden
Germany, Federal Republic of	United Kingdom
Ghana	Yugoslavia.
Italy	

The Assembly took note of the information given by the Director that all Members participating had submitted credentials which were in order.

The following States were represented as observers:

Brazil	Poland
Canada	Switzerland
Ireland	USSR
Netherlands	USA.

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

IMO	ITOPF
EEC	INTERNATIONAL GROUP OF P & I CLUBS
UNIDROIT	CRISTAL
BIMCO	OCIMF
ICS	PIANC.

4 Consideration of the Report of the Director (Agenda item 4)

4.1 The Assembly considered and discussed the report of the Director as contained in document FUND/A.5/2 and his additional oral explanations.

4.2 With regard to the status of newly-independent States to the territory of which the Convention had been extended before independence but which had not notified the depositary beyond doubt whether or not they wanted to be bound to the Fund Convention, the Assembly endorsed the approach taken by the Secretary-General of IMO as the depositary of the Fund Convention that the Convention should be regarded as having been suspended and that retroactive application of rights and obligations of the Fund Convention would not be considered possible. It was agreed that this approach was a satisfactory balance of the various interests.

4.3 With regard to the Director's report that one contributor had not paid the full amount of contributions due to the IOPC Fund (paragraph 11 of FUND/A.5/2), the Director reported that information he had received from the Italian Government indicated that the non-payment was due to a misunderstanding and that the amount outstanding would soon be paid. This statement was endorsed by the Italian delegation.

4.4 The delegation of Ghana stated that the Ghanaian Government were committed to paying their contributions to the IOPC Fund in full and said that payment would be made within a few months.

4.5 The Assembly supported the Director in his efforts to obtain the Governments' reports on contributing oil receipts within the time stipulated by the IOPC Fund's Internal Regulations.

5 Consideration of the Report on Investments (Agenda item 5)

5.1 The Assembly took note of document FUND/A.5/3 containing the IOPC Fund's investments up to 30 June 1982 and the additional information submitted to the Assembly with regard to the investments taken from that date up to the date of the Assembly meeting.

5.2 The Assembly accepted the Director's proposal for an amendment to Financial Regulation 7.1(b) contained in document FUND/A.5/4 to broaden the IOPC Fund's investment policy. It accepted the proposal contained in paragraph 8 of the document with one drafting amendment and a corresponding amendment to Financial Regulation 7.1(c). The amendments adopted read as follows:

7.1(b) "the assets shall be placed on term deposit with banks 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 or discount house shall not normally exceed £2 million;"

6 Consideration of the External Auditor's Report on Financial Statements for the Financial Period 1 January to 31 December 1981 (Agenda item 6)

6.1 The Assembly approved the accounts of the IOPC Fund for the financial period 1 January 1981 to 31 December 1981.

6.2 In his introduction to document FUND/A.5/5, the Director suggested that it may now be appropriate to review the Financial Regulations. The IOPC Fund's auditor endorsed this view and added that he felt that certain amendments to the Financial Regulations were necessary. He suggested that he discusses these amendments with the Director and that a paper be submitted to the Assembly for its next session in 1983. This proposal was approved by the Assembly.

7 Appointment of IOPC Fund's Auditors (Agenda item 7)

The Comptroller and Auditor General of the United Kingdom was appointed as the IOPC Fund's External Auditor for a second period of four years.

8 Appointment of Director (Agenda item 8)

The Assembly agreed to extend the present Director's contract for another year. The Chairman of the Assembly was authorised to conclude the contract with the Director. The Assembly expressed the wish that the Director may be available for another extension of his contract so as to enable him to serve as the IOPC Fund's Director at the Diplomatic Conference revising the Civil Liability Convention and the Fund Convention should this Conference be held in early 1984.

9 Consideration of the Reports of the Executive Committee on its Fifth, Sixth and Seventh Sessions (Agenda item 9)

The Chairman of the Executive Committee, Mr P Novia, introduced the reports on the fifth, sixth and seventh sessions of the Executive Committee. The Chairman of the Assembly thanked Mr Novia for his excellent work as the Chairman of the three sessions of the Executive Committee.

10 Election of Members of the Executive Committee (Agenda item 10)

The following Members were elected members of the Executive Committee:

Elected under Article 22.2(b)
of the Fund Convention

France
Japan
Spain
United Kingdom

Elected under Article 22.2(a)
of the Fund Convention

Algeria
Bahamas
Liberia
Norway
Yugoslavia.

11 Budget 1983 (Agenda item 11)

11.1 The Assembly adopted the proposal by the Director to make a supplementary appropriation for printing in the 1982 budget. It was agreed to appropriate an additional amount of £2 000 for the printing of the IOPC Fund's Claims Manual. The Assembly took note of the request by the United Kingdom that 300 copies of this Claims Manual be made available to the United Kingdom Government. The Director requested the delegates to let him know at their earliest convenience how many copies each Member State required.

11.2 The draft budget for 1983 as contained in document FUND/A.5/8 was adopted. The Chapter for printing and publication was transferred to Chapter II to feature as a new heading under "General Services". With regard to the payment for "overhead costs" to IMO, the Assembly supported the Director's efforts to speed up negotiations with IMO on a reassessment of this payment. It was agreed that the IOPC Fund should organise its administration in the most economical way. The Director was given the authority to employ an additional part time staff member, if this proved cheaper than having certain services provided to the IOPC Fund by IMO.

12 Assessment of Annual Contributions (Agenda item 12)

12.1 On the basis of documents FUND/A.5/9, FUND/A.5/WP.2 and the supplementary document to FUND/A.5/WP.2, submitted to delegates at the meeting, the Assembly decided that the total amount of annual contributions to be levied in 1982 is:

- £600 000 for the general fund
- £260 000 for the FUKUTOKU MARU NO 8 major claims fund.

12.2 In its consideration of the assessment of contributions, the Assembly considered the advisability of paying compensation in respect of the TANIO incident as soon as possible after the expiry of the three year time limit in March 1983. It therefore authorised the Executive Committee to assess annual contributions for the settlement of claims arising out of the TANIO incident subject to the following conditions being satisfactorily met:

- (i) the three year time limit has expired;
- (ii) no legal action is pending to break the shipowner's right to limit his liability;
- (iii) assessment shall take into account the total amount of claims still outstanding;
- (iv) assessment should only be made in respect of claims which have been approved according to the normal procedures of the IOPC Fund;
- (v) the French Government has given an undertaking in terms to be agreed to indemnify the IOPC Fund against any later claims;
- (vi) an undertaking from the French Government that, pending final distribution, it would refund any compensation received which was subsequently found to be not justified, together with interest at a rate to be agreed.

13 Date of Payment of Annual Contributions (Agenda item 13)

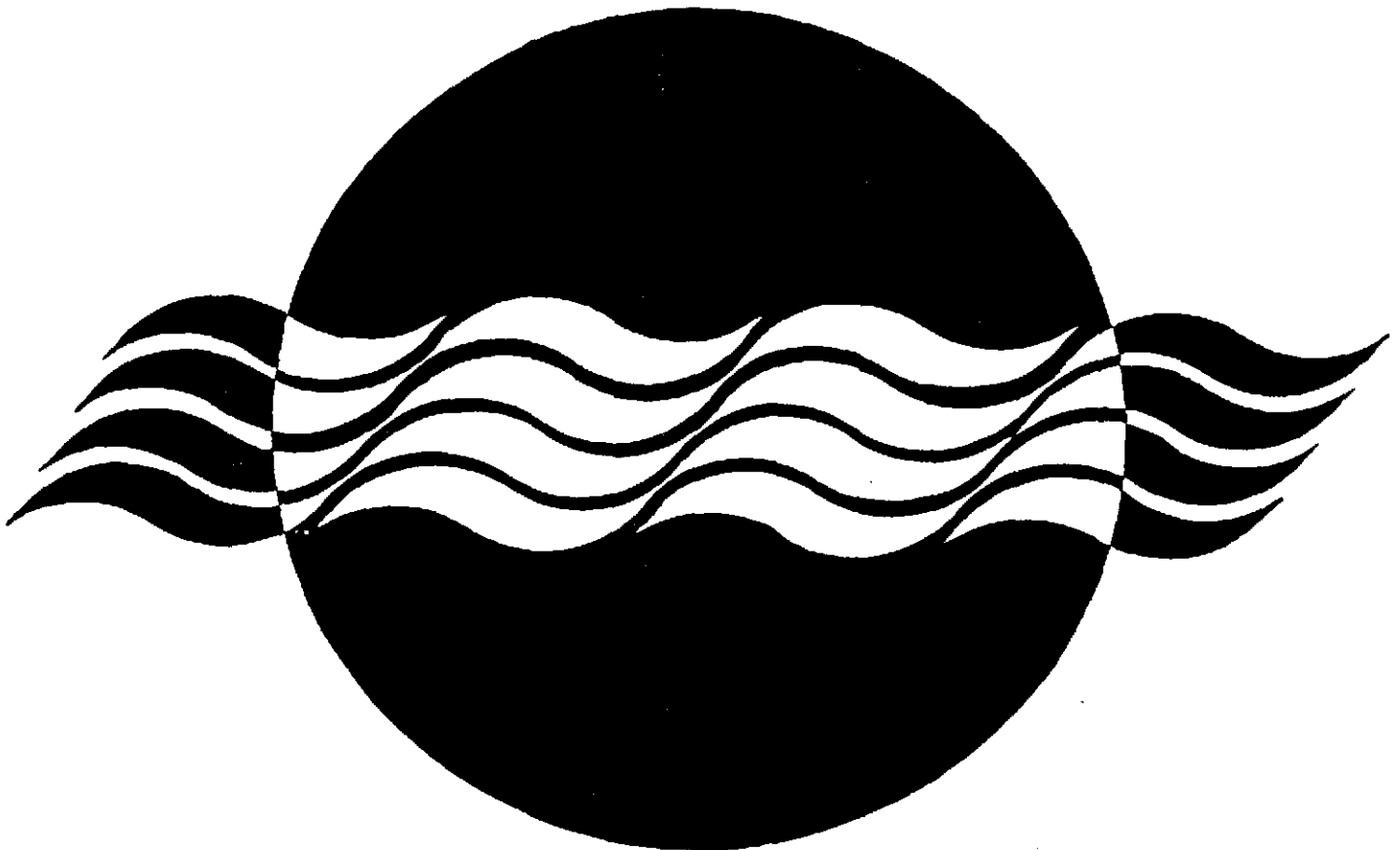
The Assembly agreed that the normal date of payment of annual contributions should be fixed at 15 January of the year following that year in which the Assembly decides on the levy of annual contributions and that a paragraph 3.8 should be added to the IOPC Fund's Internal Regulations as suggested by the Director in paragraph 4 of document FUND/A.5/10. The amendment to the Internal Regulations reads as follows:

"1 3.8 Payment of annual contributions shall be due on 15 January of the year following that in which the Assembly decides on the levy of annual contributions, unless the Assembly decides otherwise.

2 The present paragraphs 3.8 and 3.9 are renumbered 3.9 and 3.10 respectively."

14 Adoption of the IOPC Fund's Emblem (Agenda item 14)

14.1 The Director explained to the Assembly the reasons why the emblem adopted at the IOPC Fund's fourth session could not be used. He introduced the new emblems submitted in document FUND/A.5/11 and two additional emblems submitted by the United Kingdom delegation. All emblems had been on display during the Assembly meeting. The Assembly adopted by majority vote the design as reproduced below.



14.2 The Assembly also decided that, if abbreviations are used to identify the International Oil Pollution Compensation Fund, the words "IOPC Fund" in the English language and "FIPOL" in the French language should be taken.

15 Consideration of Discussions in the Legal Committee of the International Maritime Organization to Revise the Fund Convention (Agenda item 15)

15.1 Interpretation of Article 4.4(a) of the Fund Convention

The Assembly agreed that the interpretation given by the Director to Article 4.4(a) of the Fund Convention was the interpretation to be followed by the IOPC Fund. This interpretation means that in case of a major incident reaching or exceeding the IOPC Fund's upper limit, in respect of which the shipowner is entitled to indemnification under Article 5 of the Fund Convention, the total amount of compensation payable by the IOPC Fund would be the upper limit specified in Article 4 minus the shipowner's liability under the Civil Liability Convention.

15.2 Revision of the Civil Liability Convention and the Fund Convention

The Assembly considered the proposals made by the Director for the revision of the Fund Convention regarding provisions dealing with the administration of the IOPC Fund. After a discussion of the different items proposed in document FUND/A.5/12, Annex I, it was agreed that the Director may submit the proposals contained in this document to the Legal Committee of IMO as his personal proposals. In his paper he should indicate that the proposals had been discussed in the IOPC Fund's Assembly and that different opinions had been expressed by Members of the IOPC Fund with respect to these proposals.

15.3 The statement by the Bahamas Government contained in Annex II of document FUND/A.5/12 was introduced by the delegation of the Bahamas. The delegation suggested that the IOPC Fund's Assembly should adopt an interpretation of Article 10 of the Fund Convention to the effect that oil received in a Contracting State in storage tanks for the purpose of re-exportation without processing should not be considered as received. The Assembly took note of this proposal but agreed that the present text of

Article 10 did not allow such an interpretation. It suggested that the Government of the Bahamas propose an amendment to Article 10 of the Fund Convention to the Legal Committee of IMO presently discussing the revision of the Civil Liability Convention and the Fund Convention.

16 Date of Next Session (Agenda item 16)

The Assembly decided to hold its next meeting as the sixth session of the IOPC Fund's Assembly from 3 to 7 October 1983 in the new headquarters of IMO in London.

17 Any Other Business (Agenda item 17)

17.1 The delegation of the Federal Republic of Germany introduced its proposal for a resolution regarding the conversion of the (gold) franc into national currencies (document FUND/A.5/WP.1). After consideration, the Assembly decided to postpone a decision on this matter until the Assembly's next session because it was not expected that the Protocol of 19 November 1976 would enter into force before that date.

17.2 The Assembly took note of the contents of document FUND/A.5/14 which was introduced by the representative of the Commission of the European Communities.

18 Adoption of the Report of the Fifth Session (Agenda item 18)

The draft report as contained in document FUND/A.5/WP.3 was adopted, subject to some drafting amendments.
