



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

ASSEMBLY - 6th session
Agenda item 13

FUND/A.6/10
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ASSESSMENT OF ANNUAL CONTRIBUTIONS

Note by the Director

1 Article 12 of the Fund Convention provides that the Assembly shall determine the amount of annual contributions, if any. For this purpose the Assembly shall make an estimate in the form of a budget of the IOPC Fund's expenditure and income for each calendar year, taking into account the necessity of maintaining sufficient liquid funds.

2 The IOPC Fund's expenditure consists of:

- (a) administrative costs and expenses of the IOPC Fund;
- (b) payments of minor claims up to 15 million (gold) francs; and
- (c) payments of claims to the extent that the aggregate amount of claims in respect of any one incident is in excess of 15 million (gold) francs (major claims).

Expenses mentioned in paragraphs (a) and (b) have to be met from the general fund (Financial Regulation 5.1(c)) and expenses with respect to major claims as defined in paragraph (c) have to be met from major claims funds (Financial Regulation 5.2(a)).

3 GENERAL FUND

3.1 Financial Regulation 5.1 provides that the general fund shall be maintained at such level as the Assembly may decide and that the monies in the general fund shall be used to meet the costs and

expenses of the administration of the IOPC Fund and for the satisfaction of minor claims. The amount of annual contributions needed for the general fund is estimated as follows:

(i)	Expenditure	£
	(a) Administrative expenses	295 100
	(b) Minor claims	1 286 946
	(c) Working capital	2 000 000
		<hr/>
		3 582 046
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(ii)	Income	
	(a) Surplus	2 338 754
	(b) Interest	180 000
	(c) Initial contributions	-
	(d) Annual contributions required for general fund	1 063 292
		<hr/>
		3 582 046
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The estimates above are arrived at as shown below.

3.2 Administrative Expenses

The administrative expenses of the IOPC Fund for 1984, as proposed by the Director in the draft budget for 1984 (document FUND/A.6/9) amount to £295 100.

3.3 Minor Claims

Table 1 in the Annex, listing all known incidents in respect of which payments may have to be made out of the general fund during 1984 and estimating the amounts payable, shows a total expenditure of £1 286 946. This table does not contain a contingency for payment of claims in respect of incidents which may happen after the drafting of this document and with respect to which payments may have to be made before the end of 1984. Such payments would have to be met from the working capital.

The estimates contained in Table 1 are based on the information

contained in documents FUND/EXC.10/3 and FUND/A.6/4, Annex III, Schedule II.

3.4 Working Capital

The Assembly decided at its second session that the IOPC Fund should maintain a working capital of up to £2 million. This capital is needed to cover expenses for claims not included in the estimated expenses for minor claims (see 3.3 above).

3.5 Surplus

The estimated surplus as at 31 December 1983 is given in the draft budget for 1984 as £2 338 754 (document FUND/A.6/9). This figure takes into account the actual and the estimated general claims expenditure in 1983 of £565 440, as shown in Table 2 of the Annex.

3.6 Interest

The income in interest from the IOPC Fund's investments in 1984 is estimated at £180 000 (see B.II of the Annex to document FUND/A.6/9, Budget 1984). This estimate is based on an average investment of £2 000 000 at an average rate of 9%.

3.7 Initial Contributions

At the time of drafting this document no States are known in respect of which initial contributions will have to be paid in 1984.

3.8 General Fund Assessment

The Assembly may wish to assess the annual contribution 1983 to the general fund at £1 000 000.

4 MAJOR CLAIMS FUNDS

As explained in documents FUND/EXC.10/2 and 10/3, there are three incidents in respect of which contributions to major claims funds may have to be levied, ie the TANIO, ONDINA and FUKUTOKU MARU NO 8 incidents.

4.1 TANIO

4.1.1 The Executive Committee, at its ninth session, recommended to the Assembly to levy annual contributions at its next meeting in September 1983 so as to allow the Director to make a very substantial part payment or even final payment of all claims if, by that time, agreement had been reached with all claimants, and there was no risk of the IOPC Fund becoming liable to pay more than 675 million (gold) francs in accordance with Article 4.4 of the Fund Convention.

As reported in document FUND/EXC.10/2, agreement has been reached or is about to be reached with most claimants on the amounts claimed from the IOPC Fund. Should, by the time of the tenth session of the Executive Committee, some claims remain unsettled, the Executive Committee may wish to consider giving authority to the Director to agree final settlement with these claimants. The Director has also agreed with the French Government on a Protocol containing an indemnity clause which ensures that the IOPC Fund will not be liable to pay more than 675 million (gold) francs. It is, therefore, assumed that the Assembly may wish to levy the full amount of contributions to allow the Director to make full payment.

4.1.2 The IOPC Fund's total liability amounts to FFr244 746 000 which is, as at 7 July 1983 (FFr11.7:£1), equivalent to £20 918 462. The shipowner's liability under the CLC is FFr11 833 717.79 (£1 011 429). Miscellaneous expenses, ie mainly legal fees and part payment of compensation, but also including travelling costs and surveyors' charges, are estimated at £217 544 as at the end of 1983 (see footnote to Table 1 of the Annex). For pursuing the actions to break the owner's limitation or to recover from other parties, further legal fees and miscellaneous expenses will have to be paid, and these are estimated at £700 000. Surveyors' costs for the past that have not yet been paid or which may arise in future are estimated at £100 000. The total amount of money needed for the TANIO major claims fund is, therefore, calculated as follows:

	£
(a) Total IOPC Fund's liability	20 918 462
(b) Minus Shipowner's liability	1 011 429
(c) Minus compensation already paid	47 148
Compensation still payable	19 859 885
(d) Future legal and surveyors' fees	800 000
Sub-total	20 659 885
(e) Minus rest of first 15 million (gold) francs after deduction of payments already made (see Table 1 of Annex)	363 429
Total contributions required from major claims fund	20 296 456

The Assembly may wish to assess the contribution to the TANIO major claims fund at £20 700 000, thus allowing a certain amount of money for unexpected expenses (eg increased legal fees resulting from prolonged proceedings) and for exchange rate variations from the date of assessment of contributions to the date of payment of compensation.

4.2 ONDINA

4.2.1 The total claims made in respect of the ONDINA incident, including interest up to 15 February 1984, amount to about DM22 039 347 (£5 665 641 at the rate of exchange at 7 July 1983, (DM3.89:£1). Details of the claims and the proposed settlement with the different claimants will be given in document FUND/EXC.10/3/Add.1. The shipowner's liability under the CLC is DM10 020 306 (£2 575 914). Indemnification under Article 5 of the Fund Convention is not payable. The compensation to be paid by the IOPC Fund amounts therefore to DM12 019 040 which is equivalent to £3 089 727. The total amount of money needed for the ONDINA major claims fund is calculated as follows:

	£
(a) Total amount of damage	5 665 641
(b) Minus Shipowner's liability	2 575 914
Sub-total	<u>3 089 727</u>
(c) Minus rest of first 15 million (gold) francs, after deduction of payment already made (see Table 1 of Annex)	<u>619 217</u>
Total contributions required from major claims fund	<u><u>2 470 510</u></u>

4.2.2 Allowing for changes in the rate of exchange between the date of the assessment and the date of payment, it is suggested that the amount to be levied is assessed at £2 800 000.

4.3 FUKUTOKU MARU NO 8

The moneys available for payment of compensation in respect of this incident under the general fund (£623 070) and the major claims fund total £883 499. The payments made so far total £947 262. The amount levied to the FUKUTOKU MARU NO 8 major claims fund in 1982 was therefore not sufficient to cover all expenses. Further payments of around £41 350 (indemnification, legal and surveyors' costs) will have to be made, so that about a further £105 113 is needed to cover all expenses arising out of this incident. It is suggested that an amount of £106 000 be assessed for the FUKUTOKU MARU NO 8 major claims fund.

5 SUMMARY AND DATE OF PAYMENT

5.1 It is suggested that in 1983 the following annual contributions be levied:

	£
(a) General fund	1 000 000
(b) TANIO major claims fund	20 700 000
(c) ONDINA major claims fund	2 800 000
(d) FUKUTOKU MARU NO 8 major claims fund	106 000
Total	<u><u>24 606 000</u></u>

5.2 In accordance with Article 12.2(b) of the Fund Convention, the calculation of the contributions to the major claims funds will be based on the amounts of oil received during the calendar year preceding that in which the respective incidents occurred and only in respect of States which were Members of the Fund Convention at the date of the incident. The contributions for the TANIO major claims fund will be based on the 1979 oil receipts and amount to approximately £0.0216 per tonne, and the contributions for the ONDINA and the FUKUTOKU MARU NO 8 major claims funds will be based on the 1981 receipts and amount to a total of approximately £0.00354 per tonne.

5.3 Internal Regulation 3.8 provides that, unless the Assembly decides otherwise, contributions shall be due on 15 January of the year following that in which the Assembly decides on the levy of annual contributions. This date would be 15 January 1984. The Assembly is invited to decide on the different types of annual contributions as specified in 5.1 above, and on the date of payment in accordance with Article 12 of the Fund Convention.

ANNEX

Table 1 Claims that may have to be paid out of the general fund during 1984 (estimate)

	£
TANIO*	363 429
GLOBE ASIMI	300 000
ONDINA*	619 217
SHIOTA MARU NO 2	4 300
TOTAL	<u>1 286 946</u>

* First 15 million (gold) francs in accordance with Article 12.1(i)(c) of the Fund Convention, minus payments up to end of 1983 as calculated below (figures in £ Sterling):

	1983 expenditure as shown in table 2	expenditure 1982 and before, as shown in financial statements Schedule II	total expenditure	15m (gold) francs, converted in accordance with Int Regs 2 and 3.5	difference to be paid out of general fund
TANIO	195 977	21 567	217 544	580 973	363 429
ONDINA	292	1 077	1 369	620 586	619 217

Table 2

Claims Expenditure in 1983 (general fund)

(figures in £ Sterling)

Incident	Compensation/Indemnification		Miscellaneous		Total
	paid by 30.6.83	estimate 1.7.83 - 31.12.83	paid by 30.6.83	estimate 1.7.83 - 31.12.83	
TANIO	47 148	-	98 829	50 000	195 977*
HOSEI MARU	-	24 300	-	54 350	78 650
JOSE MARTI	-	-	594	-	594*
GLOBE ASIMI	-	-	-	530	530
SUMA MARU NO 11	-	22 488	-	2 535	25 023
ONDINA	-	-	292	-	292*
SHIOTA MARU	220 572	-	14	-	220 586
FUKUTOKU MARU NO 8	28 182	-	15	-	28 197**
KIFUKU MARU NO 35	1 587	-	4	-	1 591
SHINKAI MARU NO 3	-	6 000	-	8 000	14 000
					565 440

* part of first 15 million (gold) francs (Article 12.1(i)(c) of Fund Convention)

** remaining part of first 15 million (gold) francs after payment of £594 873 in 1982