



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

ASSEMBLY - 6th session  
Agenda item 18

FUND/A.6/16  
30 September 1983  
Original: ENGLISH

RECORD OF DECISIONS OF THE SIXTH SESSION OF THE ASSEMBLY  
(held from 28 to 30 September 1983)

Opening of the Session

The sixth session of the Assembly was opened by Mr J Bredholt (Denmark), in his capacity as representative of the delegation from which the Chairman of the previous session was elected.

1 Adoption of the Agenda (Agenda item 1)

The Assembly adopted the Agenda as contained in document FUND/A.6/1.

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 C Douay (France)          |

3 Examination of Credentials (Agenda item 3)

The following Contracting States were present:

|                              |             |                      |
|------------------------------|-------------|----------------------|
| Algeria                      | Indonesia   | Papua New Guinea     |
| Bahamas                      | Italy       | Spain                |
| Denmark                      | Japan       | Sri Lanka            |
| Fiji                         | Kuwait      | Sweden               |
| Finland                      | Liberia     | Syrian Arab Republic |
| France                       | Monaco      | United Kingdom       |
| Gabon                        | Netherlands | Yugoslavia           |
| Germany, Federal Republic of | Norway      |                      |

The Assembly took note of the information given by the Director that all Members participating, except for Papua New Guinea, had submitted credentials which were in order.

The following States were represented as observers:

|         |          |
|---------|----------|
| Belgium | Poland   |
| Brazil  | Portugal |
| Canada  | USA      |

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

|       |                                  |
|-------|----------------------------------|
| IMO   | INTERNATIONAL GROUP OF P&I CLUBS |
| BIMCO | CRISTAL                          |
| ICS   | OCIMF                            |
| ITOPF |                                  |

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

4.1 The Director introduced documents FUND/A.6/2 and FUND/A.6/2/Add.1. The Chairman, on behalf of the Assembly, expressed his gratitude to the Director and his staff for the efficient way in which they had administered the IOPC Fund.

4.2 The Director informed the Assembly that the Permanent International Association of Navigation Congresses (PIANC) had withdrawn its observer status with the IOPC Fund.

4.3 In considering the report of the Director the Assembly urged all Member States to take the necessary steps to ensure that all reports on contributing oil receipts within their respective territories were submitted to the IOPC Fund by the date stipulated in Internal Regulation 5.1.

4.4 The Assembly approved the Director's proposal for a new full-time post of a Messenger in the Secretariat. However, it requested the Director to review the need for a full-time staff member if the present incumbent of this post should leave and a new holder may not be capable of doing the varied work now performed by the holder of the post.

4.5 The Assembly welcomed the accession to the 1976 Protocol to the Fund Convention by Italy and expressed the hope that this important Protocol to the Fund Convention may soon enter into force.

It took note of the information given by the delegation of Japan that the Japanese Government is still examining the ratification of this Protocol. The Assembly also noted with satisfaction a statement by the observer delegation of the United States that a bill implementing the Civil Liability Convention and the Fund Convention into US law was at present being considered by the US Congress.

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

The Assembly took note of the Director's report on investments as contained in document FUND/A.6/3 and of the additional information given by the Director that investments by the purchase of bank acceptances had not been placed by the IOPC Fund since the yields on this form of investment had so far been lower than those achieved by investment in fixed-term deposits.

6 Consideration of the External Auditor's Report (Agenda item 6)

The Director introduced document FUND/A.6/4 containing the External Auditor's report on the Financial Statements of the IOPC Fund for the financial period ended 31 December 1982. The Assembly took note of the information given and noted with appreciation the External Auditor's correct certificate contained in Annexe II of this document. It approved the accounts of the IOPC Fund for the financial period 1 January 1982 to 31 December 1982.

7 Report on Contributions (Agenda item 7)

7.1 The Assembly took note of the Director's report on contributions as specified in document FUND/A.6/5 and of his additional information that with the payments made in the last weeks, all initial contributions had now been paid by the Netherlands' contributors and all initial and annual contributions had been paid by the Swedish and Netherlands' contributors. With respect to Italy, a considerable payment had been received so that with respect to this Member State, as with some others, only a very small amount was still outstanding. The Assembly expressed its satisfaction with the positive result regarding the payment of contributions.

7.2 The Assembly expressed its deep concern with regard to the failure of the Government of Ghana to make any payment with respect to the contributions payable by them. It regarded this delay in

payment as very serious. The delegations agreed that the Assembly had to take some action in order to make known their profound regret at Ghana's failure to pay the contributions due to the IOPC Fund. The Assembly requested the Director to send a formal note to the Ghanaian Government expressing this deep concern of the Assembly and also to prepare a note for the next meeting of the Assembly outlining the theoretically possible actions that the IOPC Fund may take in respect of Governments who are liable to pay contributions but who fail to do so.

8 Appointment of Director (Agenda item 8)

8.1 The Chairman introduced document FUND/A.6/6 and the Assembly unanimously elected the Director, Dr Reinhard H Ganten, for another period of one year, ending 31 December 1984. The Assembly expressed its gratitude to the Director for being prepared to serve the IOPC Fund for another year.

8.2 The Chairman informed the members of the Assembly that he will be circulating a note in early 1984 informing all Member States of the need to elect a new Director at the seventh session of the Assembly in September 1984, and inviting Governments of Member States to present candidatures for this post to the IOPC Fund, which would then be circulated by the Secretariat to all Member States..

9 Consideration of the Reports of the Executive Committee on its Eighth, Ninth and Tenth Sessions (Agenda item 9)

9.1 The Chairman of the Executive Committee, Mr J Perrett (United Kingdom), reported to the Assembly on the work of the Executive Committee during its eighth, ninth and tenth sessions and reported to the Assembly the decisions taken by the Executive Committee at these sessions. He submitted to the Assembly the recommendations of the Executive Committee to levy annual contributions for the TANIO and the ONDINA major claims funds in order to allow full compensation with respect to these incidents to be paid in early 1984.

9.2 The Chairman expressed the thanks of the Assembly to the Chairman of the Executive Committee for the impressive achievements that the Executive Committee had reached under his efficient Chairmanship.

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

The Director introduced document FUND/A.6/7 and informed the Assembly that in the light of the report from the Bahamas on the oil received in 1982, Sweden and the Bahamas had to change places in the table of Annex I of the document listing Member States in the order of quantities of contributing oil received. Sweden, instead of the Bahamas, was now eligible under Article 22.2(b) of the Fund Convention. The Assembly elected the following members of the Executive Committee:

Elected under Article 22.2(b)  
of the Fund Convention

Germany, Federal Republic of  
Italy  
Japan  
Netherlands  
Spain

Elected under Article 22.2(a)  
of the Fund Convention

Algeria  
Bahamas  
Finland  
Gabon  
Liberia

11 Appointment of Members and Substitute Members of the Appeals Board (Agenda item 11)

11.1 Mr R Robbani (Indonesia), the Chairman of the Appeals Board, informed the Assembly that he would not be available for reappointment as a member or substitute member of the Appeals Board.

11.2 The following members and substitute members were appointed by the Assembly:

Members

Mr M Kefi (Tunisia)  
Mr V Vamadeva (Sri Lanka)  
Mr D M Edwards (United Kingdom)

Substitute Members

Mr J Marc (France)  
Mr J Hanyu (Japan)  
Mr T Karlsvik (Norway)

12 Budget 1984 (Agenda item 12)

12.1 The Director introduced document FUND/A.6/9 and explained the reasons for the considerable increase in the total of appropriations in the 1984 Draft Budget as compared with the 1983 Budget. This increase was explained as being solely caused by the higher appropriations in Chapter I (Personnel) and the appropriation for the purchase of a word processor. The increase in the appropriations for personnel was due to appropriations for expenses allowing the present Director's successor to travel to the Headquarters of the

IOPC Fund during the handing-over period, for expenses for home leave for the Professional and the Finance Officers, for salary for the newly established post of messenger and for salary increases which are to be expected within the UN Common System as applied by IMO and as applicable to the IOPC Fund. The Director explained the IOPC Fund's need for word processing equipment and expressed the hope that the purchase of such equipment may considerably facilitate the work of the Secretariat.

12.2 Several delegations expressed their concern with the increase in the 1984 Budget appropriations as suggested by the Director. They pointed out that at times when national Governments as well as other international organisations had to cut back in administrative expenses, it was important also for the IOPC Fund to make all efforts to reduce the expenses for the running of the IOPC Fund's Secretariat. Appreciating the Director's efforts to keep the IOPC Fund's Secretariat small and the administrative expenses low, and acknowledging that the IOPC Fund's Secretariat operated with a relatively low budget, the Assembly, nevertheless, urged the Director to make savings wherever possible.

12.3 The Assembly adopted the budget appropriations for 1984 as contained in the Annex to document FUND/A.6/9. In adopting the appropriation for the purchase of a word processor the Assembly requested the Director to be careful in selecting the appropriate equipment suitable for the IOPC Fund's purposes.

### 13 Assessment of Annual Contributions (Agenda item 13)

13.1 The Director introduced documents FUND/A.6/10 and FUND/A.6/WP.1 containing the calculations for the assessment of annual contributions. He explained the new method of presenting the calculations necessary for the assessment of annual contributions both for the General Fund and for Major Claims Funds. The Assembly expressed its appreciation of the new form of presentation.

13.2 The Assembly adopted the Director's proposals for the assessment of annual contributions 1983, as summarised in section 4 of document FUND/A.6/WP.1, totalling £24 106 000. The Assembly agreed that the date for the payment of contributions should be 15 January 1984, as

laid down in Internal Regulation 3.8. The Director promised that the invoices would be sent out in October 1983. A copy of the covering letter accompanying the invoices would be circulated to Governments together with the Record of Decisions of this meeting.

14 Consideration of Discussions in the Legal Committee of IMO to Revise the Fund Convention (Agenda item 14)

14.1 The Director introduced document FUND/A.6/11 and the Annex thereto containing a memorandum by a lawyer employed by the IOPC Fund on the question of whether the new compensation scheme under the 1984 Protocol to the Fund Convention can be administered by the Organisation established under the 1971 Fund Convention. The Assembly took note of the memorandum but decided not to have a substantial discussion on this item, which had been the subject of thorough considerations within the Legal Committee of IMO.

14.2 The Assembly requested the Director to submit proposals, in his personal capacity, to the Diplomatic Conference, with regard to administrative problems which the IOPC Fund had experienced and which could be solved by amending the text of the Convention.

14.3 The Assembly agreed that the IOPC Fund should offer to the Diplomatic Conference all assistance that may be required from the IOPC Fund in order to facilitate a smooth transition from the existing compensation scheme to the compensation scheme to be adopted by the 1984 Diplomatic Conference.

14.4 The Assembly agreed that it may be necessary that an Assembly meeting be held during the course of the Diplomatic Conference in order to allow the IOPC Fund to take decisions which may be needed to be taken in the light of decisions of that Conference. To ensure that invitations for such an extraordinary Assembly meeting are sent out within the period required by Article 19 of the Fund Convention, the Assembly requested the Director to send out invitations in time for such an Assembly meeting. However, it was understood that this extraordinary session of the Assembly should only be held if necessary. If it appeared not to be necessary, the Chairman would inform delegates in due time of its cancellation.

15 Amendment to Financial Regulations (Agenda item 15)

15.1 The Director introduced document FUND/A.6/12 and explained the reasons for the amendments to the Financial Regulations as proposed by him in that document. The Assembly adopted the suggested amendments.

15.2 With respect to the change of the External Auditor's certificate the representative of the IOPC Fund's External Auditor explained that he was not yet in a position to suggest a new wording for an "Audit Opinion" replacing the "Correct Certificate", since the United Nations had not yet decided on the actual wording of this Audit Opinion. Although the IOPC Fund does not belong to the United Nations system, the Auditor nevertheless considered it advisable in view of the similar accounting practices, to adopt the same wording that would also be used for the audit of the United Nations accounts.

16 Date of Next Session (Agenda item 16)

The Assembly decided to hold its next ordinary session from 24 to 28 September 1984 in London.

17 Any Other Business (Agenda item 17)

17.1 Amendment of Staff Regulations

The Assembly adopted the proposal for the amendment of the Staff Regulations as contained in Section 3 of document FUND/A.6/13. It noted the information given by the Director that for the next session of the Assembly he would submit a document explaining the practice in IMO and other international organisations regarding loans to staff members for the purchase of property.

17.2 Amendment of Internal Regulations

The Assembly accepted the following amendments of the IOPC Fund's Internal Regulations:

(a) Internal Regulation 3.6 reads as follows:

"In respect of any State for which the Fund Convention is not in force on 1 January of a particular year the annual contribution to be paid by each person in that State for that year in accordance with Article 12.2(a) of the Fund



Convention, shall be calculated pro rata for that part of the calendar year for which the Convention is in force for that State."

(b) A new Regulation 3.11 is adopted as follows:

"3.11 Any credit balance on a contributor's account with the IOPC Fund shall bear interest at the rate of the lowest London clearing bank base rate, taking into account any changes in the London clearing bank base rates."

(c) Regulation 4.4.3 is deleted.

#### 17.3 Replacement of Instruments enumerated in Article 5.3 of the Fund Convention

The Assembly agreed to replace "the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended in 1962," (OILPOL 1954), with MARPOL 1973/78. Article 5.3(a)(i) of the Fund Convention now reads as follows:

"(i) International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, or".

It was decided that this replacement shall take effect as from 1 July 1984.

17.4 The delegation of the Federal Republic of Germany informed the Assembly that at this meeting they did not consider it necessary to discuss the question relating to the conversion of (gold) francs into national currencies as mentioned in document FUND/A.5/WP.1, submitted to the fifth session of the Assembly. They stated, however, that they may wish to bring this matter up again at the seventh session of the Assembly.

#### 18 Adoption of the Report of the Sixth Session (Agenda item 18)

The draft report, as contained in document FUND/A.6/WP.2, was adopted, subject to some drafting amendments.

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