



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

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Agenda item 4

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CONSIDERATION OF THE REPORT OF THE DIRECTOR

1 General

The activities of the Secretariat during the period from the sixth session of the Assembly in September 1983 to the seventh session in October 1984 were largely concentrated on the payment of compensation regarding the TANIO incident and work related to the revision of the 1969 Civil Liability Convention and the 1971 Fund Convention. In addition to dealing with these two main issues, the Secretariat made a great effort to make the best possible use of the newly purchased word processor.

1.1 With respect to the work related to the TANIO incident, reference is made to document FUND/EXC.12/2 containing all the relevant information. However, in addition to this report it should be mentioned that the task of settling the claims that had not been settled by the time of the eleventh session of the Executive Committee and in respect of which the Director had been given authority for final settlement, caused a considerable amount of work. The discussions with 42 private claimants required lengthy preparations, consultations and several days of intensive discussions with the claimants and their representatives, since each single claim was discussed in all its details. With respect to several claimants it took a considerable amount of time to reach agreement on the damage attributable to the TANIO incident. The distribution of the compensation available and the calculation of the part payment to be made on 15 February 1984 caused more problems than anticipated. The negotiations with claimants on the settlement and release agreements often proved to be difficult. At certain times it appeared impossible to meet the target date for partial payment of 15 February 1984. It is with great satisfaction that the Director can inform the Assembly that it was possible, nevertheless, to reach this target, to conclude agreements with all claimants whose claims had been settled and to make the payment on 15 February 1984.

As stated in document FUND/EXC.12/2, paragraph 4.6, some of the agreements with claimants were signed at a formal and very festive ceremony in the Assembly Hall of the Département des Côtes-du-Nord. This ceremony was important for the IOPC Fund

because it showed claimants' satisfaction with the way in which the IOPC Fund had dealt with their claims and with the promptness of the settlement, even if a number of claimants had not been awarded as much compensation as they had considered justified. The procedure followed and the expeditious settlement of the TANIO claims must be regarded as the greatest achievement of the IOPC Fund during the first six years of its existence and is proof of the viability of the compensation scheme laid down in the 1969 CLC and the 1971 Fund Convention. This fact has been generally acknowledged by the public. It was important that this result was achieved before the Diplomatic Conference of May 1984 revising the CLC and the Fund Convention, since it allowed the Conference to take into account experience gained in connection with the TANIO incident.

1.2 The preparation of the Diplomatic Conference to revise the CLC and the Fund Convention and the attendance at this Conference meant a heavy burden on the capacity of the small Secretariat of the IOPC Fund. Nevertheless, it was possible to make all the IOPC Fund's experience of the actual application of the CLC and the Fund Convention available to the Conference. The information and advice given to the Conference, largely in the form of concrete proposals submitted by the Director in his personal capacity, did not fail to have a certain impact on the outcome of the Conference. It is gratefully acknowledged that the IOPC Fund was assisted in this task by Mr C A Walder and Mr D W Abecassis, who attended the Conference as members of the IOPC Fund's delegation and made their advice available to the Director, with no charge. For details regarding the outcome of the Conference, see Section 7 below.

1.3 All documents submitted to this seventh session of the Assembly and the twelfth session of the Executive Committee have been typed on the word processor; this means that standard documents can in future be produced in a much shorter time. In addition, we have also retyped all the Regulations and Rules of the IOPC Fund, as revised from time to time by the Assembly, so that they are now available in a more legible form. I have great pleasure in submitting to the Assembly the IOPC Fund's Internal Regulations, Financial Regulations and Staff Regulations and Rules, containing all the amendments up to and including those adopted by the Assembly at its sixth session in September 1983. The form in which these Regulations and Rules are now submitted allows the easy inclusion of all future amendments. It is a neat and appropriate presentation produced at low cost. Delegates will appreciate that the production of all these Regulations and Rules in both working languages of the IOPC Fund has caused a considerable amount of work to the small Secretariat of the IOPC Fund.

1.4 The present Director's contract with the IOPC Fund will expire at the end of this year and a new Director will take over. This means that a first period in the IOPC Fund's existence has come to an end. The Director's report at the seventh session of the Assembly gives an opportunity for reviewing certain aspects of the operations and activities of the IOPC Fund during its first

six years. Therefore the following considerations do not cover only the period from the sixth session of the Assembly in September 1983 to the seventh session, but the whole period from 1978 to 1984.

2 Membership

2.1 Since the sixth session of the Assembly the United Arab Emirates and Cameroon became Members of the IOPC Fund on 14 March 1984 and 12 August 1984, respectively. The IOPC Fund has now 30 Members.

2.2 As in previous years, the IOPC Fund's Secretariat has made great efforts to try to increase the Membership of the IOPC Fund. Written and oral information on the IOPC Fund is provided to all governments and private persons requesting this. IMO representatives visiting States are provided with information, lectures are given and workshops are organised by the IOPC Fund. Since the sixth session of the Assembly the Professional Officer attended the Seminar MEDIPOL 1983 in Marseille, organised by the Regional Oil Combating Centre (ROCC) in which most Mediterranean countries participated. He also attended a Seminar organised for the Pacific Latin American States in Bogota (Colombia). In addition to this, he will attend a Seminar in Bahrain in which the Gulf States will participate. A previous Seminar organised by the Marine Emergency Mutual Aid Centre (MEMAC) in Bahrain was attended on behalf of the IOPC Fund by Mr C A Walder, who gave a presentation on the IOPC Fund and its operations to the representative of Gulf States. A Workshop was organised during the IMO Assembly to which all participants at the Assembly were invited. The Director also gave lectures to the students at the World Maritime University in Malmo and will speak on the IOPC Fund and its means of assisting Member States at a Symposium which will take place in Copenhagen in September 1984. In June 1984 the Director testified before the Subcommittee on Coast Guard and Navigation of the United States House of Representatives. On this occasion he had the opportunity to answer many questions of congressmen, senators and their staff, regarding the operations of the IOPC Fund. It is felt that this testimony has had some impact on the progress within the United States on the ratification of the CLC and the Fund Convention. A Bill implementing the CLC and the Fund Convention has now been passed by the House of Representatives and is awaiting approval from the US Senate.

2.3 Over the years, the Director and the Legal Officer have actively participated in seminars and workshops in Central and Latin America, Africa and Asia. Special attention has been given, in particular, to endangered regional seas such as the Mediterranean (several attendances at MEDIPOL and close co-operation with ROCC), the Gulf (attendance of seminars in Bahrain and close co-operation with MEMAC), the Gulf of Guinea (visits to Ivory Coast and other States in that area and close co-operation with the Secretary-General of the Ministerial Conference on Maritime Transport of Central and Western African

States) and the Carribean Sea (participation in a meeting of Carribean Islands on contingency planning). The organisation of the highly successful Seminar in London to which all maritime States with representatives in London were invited, and the organisation of a Workshop during the 1983 IMO Assembly, lectures at the World Maritime University with students from many developing countries who are likely to hold responsible positions in the maritime administration of their respective countries and, last but not least, visits to a great number of States which requested further detailed information on the operations of the IOPC Fund, all these activities in addition to the specific information provided and lectures given and publications made by the Director must have provided all States interested in the IOPC Fund with the necessary information on the Civil Liability Convention and the Fund Convention and the operations of the IOPC Fund.

2.4 All these activities, taken in pursuance of Assembly Resolution 4 requesting "the Contracting States to the Convention and the Director of the Fund to make appropriate efforts in order to convince non-Contracting States to become Parties to the Convention, ..." have spread the information on the operations of the IOPC Fund. They have imposed a considerable additional workload upon the Director and his staff. However, these activities have not had the desired effect of considerably increasing the Membership of the Fund Convention. The relatively slow ratification of the Convention may be partly due to the worldwide economic recession which began at about the same time as the Fund Convention entered into force. It may also have been due to the fact that the considerations within IMO regarding the revision of the Conventions may have led a number of governments to defer any decision regarding ratification of or adherence to the Fund Convention till after the Revision Conference. The large number of States that are Members of the CLC but not of the Fund Convention gives reason for thought. It is hoped that after the conclusion of the Diplomatic Conference and the adoption of Protocols to the CLC and the Fund Convention, the ratification processes may be accelerated. In this respect, it may also be helpful that the future role of CRISTAL will be clarified shortly. It is suggested that the new Director of the IOPC Fund may develop a programme following which States are assisted in taking a decision on the ratification of the CLC and the Fund Convention as amended. This may expedite the entry into force of the new Protocols. Efforts should also be continued to secure the entry into force of the 1976 Protocol to the Fund Convention.

2.5 The Director gratefully acknowledges to have benefited greatly from a very close and pleasant co-operation with Member States. A number of problems during the building up period have been solved on the basis of personal contact and friendship. The Director's visit to most of the Contracting States has ensured that the implications of Membership of the IOPC Fund is fully appreciated in Contracting States by all parties concerned and that the internal procedures of the IOPC Fund and the need for close co-operation of governments with the Administration is fully

understood. The Director is convinced that this close and personal contact between the Administration and representatives of Member States is one of the reasons for the successful work of the IOPC Fund.

The Director would particularly like to underline the special relationship with the Government of the United Kingdom as the Host Government. Not only has the UK Government made, and continues to make, a very substantial contribution to the IOPC Fund's budget by refunding 80% of the rent and rates, but they have also always been available with advice and assistance. The privileges and immunities awarded to the IOPC Fund and its staff in the Headquarters Agreement concluded between the UK Government and the IOPC Fund have enabled the IOPC Fund to fulfil its functions in a most appropriate manner, free of any impediment. The Director wishes to express his sincere appreciation to the UK Government for this positive and pleasant co-operation and support.

3 Information Regarding Article 5 of the Fund Convention

With respect to Article 5 paragraphs 3 and 4 of the Fund Convention, it is brought to the attention of Members that the declaration of non-acceptance by Algeria with respect to the replacement of the International Convention for the Safety of Life at Sea, 1960 by the International Convention for the Safety of Life at Sea, 1974, ceased to have effect when the People's Democratic Republic of Algeria became a Member of the 1974 SOLAS Convention on 3 February 1984 (see IMO circular SLS.12/Circ.62 of 7 December 1983).

4 Contributions

The report on the payment of contributions is contained in document FUND/A.7/5. This report shows that with regard to 1984 contributions, more than 96% were received by 30 June 1984. Further contributions have been received since.

The quick and more or less punctual payment of contributions has greatly facilitated the administration of the IOPC Fund. The IOPC Fund depends on a reliable source of income much more than other intergovernmental organisations. No payment of compensation has had to be deferred because of any delayed receipt of contributions. So far the Director has seen no need to collect contributions by taking legal action against a contributor. Relatively few arguments have arisen over the amount of contributions payable by individual contributors, including the amount of interest payable in accordance with Article 13.1 of the Fund Convention. Even the collection of the TANIO major claims fund this year, totalling £20 million, with contributions calculated on the basis of oil receipts in the calendar year 1979, has not caused serious problems. As at 30 June 1984, only 3.33% of the contributions were outstanding. This experience shows that contributors accept their obligation to pay contributions and

appreciate the practice of the IOPC Fund of keeping them fully informed of its activities and of giving notice of contributions, if they exceed the usual amount, as much as possible in advance of the actual assessment. In this respect the Director would like to express his sincere appreciation to all representatives of governments and of contributors who have assisted the Director in the collection of contributions. Their advice and initiative has often helped to overcome misunderstandings.

5 Settlement of Claims

5.1 As at 30 June 1984 there have been 19 incidents in respect of which the IOPC Fund has been or may be held liable for compensation or indemnification. The total amount of compensation and indemnification paid out is £33 203 059 (£400 540 being for indemnification; conversion of payments in national currencies into £ sterling as at date of payment); £277 440 has been paid in fees for legal and technical consultants with respect to incidents (£186 749 of this amount being for the TANIO incident). For details, reference is made to the Annual Report 1983, documents FUND/EXC.12/2 and 3, and table M of the Statistics submitted during this session.

5.2 Documents submitted to the sessions of the Executive Committee show that the IOPC Fund has always been able to pay compensation and indemnification very soon after claims have been made and properly supported by the necessary documentation. There has been very little delay within the IOPC Fund in dealing with claims. The prompt settlement of incidents by the IOPC Fund is largely the reason for the good reputation the IOPC Fund is enjoying throughout the world. The quick settlement of incidents is due to the claims settlement policy developed by the IOPC Fund and approved by the Assembly at its fourth session in October 1981. The Claims Manual adopted by the Executive Committee at its sixth session in May 1982, on the basis of the policy decisions taken by the Assembly, has considerably facilitated the explaining of the IOPC Fund's settlement policy and therefore expedited the presentation of claims. The Director had considered issuing, in addition to the Claims Manual, more detailed instructions to victims of pollution incidents as to the best form of claim presentation and procedures regarding the collection of data during a clean-up operation. However, due to the Secretariat's heavy workload in the past year, it has not been possible to develop these detailed recommendations.

5.3 The Director is pleased to be able to state that there is not a single claim in respect of which it has not been possible to reach agreement between the claimant and the IOPC Fund on the quantum of that claim. This result has not been achieved by simply accepting all the demands of claimants, but by convincing them that the IOPC Fund does not try to bargain over claims or negotiate with the target of bringing claims down as far as possible, but rather, on the contrary, that it is the purpose of the IOPC Fund to compensate for all loss or damage suffered as a result of a pollution incident, and that the IOPC Fund does not

want to escape this legal obligation. The Director has accepted all means of proof that expenses claimed were actually incurred, that they were directly linked to a pollution incident, and that they were "reasonable". In cases where such proof was not possible, claimants have acknowledged that the Director was not able to accept their claim. Although there remained many cases in respect of which final settlement could be reached only by compromising on a given figure, it is the experience of the Director that claimants were generally not unhappy with the amount accepted by the Director, even if they felt that a higher amount was justified.

5.4 The question of whether a certain item of a claim was covered by the term "pollution damage" has not caused serious difficulties, due to the clear decisions taken by the Assembly regarding the interpretation of the term "pollution damage" by the IOPC Fund. However, the answer to the question of whether a certain expense was "directly" linked to a pollution incident was difficult in many cases. This question came up especially in connection with the TANIO incident, and was submitted to the Executive Committee. In allowing compensation of damage suffered by the owners of hotels, restaurants and other business directly linked with beach tourism, as well as the repair of roads damaged as a result of heavy traffic in connection with a major clean-up operation, the Executive Committee has accepted a relatively wide interpretation of what can be regarded as damage caused by a pollution incident. It is encouraging that only very few claims made against the IOPC Fund have had to be rejected for reasons of principle, and that even in these cases claimants have accepted the IOPC Fund's reasoning why the damage claimed was not covered by the term "pollution damage" as defined in the CLC and the Fund Convention.

5.5 The settlement procedure developed by the IOPC Fund and followed in all cases so far depends very much on a close co-operation between the IOPC Fund and the P & I Club in question. In most cases this co-operation has been easy and straightforward. However, the TANIO incident has shown the limits and shortcomings of such co-operation. The fact that the IOPC Fund is trying to break the owner's limitation has created a conflict of interest between the IOPC Fund and the owner and his insurer, which has necessarily had certain repercussions on the co-operation even regarding aspects of the case where there is no direct conflict of interest. Now may be the time to reconsider and perhaps revise slightly the method of co-operation between the IOPC Fund and the P & I Club responsible in a specific incident, on the basis of the experience gained in the TANIO incident.

6 Administration of the IOPC Fund

6.1 Regarding the present staff of the IOPC Fund there has been one change. The messenger who was employed in 1983 has left the IOPC Fund. By the time of the Assembly session he will have been replaced.

6.2 Contrary to some apprehension expressed when the Fund Convention was adopted and before it entered into force, it has been possible to keep the Secretariat of the IOPC Fund small and limited to seven full time staff members. Although there have been periods where an additional staff member would have meant a considerable relief of an extraordinarily heavy work load, it must be seen that these periods were normally due to special circumstances such as the settlement of the TANIO incident or the preparation of the Diplomatic Conference. With the dedicated staff that the IOPC Fund is happy to have, it should be possible to fulfil the normal functions of the IOPC Fund without an increase in the number of staff. The employment of consultants can be of considerable relief to the Director and the Professional Officer; however, the employment of temporary staff has not always provided the assistance needed. The very specialised functions of the IOPC Fund make it difficult to overcome problems of an unusually heavy work load by employing temporary staff.

6.3 The assistance provided by IMO continues to be of considerable value to the IOPC Fund. Although the Secretariat of the IOPC Fund is now largely independent, there are still certain areas in which IMO provides important services. This is mainly with respect to the production of documents and the provision of conference facilities, and, in addition, in the field of personnel and general services. The Director is very grateful to the Secretary-General of IMO and his staff, especially the members of the Legal Division, for their willing and friendly support and co-operation. The proximity to IMO facilitates easy and informal contacts with staff members of IMO and this is very important for the Director and his staff. The IOPC Fund's offices in the IMO headquarters provide appropriate, functional and pleasant accommodation. It is a considerable facilitation in the administration of the IOPC Fund that all questions regarding accommodation are taken care of by IMO. The price payable by the IOPC Fund to IMO for the accommodation, the services related to the accommodation and the other services is appropriate.

6.4 Considerable help has been given to the Director by the IOPC Fund's External Auditor, the Comptroller and Auditor General of the United Kingdom. In the course of the Auditor's preparation of the Reports on the IOPC Fund's Financial Statements, a close co-operation has developed which has allowed the Director to discuss a variety of administrative questions with the Auditor's representatives. The discussion of the IOPC Fund's financial management, in particular, has been of considerable assistance. A number of amendments to the IOPC Fund's Internal and Financial Regulations, suggested by the Director, result from this collaboration. The Director gratefully expresses his appreciation for this fruitful co-operation.

7 Revision of CLC and Fund Convention

7.1 The International Conference on Liability and Compensation for Damage in Connection with the Carriage of Certain Substances by Sea succeeded in adopting one Protocol each to the 1969 Civil

Liability Convention and the 1971 Fund Convention. The Protocols adopted by the Conference are contained in IMO documents LEG/CONF.6/66 and 6/67. The Conference also adopted four Resolutions which are reproduced in IMO document LEG/CONF.6/64/Add.1. Resolution 3 is of direct interest to the IOPC Fund and is reproduced at Annex I.

7.2 The most important amendments to the 1969 CLC and the 1971 Fund Convention included in the Protocols relate to the scope of application of the Conventions and the limits of liability and compensation. The new Conventions are applicable beyond the territorial sea to the exclusive economic zone. It is also clarified that preventive measures taken to prevent damage in this area are covered wherever they are taken. The new Conventions also cover spills caused by unladen tankers and expenses for the removal of a pure threat situation, ie where no actual spill of persistent oil has occurred. With respect to the shipowner's limit, a minimum limit of 3 million SDRs for ships up to 5 000 units of tonnage has been introduced. For ships of between 5 000 and 140 000 units of tonnage the liability is 3 million SDRs plus 420 SDRs for each additional unit of tonnage over 5 000. The liability for ships exceeding 140 000 units of tonnage is 59.7 million SDRs. The IOPC Fund's maximum liability is 135 million SDRs, including the compensation payable by the shipowner. This liability of the IOPC Fund increases to 200 million SDRs when the total quantity of contributing oil received by contributors in three Member States exceeds 600 million tonnes. The shipowner's limitation of liability can only be broken if the pollution damage resulted from his personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result. Article 5 of the Fund Convention has been deleted so there will be no indemnification under the new regime. A simplified amendment procedure allows an increase of the amounts of liability and compensation without the convening of a Diplomatic Conference.

With respect to the administration of the new Fund, it is important to note that under the 1984 Convention there will be no initial contributions and the new Fund will have no Executive Committee; Contracting States will be liable to compensate damage resulting from a delayed submission to the Fund of reports on contributing oil. A number of other amendments to the Fund Convention will facilitate the administration of the Organisation.

7.3 At the closure of the Diplomatic Conference the Director conveyed the sincere appreciation of the IOPC Fund to the President of the Conference, to all delegates and to the Secretary-General of IMO and his staff for the efforts which they had made in order to achieve this result. He acknowledged that a number of delegations had expressed their disappointment with regard to the amounts of liability and compensation but that they had accepted them, recognising that in view of the differences of opinion expressed it would not have been possible to reach a very different result. He expressed the hope that the delegations which had expressed reservations would, on return to their

countries, come to the conclusion that the Protocols adopted by the Conference represented the best possible compromise. He also expressed the hope that the same would apply to the provision concerning the geographical scope. He expressed the wish that governments would be able to recommend their respective parliaments to ratify the Protocols which might then enter into force before the end of the decade. The IOPC Fund would thus be in a position to grow under the new Convention and would increase its Membership. One had to be realistic and realise that pollution damage would continue to occur in the future; however, the amendments that have been made to the Fund Convention would make it possible to compensate victims more promptly and efficiently.

7.4 Resolution 3 of the Conference (see Annex I) requests the Assembly of the IOPC Fund to authorise and instruct its Director to perform certain functions in order:

- (a) to encourage the early entry into force of the 1984 Protocol;
- (b) to provide all the necessary assistance for the setting up of the new Fund, including making the necessary preparations for the first session of the Assembly and negotiating with IMO with a view to enabling the new Fund to reach agreements regarding accommodation and supporting services;
- (c) to enter into negotiations with the new Fund with a view to reaching a mutually advantageous agreement enabling both Funds to share a single Secretariat, headed by the Director; and
- (d) to perform, in addition to its functions under the 1971 Fund Convention, duties under the 1984 Fund Convention, provided that the interests of Parties to the 1971 Fund Convention are not unduly affected.

It is suggested that this Assembly, at its seventh session, adopts a Resolution complying with the requests expressed by the Conference. A draft Resolution prepared by the Director is at Annex II.

8 Relationship with Other Organisations

8.1 The IOPC Fund enjoys and benefits from close and friendly relations with many international intergovernmental and non-governmental organisations. Outstanding is the very special relationship with IMO which has been so successful during the whole time of the existence of the IOPC Fund and even before that, when the IOPC Fund was still in status nascendi. The general assistance given by IMO to the IOPC Fund throughout these six years and the fruitful co-operation between these Organisations as such, their Heads and the individual staff members, has been stressed on several occasions and can now only be repeated. The

Director expresses his heartfelt gratitude to the Secretary-General of IMO and his staff for all the assistance given to the IOPC Fund and to him personally.

8.2 Co-operation with other United Nations organisations and intergovernmental organisations has provided the IOPC Fund with considerable information and help. The Director wishes to express his appreciation.

8.3 The IOPC Fund enjoys very pleasant co-operation with a number of international non-governmental organisations. The close co-operation with P & I Clubs with respect to the settlement of specific incidents has been mentioned earlier. In addition to this there is a constant exchange of information and views with the International Group of P & I Clubs, which has observer status with the IOPC Fund. The International Tanker Owners Pollution Federation Ltd (ITOPF) is employed by the IOPC Fund to provide the technical expertise with regard to pollution incidents (except for those occurring in Japan). This contractual relationship necessitates a close co-ordination with respect to the IOPC Fund's claim settlement policy and the actual settlement of claims. In addition, ITOPF and the IOPC Fund benefit mutually from the exchange of information on a wide variety of questions in the field of oil pollution incidents. The co-operation with this Organisation and the exchange of information and views with the staff members of ITOPF is of high value for the general education of the IOPC Fund staff.

The co-operation with OCIMF and CRISTAL has been very close from the very beginning. Both Organisations have given considerable help and advice in the very first weeks of the IOPC Fund's existence in relation to the setting up of this Organisation. The on-going close collaboration with CRISTAL and OCIMF has provided the IOPC Fund with an appropriate and necessary forum for discussion of common issues with representatives of the oil companies. This exchange of information and views has been very fruitful for both sides. The similarity between the functions of CRISTAL and the IOPC Fund has allowed a close co-operation between these two Organisations. The exchange of views and the mutual discussion of claims policy procedures has helped the IOPC Fund to develop its own procedures to the advantage of claimants. The Director appreciates that he has been invited several times by CRISTAL, as well as by OCIMF and ITOPF, to express his views on certain issues at meetings of these Organisations.

The observer status with the IOPC Fund of three other Organisations active in the maritime field, ICS, BIMCO and CMI, has provided the IOPC Fund with important information necessary for the conduct of its business. The mutual exchange of information with these Organisations has been valuable for the IOPC Fund's work.

The Director is grateful and feels honoured that in addition to this close collaboration between the IOPC Fund and the Organisations, it has been possible to develop a very personal

relationship and a close friendship with the representatives of these Organisations. This friendship has enriched the co-operation and considerably facilitated the work of everyone involved.

9 Acknowledgements

This is the last Report which I have the pleasure to submit to the Assembly of the International Oil Pollution Compensation Fund. I would like to take this opportunity to express my sincere gratitude to the Members and their representatives of the IOPC Fund's Assembly and Executive Committee sessions. It has been a unique privilege to build up the Organisation of the IOPC Fund and to serve this Organisation for its first six years. Everything that has been achieved has been possible only with the help and support from all delegates and especially the Chairmen and the Executive Committee and the Assembly. My sincere thanks go to Professor Tanikawa, Mr Novia, Mr Perrett and Mr Mutttilainen, the Chairmen of the Executive Committee, and especially to Mr Bredholt, Chairman of the Assembly for all these years.

I can assure Members that I have given my very best and have devoted all my time and strength to this appointment. I have attempted to contribute my part to the building up of this unique creature among intergovernmental organisations, by making sure that the IOPC Fund could fulfil the main function given to it by the 1971 Fund Convention, that is to provide compensation to victims of oil pollution incidents as quickly as possible, to contribute to the development of the law and internationally agreed common practice with regard to liability and compensation for oil pollution damage, to avoid unnecessary administrative expenses and to ensure that the persons funding this Organisations, the receivers of contributing oil, are convinced that their payments are for a good cause, and that the money is collected from them and spent in accordance with the terms of the Fund Convention. No doubt mistakes have been made, but I am confident that it has been possible to avoid serious mistakes affecting the functioning of the IOPC Fund. I have given my best and I hope this was good enough.

At the end of the year the Secretariat of the IOPC Fund will be handed over to my successor who will be appointed during this session of the Assembly. I am pleased that it has been possible, at least as it appears at the time of writing, to hand over the Organisation with no serious problems outstanding, most pollution incidents settled and the way clear for a hopefully bright future of the IOPC Fund.

ANNEX IRESOLUTION CONCERNING THE ESTABLISHMENT OF THE INTERNATIONAL
OIL POLLUTION COMPENSATION FUND, 1984

The States represented at the Conference,

HAVING ADOPTED the Protocol of 1984 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971,

CONSIDERING THAT there is a need, before the Protocol enters into force and for some time thereafter, to prepare certain administrative and organisational measures in order to ensure that the International Oil Pollution Compensation Fund (hereinafter called "the Fund") to be established under the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984 (hereinafter called "the Fund Convention"), can operate properly as from the date of entry into force of the said Protocol,

CONSIDERING THAT there is need to provide for a smooth transition of administrative and organisational measures to the regime under the 1984 Fund Convention,

1 REQUEST the Assembly of the International Oil Pollution Compensation Fund, 1971 (hereinafter called "the 1971 Fund"), established under the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (hereinafter called "the 1971 Fund Convention"), to authorize and instruct its Director, on the basis that all expenses that may be incurred would be reimbursed by the Fund:

- (a) to perform, in addition to his functions under the 1971 Fund Convention, duties under the Fund Convention, provided that the interests of Parties to the 1971 Fund Convention are not unduly affected;
- (b) to make all possible efforts, in co-operation with other international organisations concerned such as the International Maritime Organization (IMO) to encourage early entry into force of the said Protocol;
- (c) to provide all necessary assistance for the setting up of the Fund;
- (d) to make the necessary preparations for the first session of the Assembly of the Fund, which is to be convened by the Secretary-General of IMO, in accordance with Article 36 of the Fund Convention;

- (e) to enter into negotiations with IMO with a view to enabling the Fund to reach agreements, as soon as possible, regarding accommodation and supporting services, as appropriate;
- (f) to enter into negotiations with the Fund at the appropriate time with a view to reaching a mutually advantageous arrangement enabling both Funds to share a single Secretariat, headed by the Director;

2 RECOMMEND that regular sessions of the Assemblies, under Article 19, paragraph 1 of the Fund Convention and the 1971 Fund Convention, be held, as far as practicable, during the same period and at the same place;

3 FURTHER RECOMMEND that the Fund should:

- (a) ensure, in its Staff Rules and Regulations, that personnel employed by the 1971 Fund on the date when the 1971 Fund Convention ceases to be in force will receive treatment no less favourable, as regards the terms and conditions of their service, as a result of the change of legal personality of the organisation;
- (b) enter into negotiations with the Host Government so that the question of the privileges, immunities and facilities to be accorded to the Fund can be considered with a view to its being settled in a mutually satisfactory manner, having regard to the privileges, immunities and facilities accorded at present to the 1971 Fund.

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ANNEX II

DRAFT
ASSEMBLY RESOLUTION 7

The Assembly of the International Oil Pollution Compensation Fund,

RECALLING that the International Conference on Liability and Compensation for Damage in connection with the Carriage of Certain Substances at Sea, held in London from 30 April to 25 May 1984, adopted the Protocol of 1984 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971,

NOTING that Article 2 of the Fund Convention as amended by the said Protocol (hereinafter referred to as "the 1984 Fund Convention") establishes a legal entity called "the International Oil Pollution Compensation Fund, 1984" (hereinafter referred to as "the 1984 Fund"),

BEING AWARE of the Resolution adopted by the Conference concerning the establishment of the 1984 Fund, requesting the Assembly of the International Oil Pollution Compensation Fund, 1971 (hereinafter referred to as "the 1971 Fund") established under the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (hereinafter referred to as "the 1971 Fund Convention"), to provide certain assistance in the setting up and in the administration of the 1984 Fund,

1 DECIDES to authorize and instruct the Director, on the basis that all expenses which may be incurred as a result of the below mentioned activities would be reimbursed by the 1984 Fund,

- (a) to perform, in addition to his functions under the 1971 Fund Convention, duties under the 1984 Fund Convention, provided that the interests of Parties to the 1971 Fund Convention are not unduly affected;
- (b) to make all possible efforts, in co-operation with other international organisations concerned, such as the International Maritime Organization (IMO), to encourage early entry into force of the said Protocol;
- (c) to provide all necessary assistance for the setting up of the 1984 Fund;

- (d) to make the necessary preparations for the first session of the Assembly of the 1984 Fund, which is to be convened by the Secretary-General of IMO, in accordance with Article 36 of the 1984 Fund Convention;
- (e) to enter into negotiations with IMO with a view to enabling the 1984 Fund to reach agreements, as soon as possible, regarding accommodation and supporting services, as appropriate;
- (f) to enter into negotiations with the 1984 Fund at the appropriate time with a view to reaching a mutually advantageous arrangement enabling both Funds to share a single Secretariat, headed by a Director; and

2 ENDORSES the recommendation of the Conference that regular sessions of the Assembly of the 1971 Fund should be held, as far as practicable, during the same period and at the same place as the sessions of the 1984 Fund Assembly.
