



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

ASSEMBLY
7th session
Agenda item 7

FUND/A.7/5
7 August 1984

Original: ENGLISH

REPORT ON CONTRIBUTIONS

Note by the Director

1 Payment of Contributions

1.1 The Assembly at its sixth session decided that the total amount of annual contributions to be levied in 1983 is £24 106 000 consisting of £1 000 000 according to Article 12.2(a) of the Fund Convention (General Fund) and of £23 106 000 according to Article 12.2(b) of the Fund Convention (Major Claims Fund). The £23 106 000 levied under Article 12.2(b) of the Fund Convention comprised £20 000 000 in respect of the Major Claims Fund TANIO, and £3 106 000 in respect of the combined Major Claims Fund ONDINA/FUKUTOKU MARU NO 8. Calculations to this end were made, but owing to subsequent amendments to oil receipt figures, the total amounts for which invoices were despatched were as follows:

General Fund	£1 003 849.54
Major Claims Fund TANIO	£20 087 296.13
Major Claims Fund ONDINA/FUKUTOKU MARU NO 8	£3 109 816.40

Payment of the contributions was due on 15 January 1984.

1.2 The report on 1983 annual contributions due in 1984 will appear in Schedule I of the Financial Statements of the IOPC Fund for the financial period ending 31 December 1984, to be presented to the 8th session of the Assembly in 1985. Nevertheless, to give the Assembly proper information on the payment of contributions, the necessary particulars, as at 30 June 1984, are given in Annexes I - V to this document, as follows:

- Annex I : Report on Initial Contributions 1983
- Annex II : Report on Annual Contributions 1983
- General Fund
- Annex III: Report on Annual Contributions 1983
- Major Claims Fund TANIO
- Annex IV : Report on Annual Contributions 1983
- Major Claims Fund ONDINA/FUKUTOKU MARU NO 8
- Annex V : Report on Contributions Outstanding for
Previous Financial Periods

1.3 Generally, the response to requests for payments of the 1983 assessments has been as commendable as in previous years. By 16 January 1984 (15 January being a Sunday) a total of £19 175 316.77 had been received, a performance of 79.23%. As at 30 June 1984, the receipt was 96.63% of the contributions assessed. Reminders are being sent to those contributors who are still in arrears.

With respect to the contributions payable by Ghana, however, the Director regrets that he cannot report any payment after the discussion of this matter at the Assembly's last session. In accordance with the instruction given to him by the Assembly, the Director had expressed to the Ghanaian Government, by letter of 20 October 1983 to Ghana's High Commissioner in London, the Assembly's deep concern about Ghana's failure to pay the contributions due to the IOPC Fund. As a result of this letter, the Ghanaian Ministry of Fuel and Power had offered to pay the contributions outstanding in instalments. This offer was accepted by the Director; however, no payment has been received at the time of drafting this document.

2 Actions Against Contributors in Arrears

2.1 The Assembly, at its sixth session, requested the Director to prepare a note for the Assembly's seventh session outlining the theoretically possible actions which the IOPC Fund may take in respect of governments who are liable to pay contributions but who fail to do so (see document FUND/A.6/16, paragraph 7.2).

2.2 With respect to contributors who have not paid their contributions by the due date, the Director endeavours to obtain payment of contributions without taking any legal action. The IOPC Fund achieved satisfactory results with this policy of not taking court action as long as there is a possibility of obtaining payment of contributions without such action. This policy applies to all contributors, irrespective of whether they are liable as receivers of contributing oil or whether a Contracting State is liable in accordance with Article 14 of the Fund Convention. In the case of a Contracting State the Director uses all diplomatic channels open to him to convince the State of the necessity of timely payment of contributions. So far, practically

all contributions have been collected without any court proceedings being initiated by the IOPC Fund. The relatively high rate of interest payable on unpaid contributions in accordance with Article 13.1 of the Fund Convention and Internal Regulation 3.10 may have assisted in this respect.

2.3 According to Article 13 paragraph 2 of the Fund Convention each Contracting State shall ensure, under its national law, that the obligation to pay contributions to the IOPC Fund is fulfilled. With respect to a Contracting State that has assumed itself obligations that are incumbent under the Fund Convention on the receivers of contributing oil, this provision may mean that such State is obliged to make the necessary administrative arrangements that allow the payment of contributions within the time period allowed by the Assembly.

2.4 The Fund Convention does not specify any action that the IOPC Fund may take against a Contracting State being liable to pay contributions in accordance with Article 14 of the Fund Convention but failing to pay the contributions in time. However, Article 14 paragraph 5 provides that, if proceedings are brought against such State, this State shall waive any immunity that it would otherwise be entitled to invoke. The Fund Convention does not contain any provision, known from other organisations, according to which a Contracting State in arrears with its contributions may lose its voting rights. Article 32 (a) of the Fund Convention states clearly and unequivocally that in the Assembly and the Executive Committee "each member shall have one vote".

2.5 The only other action the IOPC Fund may consider taking against a Contracting State in arrears with its contributions, in addition to those actions mentioned in paragraph 2.2 above, may be the withholding of payment of compensation in case of a pollution incident causing damage to such Member State. However, the right of the IOPC Fund to set off the compensation payable to a Government against overdue contributions may depend on the national law in question since the Fund Convention does not deal with this question. This reservation of national law is expressly acknowledged in Internal Regulation 8.9. In any case, such action would be possible only with respect to claims for compensation of pollution damage made by the State itself and not for claims made by other legally independent persons or entities. The right to claim compensation can be enforced by each individual person suffering pollution damage directly against the IOPC Fund and is independent of the Government's obligation to pay contributions.

3 Action Required

The Assembly is invited to take note of the information contained in this document and to decide on any action it may wish the Director to take with respect to overdue contributions.

ANNEX I

REPORT ON INITIAL CONTRIBUTIONS 1983 AS AT 30.6.84

<u>Contributions in</u> <u>Respect of</u> <u>State</u>	<u>Assessment</u>	<u>Receipt</u>	<u>Outstanding</u>	<u>% Paid</u>
	£	£	£	
* Fiji	-	-	-	-
Netherlands (additional)	833	833	0.00	100.00
Sri Lanka	4 228	4 228	0.00	100.00
TOTALS	5 061	5 061	0.00	100.00

* No liability for contribution.

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ANNEX II

REPORT ON ANNUAL CONTRIBUTIONS 1983 - GENERAL FUND AS AT 30.6.84

<u>Contributions in</u> <u>Respect of</u> <u>State</u>	<u>Assessment</u>	<u>Receipt</u>	<u>Outstanding</u>	<u>% Paid</u>
	£	£	£	
Algeria	220.81	-	220.81	0.00
Bahamas	21 209.52	21 209.52	-	100.00
Denmark	9 699.42	9 699.42	-	100.00
*Fiji	-	-	-	
Finland	14 080.40	14 080.40	-	100.00
France	121 770.91	120 495.31	1 275.60	98.95
Gabon	424.62	424.62	-	100.00
Germany, Federal Republic of	31 517.77	31 517.77	-	100.00
Ghana	1 319.66	-	1 319.66	0.00
*Iceland	-	-	-	
Indonesia	17 344.71	-	17 344.71	0.00
Italy	158 087.95	155 942.69	2 145.26	98.64
Japan	316 035.26	315 815.82	219.44	99.93
*Kuwait	-	-	-	
Liberia	419.76	-	419.76	0.00
*Maldives	-	-	-	
*Monaco	-	-	-	
Netherlands	105 573.56	105 573.56	-	100.00
Norway	9 227.87	9 227.87	-	100.00
Papua New Guinea	249.86	249.86	-	100.00
Spain	59 060.94	59 060.94	-	100.00
Sri Lanka	1 103.68	1 103.68	-	100.00
Sweden	21 777.25	21 039.03	738.22	96.61
Syrian Arab Republic	5 704.96	5 704.96	-	100.00
Tunisia	2 632.02	810.96	1 821.06	30.81
*Tuvalu	-	-	-	
**United Arab Emirates	-	-	-	
United Kingdom	90 294.86	90 294.86	-	100.00
Hong Kong	4 507.53	4 507.53	-	100.00
Yugoslavia	11 586.22	-	11 586.22	0.00
TOTALS	1 003 849.54	966 758.80	37 090.74	96.31

* No liability for contributions in 1983

** Not a Member State in 1983

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ANNEX IIIREPORT ON ANNUAL CONTRIBUTIONS 1983 - MAJOR CLAIMS FUND
TANIO AS AT 30.6.84

<u>Contributions in</u> <u>Respect of</u> <u>State</u>	<u>Assessment</u>	<u>Receipt</u>	<u>Outstanding</u>	<u>% Paid</u>
	£	£	£	
Algeria	8 323.18	315.94	8 007.24	3.80
Bahamas	609 739.85	609 739.85	-	100.00
Denmark	276 327.29	276 327.29	-	100.00
*Fiji	-	-	-	
Finland	-	-	-	
France	3 134 797.21	3 114 090.36	20 706.85	99.34
Gabon	-	-	-	
Germany, Federal Republic of	1 320 757.96	1 309 106.35	11 651.61	99.12
Ghana	22 411.95	-	22 411.95	0.00
*Iceland	-	-	-	
Indonesia	272 587.21	-	272 587.21	0.00
Italy	3 508 825.73	3 464 145.42	44 680.31	98.73
Japan	7 658 504.48	7 622 935.36	35 569.12	99.54
*Kuwait	-	-	-	
Liberia	11 694.45	-	11 694.45	0.00
*Maldives	-	-	-	
*Monaco	-	-	-	
Netherlands	-	-	-	
Norway	183 869.30	183 869.30	-	100.00
Papua New Guinea	-	-	-	
Spain	-	-	-	
Sri Lanka	-	-	-	
Sweden	567 876.61	560 428.13	7 448.48	98.69
Syrian Arab Republic	-	-	-	
Tunisia	38 436.22	38 436.22	-	100.00
*Tuvalu	-	-	-	
**United Arab Emirates	-	-	-	
United Kingdom	2 160 226.15	2 160 226.15	-	100.00
Hong Kong	82 328.58	77 775.89	4 552.69	94.47
Yugoslavia	230 589.96	-	230 589.96	0.00
TOTALS	20 087 296.13	19 417 396.26	669 899.87	96.67

* No liability for contributions in 1983

** Not a Member State in 1983

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ANNEX IVREPORT ON ANNUAL CONTRIBUTIONS 1983 - MAJOR CLAIMS FUND
ONDINA/FUKUTOKU MARU NO 8 AS AT 30.6.84

<u>Contributions in</u> <u>Respect of</u> <u>State</u>	<u>Assessment</u> £	<u>Receipt</u> £	<u>Outstanding</u> £	<u>% Paid</u>
Algeria	-	-	-	
Bahamas	75 687.69	75 687.69	-	100.00
Denmark	32 083.52	32 083.52	-	100.00
*Fiji	-	-	-	
Finland	50 151.17	50 151.17	-	100.00
France	429 117.70	423 855.50	5 262.20	98.77
Gabon	-	-	-	
Germany, Federal Republic of	182 763.56	182 763.56	-	100.00
Ghana	4 282.19	-	4 282.19	0.00
*Iceland	-	-	-	
Indonesia	55 568.99	-	55 568.99	0.00
Italy	534 021.54	528 476.83	5 544.71	98.96
Japan	1 080 440.02	1 079 077.93	1 362.09	99.87
*Kuwait	-	-	-	
Liberia	1 629.59	-	1 629.59	0.00
*Maldives	-	-	-	
*Monaco	-	-	-	
Netherlands	-	-	-	
Norway	28 871.54	28 871.54	-	100.00
Papua New Guinea	772.46	772.46	-	100.00
Spain	203 673.48	203 673.48	-	100.00
Sri Lanka	-	-	-	
Sweden	80 662.57	80 662.57	-	100.00
Syrian Arab Republic	5 090.09	5 090.09	-	100.00
Tunisia	8 575.52	8 575.52	-	100.00
*Tuvalu	-	-	-	
**United Arab Emirates	-	-	-	
United Kingdom	284 419.65	284 419.65	-	100.00
Hong Kong	15 232.86	15 232.86	-	100.00
Yugoslavia	36 772.26	1 858.32	34 913.94	5.05
TOTALS	3 109 816.40	3 001 252.69	108 563.71	96.51

* No liability for contributions in 1983

** Not a Member State in 1983

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ANNEX V

REPORT ON CONTRIBUTIONS OUTSTANDING
FOR PREVIOUS FINANCIAL PERIODS
AS AT 30.6.84

Annual Contributions - General and Major Claims Funds

<u>Contributions in</u> <u>Respect of</u> <u>State</u>	<u>Assessment</u>	<u>Receipt</u>	<u>Outstanding</u>	<u>Interest</u> <u>Accrued</u>
	£	£	£	£
Ghana (1980)	20 597	783	19 814)	
Ghana (1981)	585	-	585)	10 040.91
Ghana (1982)	1 174	-	1 174)	
Italy (1982)	150 116	149 412	704*	121.05
Sweden (1981)	18 509	18 405	104*	17.89
Yugoslavia (1981)	5 974	5 196	778)	
Yugoslavia (1982)	10 082	8 085	1 997)	687.44
TOTALS	207 037	181 881	25 156	10 867.29

* Contributor has gone bankrupt. Claim has been registered in bankruptcy proceedings.