



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

ASSEMBLY
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Agenda item 14

FUND/A.8/11
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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 to maintain sufficient liquid funds.

2 The IOPC Fund's expenditure consists of:

- (a) costs and expenses of the administration of the IOPC Fund, and any deficit from preceding years;
- (b) payments of minor claims up to 15 million (gold) francs per incident; 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) above 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 from time to time 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 in 1986 is estimated as follows:

(i)	Expenditure	£
	(a) Administrative expenses	347 850
	(b) Minor claims	520 000
	(c) Working capital	2 000 000
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		2 867 850
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(ii)	Income	
	(a) Surplus as at 31.12.85	1 210 287
	(b) Interest to be earned in 1986	200 000
	(c) Annual contributions required for general fund	1 457 563
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		2 867 850
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This estimate is based on the following considerations.

Expenses

3.2 Administrative Expenses

The administrative expenses of the IOPC Fund for 1986, as proposed by the Director in the draft budget for 1986, amount to £347 850 (document FUND/A.8/10).

3.3 Minor Claims

There are four known incidents in respect of which payments may have to be made out of the general fund during 1986. The estimates for these incidents are based on the information contained in documents FUND/A.8/6, Schedule III, FUND/EXC/14/3 and FUND/EXC/14/4.

Payments will thus have to be made in respect of the JOSE MARTI incident (£2 000 for fees) and in respect of the KOSHUN MARU N°1 incident (£18 000 for indemnification and fees). As reported in document FUND/EXC.14/3, the Director has entered into discussions with claimants in the TARPENBEK incident on the possibility of reaching a compromise in an attempt to avoid lengthy legal proceedings. It is possible that the IOPC Fund will have to pay compensation in respect of the PATMOS incident (cf document FUND/EXC.14/4, paragraph 9 of the Annex). It is suggested that an amount of £500 000 be raised in respect of the TARPENBEK and the PATMOS incidents.

On the basis of the information available at the time of drafting this document, the estimated total payments from the general fund in 1986 will thus amount to £520 000.

This estimate does not include any provision for the payment of claims in respect of incidents which may occur after the drafting of this document and in respect of which payments may

have to be made before the end of 1986. Such payments would have to be met from the working capital. This would also apply to payments which, although envisaged as not being due before 1987, actually have to be made earlier.

3.4 Working Capital

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

Income

3.5 Surplus

As mentioned above, the IOPC Fund should, in accordance with the decision of the Assembly, have a working capital of £2 million. As no annual contributions were levied in 1984, payments of claims and administrative expenses in 1985 had to be met from the working capital, ie from the surplus from previous years. The working capital has, therefore, fallen below the level decided by the Assembly. The estimated surplus as at 31 December 1985 is given in the draft budget for 1986 as £1 210 287 (document FUND/A.8/10). This figure has been arrived at on the basis of an estimated general claims expenditure in 1985 of £615 088, as shown in the Annex to this document.

3.6 Interest

The income in interest from the IOPC Fund's investments in 1986 is estimated at £200 000 (see B.II of the Annex to document FUND/A.8/10, Budget 1986). This estimate is based on an average principal of about £2 million generating a yield of around £200 000 during the calendar year.

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 1986.

3.8 General Fund Assessment

The total amount of contributions required amounts to £1 457 563, as shown in the table in paragraph 3.2 above. The Assembly may wish to assess the 1985 annual contributions to the general fund at £1.5 million.

According to Article 12.2(a) of the Fund Convention, the calculation of annual contributions to the general fund shall be based on the quantity of contributing oil received during 1984.

3.9 Date of Payment

Internal Regulation 3.8 provides that, unless the Assembly decides otherwise, 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. It is suggested that the usual date of payment should be retained for the 1985 annual contributions, ie 15 January 1986.

4 Major Claims Fund

Except for the TANIO incident, there are no major incidents with which the IOPC Fund is at present dealing and in respect of which payments will have to be made in 1986 out of any major claims fund (see documents FUND/EXC.14/2, FUND/EXC.14/3 and FUND/EXC.14/4). The available amount remaining in the TANIO major claims fund is likely to be sufficient to make the necessary payments. If the IOPC Fund were to be liable to pay compensation in respect of the PATMOS incident in excess of 15 million (gold) francs, it is unlikely that any substantial payments would have to be made in 1986. It is, therefore, not necessary to levy contributions for any major claims fund in 1985.

5 Surplus in the ONDINA/FUKUTOKU MARU N°8 Major Claims Fund

5.1 Internal Regulations 4.4.1 and 4.4.2 deal with the case where there is a surplus in a major claims fund after the periods set out in Article 6 of the Fund Convention for bringing actions have lapsed and all claims and expenses arising out of the relevant incident have been settled, or where the Executive Committee is satisfied that no more claims will be made against the IOPC Fund and no more expenses will have to be met. If there remains a substantial amount, the Assembly shall decide whether such an amount shall be credited or reimbursed pro rata to the contributors. If the Assembly considers that the remaining amount is not substantial, this amount shall be transferred to the general fund.

5.2 All known claims arising out of the ONDINA and the FUKUTOKU MARU N°8 incidents have now been settled and all expenses have been paid (documents FUND/EXC.12/3, FUND/EXC.12/3/Add.1 and FUND/EXC.14/4). The three year period of prescription laid down in Article 6 of the Fund Convention has expired, and it appears that the six year period laid down in that Article is not applicable in these cases. The balance on the ONDINA/FUKUTOKU MARU N°8 major claims fund was £640 945 at 31 December 1984 (document FUND/A.8/6, Annex IV, Statement VI). A decision must therefore be taken concerning the surplus on the ONDINA/FUKUTOKU MARU N°8 major claims fund in accordance with Internal Regulations 4.4.1 and 4.4.2.

5.3 It is estimated that the surplus on this major claims fund will increase to approximately £718 000 by the end of 1985, on the basis of an average rate of interest of 12% for the year 1985.

5.4 The Assembly may wish to decide that £700 000 of the amount remaining in the ONDINA/FUKUTOKU MARU N°8 major claims fund be credited to the contributors to that fund on 15 January 1986, any amount remaining thereafter to be transferred to the general fund.

6 Action to be Taken by the Assembly

The Assembly is invited to

- (a) decide on the assessment of the 1985 annual contributions to the general fund, in accordance with Article 12 of the Fund Convention (paragraph 3.8),
- (b) decide on the date of payment of annual contributions (paragraph 3.9),
- (c) decide in respect of the surplus amount in the ONDINA/FUKUTOKU MARU N°8 major claims fund (paragraph 5.4).

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ANNEX

CLAIMS EXPENDITURE IN 1985 (General Fund)

(Figures in £ Sterling)

Incident	Compensation/Indemnification			Miscellaneous			1985 Total	Total
	Paid by 31.12.84	Paid 1.1.85 - 30.6.85	Estimate 1.7.85 - 31.12.85	Paid by 31.12.84	Paid 1.1.85 - 30.6.85	Estimate 1.7.85 - 31.12.85		
TARPENBEK	-	-	-	4 963	-	10 000	10 000	14 963
JOSE MARTI	-	-	-	3 452	2 179	1 922	4 101	7 553
EIKO MARU N°1	76 722	32 018	-	4 732	7	6 861	38 886	120 340
KOEI MARU N°3	89 233	215	2 652	7	8 933	6 861	18 661	107 901
TSUNEHISA MARU N°8	-	54 317	827	-	7	5 475	60 626	60 626
KOHO MARU N°3	-	205 232	106 048	-	7	41 167	352 454	352 454
KOSHUN MARU N°1	-	-	130 360	-	-	-	130 360	130 360
							615 088	