



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

ASSEMBLY  
8th session  
Agenda item 16

FUND/A.8/13  
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CONSIDERATION OF RESOLUTION N°3 ADOPTED BY THE  
1984 DIPLOMATIC CONFERENCE

Note by the Director

1 The 1984 International Conference on Liability and Compensation for Damage in Connection with the Carriage of Certain Substances by Sea adopted one Protocol each to the 1969 Civil Liability Convention and the 1971 Fund Convention. The Conference also adopted four Resolutions. Resolution N°3 is of direct interest to the IOPC Fund and is reproduced at the Annex.

2 In Resolution N°3, the Conference, in the first operative paragraph, requests the Assembly of the IOPC Fund to authorize and instruct its Director:

- (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 encourage the early entry into force of the 1984 Protocol to the Fund Convention;
- (c) to provide all necessary assistance for the setting up of the new Fund;
- (d) to make the necessary preparations for the first session of the Assembly to be held under the 1984 Fund Convention;
- (e) to enter into negotiations with IMO with a view to enabling the new Fund to reach agreements regarding accommodation and supporting services; and
- (f) to enter into negotiations with the new Fund with a view to reaching a mutually advantageous arrangement enabling both Funds to share a single Secretariat, headed by the Director.

In the second operative paragraph of the Resolution, the Conference recommends that regular sessions of the Assemblies under the 1984 Fund Convention and the 1971 Fund Convention should, as far as practicable, be held during the same period of time. Finally, in the third operative paragraph of the Resolution, the Conference makes recommendations as regards certain staff matters and as regards negotiations with the Host Government concerning privileges, immunities and facilities to be accorded to the new Fund.

3 At the 7th session of the Assembly, the Director proposed that the Assembly should adopt a resolution complying with the requests expressed by the Conference. A draft resolution based on Resolution N°3 of the Diplomatic Conference had been prepared by the Director (document FUND/A.7/2, Annex II).

4 The Assembly noted Resolution N°3 adopted by the Diplomatic Conference. After a discussion of the draft Resolution proposed by the Director, the Assembly considered that, for the time being, it would not be appropriate to take any decision in this regard. During the discussion, some delegations expressed strong reservations as regards the draft Resolution as a whole, while other delegations considered it to be of great importance that the Director of the IOPC Fund was instructed in accordance with the Resolution adopted by the Diplomatic Conference.

5 In view of the discussions at its 7th session, the Assembly may now wish to consider the possibility of finding a compromise between these two points of view.

6 It appears that paragraph 1, items (a), (c), (d), (e) and (f) of the operative part of Resolution N°3 concern the situation when the 1984 Protocol to the Fund Convention has entered into force, or at least when such entry into force can be expected to take place in the very near future. The same applies to paragraphs 2 and 3 of the operative part of that Resolution. For this reason, the Director does not consider it necessary for the Assembly to take any decision for the time being as regards these parts of the Resolution.

7 As for paragraph 1(b) of the operative part of Resolution N°3, this item has relevance for the period of time before the entry into force of the 1984 Protocol to the Fund Convention. In this respect, the Assembly may wish to express an opinion, as the IOPC Fund Secretariat is the only body that can provide full information on the operation of the compensation scheme under the 1984 Fund Convention.

8 In view of the foregoing, the Director submits the following draft decision for consideration by the Assembly:

The Assembly, stressing the need for wide dissemination of information on the Fund Convention and the operation of the IOPC Fund to IOPC Fund members as well as to non Member States, agrees that the Director should provide information, to States that so desire, on the system that would be established by the Civil Liability Convention and the Fund Convention as amended by the 1984 Protocols and, on request, to assist States in their procedures for ratification of the Protocols, provided that such activities would not hamper the IOPC Fund's Secretariat in carrying out its duties under the 1971 Fund Convention.

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ANNEXRESOLUTION 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 organizational 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 organizational 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 organizations 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 IMC, 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 organization;
  - (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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