



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

ASSEMBLY
8th session
Agenda item 17

FUND/A.8/14
1 August 1985

Original: ENGLISH

INCREASE OF THE MAXIMUM LIABILITY OF THE IOPC FUND

Note by the United Kingdom Delegation

1 At the 7th session of the Assembly in October 1984 the United Kingdom delegation reminded Members that Article 4.6 of the 1971 Fund Convention gave the Assembly the authority to raise the limit of compensation payable under the Fund Convention and that the possibility should not be overlooked when considering the need for higher compensation (FUND/A.7/14, paragraph 15.3).

2 It will be recalled that Article 4.6 enables the Assembly to increase the compensation ceiling, up to a maximum amount of 900 million (gold) francs (60 million SDRs), if it is satisfied that this is appropriate having regard to the experience of incidents which have occurred and in particular the amount of damage resulting therefrom and to changes in the monetary values. Under Articles 33.1 and 32(c) and (d) decisions are subject to a three-fourths majority of members present at the meeting at the time of the vote.

3 More than six years have passed since the limit was last raised under Article 4.6. In April 1979 at the 2nd Assembly the limit was raised from 450 million francs (30 million SDRs) to 675 million francs (45 million SDRs) with almost consensus support. An important factor influencing the Assembly's decision was the occurrence in the previous year of the AMOCO CADIZ incident, the pollution damage costs of which were far in excess of the original Fund limit as adopted in 1971.

4 The question of a further increase was considered at the 4th Assembly in September 1981, but the proposal on that occasion failed to secure the requisite qualified majority. Since that time, attention has been mainly directed at revision of both the Fund Convention and the Civil Liability Convention, culminating in the adoption in May 1984 of Protocols to both of the earlier Conventions. These Protocols, when they enter into force, will lead to a significant increase in the amounts of compensation available to victims (135 or 200 million SDRs, depending on membership of the 1984 Fund).

5 The United Kingdom believes that the 8th Assembly would provide a timely opportunity for the question of the Fund ceiling to be again considered, for the following main reasons:

- (a) the monetary values of the limit adopted in April 1979 has been significantly eroded by inflation (to 66% of its former value by December 1984);
- (b) the experience of the TANIO incident has again demonstrated that the current ceiling is insufficient to cope with a major spill;
- (c) with the completion of negotiations on revision of the old Conventions attention should now turn to preparing for the smooth entry into force of the 1984 Protocols. Unless the scope for increases under the 1971 Fund Convention is exercised there will be a sudden and dramatic increase in compensation limits when the Protocols enter into force; and
- (d) account should be taken of developments in the voluntary compensation arrangements (PLATO and revised CRISTAL) which provide for large increases in available compensation from 1986.

An increase in the ceiling would of course not increase costs unless there was another very large incident where costs exceeded the previous ceiling.

6 The United Kingdom recognises that a number of countries have particular concerns and that, in consequence, there may be differences of opinion as to the best way to proceed. Accordingly it is not intended to make a specific proposal in advance of the Assembly. However, the United Kingdom would invite the Assembly to address the issue and consider what action might be appropriate. The options open to the Assembly include a single increase to the maximum amount permitted under the Convention, an increase below the maximum permitted, or staged increases over a number of years (say 45 million francs per year over five years).
