



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

ASSEMBLY
8th session
Agenda item 6

FUND/A.8/4
16 August 1985

Original: ENGLISH

REPORT OF THE DIRECTOR

1 General

1.1 There have been only four new incidents since the 7th session of the Assembly involving the IOPC Fund. This has enabled the IOPC Fund's Secretariat to concentrate on finalising the settlement of claims arising out of incidents which occurred in previous years. In addition, the Secretariat has spent considerable time on the recourse action in the TANIO case which the IOPC Fund, together with the French Government, has taken against the owner of the TANIO and other parties.

1.2 Dr R H Ganten, who steered the IOPC Fund as Director through its first six years, left the Organisation at the end of 1984. The new Director, Mr Måns Jacobsson, who was appointed by the Assembly at its 7th session, took up his office on 1 January 1985.

2 Membership

2.1 Only one State has joined the IOPC Fund since the 7th session of the Assembly. The Fund Convention entered into force for the Sultanate of Oman on 8 August 1985. The IOPC Fund has now 31 Member States.

2.2 According to the information available to the IOPC Fund's Secretariat, there are reasons to expect that several States will soon join the IOPC Fund. Legislation implementing the Fund Convention is in an advanced stage in Belgium, Canada, Greece, Morocco, Poland and Portugal.

2.3 In the Director's report to the 7th Assembly it was mentioned that a Bill implementing the Civil Liability Convention and the Fund Convention had been passed by the United States House of Representatives and was awaiting approval by the Senate. The United States Congress did not have time to conclude its examination of this Bill during 1984. A Bill enabling the United States to ratify the Conventions as revised by the 1984 Protocols has now been reintroduced in Congress, and hearings have taken place before the competent committees.

2.4 The 1984 Protocols to the Civil Liability Convention and the Fund Convention have been signed, in chronological order as per the date of signature, by the United Kingdom, United States of America, Sweden, Poland, Portugal, Federal Republic of Germany, Morocco and France. No State has so far ratified or acceded to the Protocols.

2.5 As in previous years, the Fund Secretariat has made considerable efforts to increase the number of Member States. It must be recognised that the legal framework of the compensation system under the Civil Liability Convention and the Fund Convention is rather complex. For this reason, the Secretariat has tried to convey as much information as possible about the Conventions to Governments and representatives of industry. In 1984 the Director went to China, Japan, the Maldives, Sri Lanka and the United States of America for discussions on the Fund Convention with Government officials in these States. In 1985 the Director has so far visited the Ivory Coast and Morocco. He visited Denmark and the Federal Republic of Germany in connection with the preparations for the Assembly and the Executive Committee. He also participated in the 1985 Oil Spill Conference in Los Angeles (United States of America) where he gave a lecture on the TANIO incident as an illustration of the work of the IOPC Fund. The Director took part in a Regional Workshop in contingency planning in Abidjan (Ivory Coast) where he gave a lecture on the Civil Liability Convention and the Fund Convention to participants from 18 countries in Central and West Africa. The Legal Officer attended MEDIPOL 1984, a seminar for Mediterranean countries in Marseille organised by the Regional Oil Combating Centre (ROCC). The Legal Officer provided information on the IOPC Fund and its means of assisting Member States to a Meeting of Experts on Regional Arrangements for Co-operation in Combating Major Incidents of Marine Pollution, organised in London by the International Maritime Organization (IMO) and the United Nations Environment Programme (UNEP).

3 Contributions

3.1 The Assembly decided at its 7th session not to levy any annual contributions in 1984 as the amounts needed in 1985 for the payment of claims and for administrative expenses could be met from the working capital.

3.2 At that session the Assembly expressed its deep concern with regard to the failure of the Government of Ghana to make payment of the contributions due under the Fund Convention. It is with great pleasure that the Director informs the Assembly that, in December 1984 and May 1985, the Government of Ghana paid the arrears of the contributions in respect of the years 1980 - 1983 and the interest due on the amounts that were in arrears.

3.3 In general, the situation as regards the payment of contributions for previous years must be considered very satisfactory, as only very small amounts are in arrears. For details reference is made to document FUND/A.8/7.

3.4 The Director has not yet received the reports on contributing oil receipts in 1984 from some Member States. By 31 March 1985, the last date for Member States to submit their reports in accordance with the IOPC Fund's Internal Regulations, only 9 reports had been received by the Director; by 15 August 1985 altogether 22 reports had been received.

4 Settlement of Claims

4.1 As at 15 August 1985, there have been 24 incidents in respect of which the IOPC Fund, since its inception, has been or may be liable for compensation or indemnification. The total amount of compensation and indemnification paid as at this date is £34 400 000 (£18 200 000 of this amount being for the TANIO incident). For details reference is made to the Annual Report 1984 and Table M of the updated Statistics (1985) distributed during this session of the Assembly.

4.2 Since the 7th session of the Assembly four incidents have occurred which have given or are likely to give rise to claims for compensation and indemnification against the IOPC Fund. These are: the KOHO MARU N°3, the KOSHUN MARU N°1, the PATMOS and the JAN incidents. The KOHO MARU N°3 and the KOSHUN MARU N°1 incidents, which took place in Japan, have led to only small claims. The PATMOS incident which occurred in March 1985 off the coast of Calabria in the Straits of Messina in Italy could have led to massive pollution damage. Fortunately, only a relatively small quantity of oil escaped, but extensive preventive measures were taken. It is not yet possible to assess whether the IOPC Fund will have to pay a large amount of compensation in respect of this incident. The JAN incident, which took place off the east coast of Jutland in Denmark, led to extensive clean-up operations, in spite of the fact that only a relatively small quantity of oil escaped as a result of the incident.

4.3 As regards incidents which occurred before the 7th session of the Assembly, all claims arising out of the ONDINA, SHINKAI MARU N°3, EIKO MARU N°1 and TSUNEHISA MARU N°8 incidents have been finally settled. In addition to the four new incidents mentioned above, there are, as at 15 August 1985, four incidents in respect of which final settlements have not yet been reached: the TARPENBEK, TANIO, JOSE MARTI and KOEI MARU N°3 incidents.

4.4 For details of the new incidents and for recent developments regarding the settlement of claims arising out of earlier incidents, reference is made to documents FUND/EXC.14/2, FUND/EXC.14/3 and FUND/EXC.14/4.

5 Administration of the IOPC Fund

5.1 As already mentioned, there was a change in the Directorship of the IOPC Fund at the end of 1984 when Dr R H Ganten was succeeded by Mr Måns Jacobsson. In order to make the handing over

between the outgoing and the newly appointed Director as smooth as possible, the Director-designate worked together with the outgoing Director for short periods of time in October and December 1984.

5.2 The present Director would like to express his gratitude to his predecessor for the support given to him in connection with his taking over the office of Director and the assistance given to him during his first months in office. It should be noted that a number of the documents presented to the 8th session of the Assembly and to the 14th session of the Executive Committee have been prepared in consultation with the previous Director. The present Director also wishes to emphasize the invaluable support given to him by every member of the IOPC Fund Secretariat.

5.3 The Finance and Personnel Officer's Secretary left the IOPC Fund at the end of March 1985 and was replaced from the beginning of April.

5.4 Negotiations concerning a formal agreement between the IOPC Fund and IMO on the occupation of the IOPC Fund offices in the IMO building are in their final stages, and the Director hopes that the agreement can be signed before the 8th session of the Assembly. This agreement will consist of a draft underlease and an agreement and licence to occupy. The reason for this legal construction is that IMO has not yet been granted a final lease by the United Kingdom Government and is still operating on a draft lease contract with a suitable covering document. The United Kingdom Government requested that the corresponding documentation should be used as regards the relationship between IMO and the IOPC Fund.

6 Revision of the Voluntary Industry Schemes (TOVALOP and CRISTAL)

6.1 The voluntary industry schemes for compensation of oil pollution damage, TOVALOP and CRISTAL, have recently been revised. A new agreement on tanker owners' liability, entitled Pollution Liability Agreement among Tanker Owners (PLATO), has been developed. In addition, a revised CRISTAL agreement, CRISTAL (Revised) 1985, has been adopted.

6.2 The entry into force of the revised CRISTAL is made dependent upon the entry into force of PLATO. If PLATO failed to come into force by 31 March 1986 owing to lack of support from shipowners, the present CRISTAL agreement would be terminated on 1 June 1986.

6.3 The Director has had discussions with representatives of CRISTAL regarding the future co-operation between the IOPC Fund and CRISTAL. However, it should be noted that government delegations at IMO and IOPC Fund meetings have repeatedly expressed the view that States cannot ultimately rely on voluntary schemes for compensation of oil pollution damage, but consider it necessary to have an inter-governmental regime based on international legal instruments. Any voluntary scheme should, therefore, be constructed in such a way as not to interfere with the functioning of the system of compensation established by the

Civil Liability Convention and the Fund Convention nor delay the entry into force of the 1984 Protocols to these Conventions. The Director has conveyed these views to the industries concerned and hopes that they will take them into account when finalising and actually operating their proposed new schemes.

7 Relationship with other Organisations

7.1 As has been stressed repeatedly in reports by the previous Director, the IOPC Fund enjoys and benefits from close and friendly relations with many international, inter-governmental and non-governmental organisations. The present Director has already become aware of the great value of these relations. Of special importance is the assistance and support given by IMO to the IOPC Fund. The Director expresses his profound gratitude to the Secretary-General of IMO and his staff for their assistance to the IOPC Fund and the support which has already been given to him personally in connection with his taking over as Director.

7.2 The operations of the IOPC Fund have also been greatly facilitated by its close co-operation with a number of international non-governmental organisations. Of vital importance is the co-operation with the P & I Clubs in connection with the settlement of claims. The International Tanker Owners Pollution Federation Limited (ITOPF) is usually called upon by the IOPC Fund to provide technical expertise with regard to oil pollution incidents (except for those occurring in Japan). There is also close co-operation between the IOPC Fund, on the one hand, and oil industry interests represented by OCIMF and CRISTAL, on the other hand. The support of these Organisations has been of great value, and their willingness to assist the new Director in becoming acquainted with the problems arising in connection with oil pollution incidents has made it possible for him to get a much better understanding of the matters involved, in a relatively short period of time.

8 Final Remarks

As this is the first report which I have the pleasure of submitting to the Assembly, I would like to take this opportunity to express my sincere gratitude to the Assembly for the confidence placed in me in appointing me Director of the IOPC Fund. I assure every member of the Assembly that I shall do my utmost to carry out the duties that fall on me. I hope that the IOPC Fund will continue to fulfil, successfully, the main function entrusted to it by the Fund Convention, ie to provide compensation to victims of oil pollution incidents as quickly as possible and at low costs. The IOPC Fund would also contribute to the development of law and international practice with regard to liability and compensation for oil pollution damage. The IOPC Fund owes this duty to Member Governments, to victims of oil pollution incidents, to contributors, to shipowners and to P & I Clubs. The Secretariat will make every effort to ensure that the IOPC Fund will continue to assist the international community by providing adequate protection to victims of oil pollution damage.
