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OIL POLLUTION
COMPENSATION
FUND

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Agenda item 13

FUND/A.9/10/1
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CONTRIBUTIONS TO THE PROVIDENT FUND

Note by the Director

1 Introduction

1.1 At its 8th session, the Assembly considered certain questions relating to contributions to the Provident Fund on the basis of a document submitted by the Director (document FUND/A.8/10/1). One of the questions was which scale of pensionable remuneration should be applied in respect of two of the professional staff members (the Director and the Legal Officer). This question arose as a consequence of new scales of pensionable remuneration being adopted within the United Nations in 1984. In view of the decision taken by the Assembly (document FUND/A.8/15, paragraph 13.2) and recent developments, the Director has considered it necessary to refer this question to the Assembly for new consideration.

1.2 The United Nations system operates a pension scheme, the United Nations Joint Staff Pension Fund (UNJSPF).

1.3 The IOPC Fund operates a Provident Fund instead of a pension scheme. Both the IOPC Fund and staff members contribute to the Provident Fund on such terms and conditions as may be approved by the Executive Committee (Staff Regulation 23(b)). The rates of contributions to the Provident Fund are, as from 1 January 1985, 7.25% for staff members and 14.5% for the IOPC Fund, calculated on the basis of the "pensionable remuneration" (document FUND/A.8/15, paragraph 13.2). As regards levels of pensionable remuneration, the IOPC Fund has followed the scales applied by IMO for contributions to the United Nations Joint Staff Pension Fund (document FUND/A.2/5/1, paragraph 13). Further details on the operations of the IOPC Fund's Provident Fund are given in document FUND/A.8/10/1, paragraphs 1.1 - 1.4.

2 1984 Increases in the Levels of Pensionable Remuneration for Staff Members in the Professional and Higher Categories

2.1 The Secretary-General of IMO implemented an increase in the levels of pensionable remuneration for staff members in the professional and higher categories with effect from 1 October 1984, in accordance with IMO Staff Rule 103.11 and Article 54(b) of the Regulations of the United Nations Joint Staff Pension Fund (IMO documents C.53/12(b) and C.53/12(b)/Add.1).

2.2 The Director decided to implement this revised scale of pensionable remuneration to the professional staff of the IOPC Fund as from 1 October 1984. This scale is shown in Annex I to this document.

3 Decisions by the General Assembly of the United Nations at its 1984 session

3.1 The UN Joint Staff Pension Fund has, in recent years, had an actuarial deficit. Various measures have been discussed in order to reduce this deficit. The consideration of this problem by various bodies within the United Nations is set out in detail in document FUND/A.8/10/1, paragraphs 3.1 - 3.3. In addition, the General Assembly of the United Nations has requested a number of studies on the level of pensionable remuneration for the professional and higher categories.

3.2 Following a study requested by the General Assembly, the International Civil Service Commission (ICSC) proposed a new scale of pensionable remuneration. The proposal entailed reductions in the level of pensionable remuneration for staff at higher grades and increases for staff at lower grades. The proposal would have protected the acquired rights of existing staff members in grades where there was a reduction. Staff members whose pensionable remuneration at 31 December 1984 was higher than the amount provided in the new scale should thus retain their pensionable remuneration as at that date, by freezing their pensionable remuneration until such time as it is overtaken by application of the normal adjustment mechanism to be applied to the new scale.

3.3 At its 1984 session, the General Assembly of the United Nations decided to adopt the new scale of pensionable remuneration as recommended by ICSC, as from 1 January 1985; this scale is set out in Annex II to this document. The General Assembly did not, however, approve the introduction of the transitional measures to protect the acquired rights of existing staff members as suggested by ICSC. The General Assembly requested the Pension Fund Board to prepare recommendations on new transitional measures, for consideration at the session of the General Assembly in 1985. In the meantime, the General Assembly suspended the operation of the current adjustment procedure which is laid down in Article 54(b) of the Regulations of the UN Joint Staff Pension Fund.

3.4 A table showing the differences in Step I of each grade between the old scale of pensionable remuneration and the new scale was given in paragraph 3.5 of document FUND/A.8/10/1.

4 Implementation of the New Scale Adopted by the General Assembly of the United Nations

4.1 The Secretary-General of IMO decided in January 1985 to implement, in principle, the new scale of pensionable remuneration adopted by the General Assembly of the United Nations. He also decided to apply certain measures on an interim basis with respect to staff members who joined IMO before 1 January 1985 and whose pensionable remuneration under the new scale would be lower than under the scale in operation on 31 December 1984 (document FUND/A.8/10/1, paragraph 4.1).

4.2 The Director followed IMO and decided to introduce the new scale as regards the professional staff of the IOPC Fund with effect from 1 January 1985, subject to interim measures corresponding to those applied within IMO. With respect to two staff members (the Director and the Legal Officer) whose pensionable remuneration under the new scale would be lower than under the scale applicable on 31 December 1984, the Director decided to apply the following interim measures:

Contributions to the Provident Fund will continue to be based on the pensionable remuneration scale in operation as at 31 December 1984. However, the difference between the contributions based on the old and the new scales will be reserved in a separate account, but within the Provident Fund, pending a decision by the Executive Committee.

5 Consideration at the 8th Session of the IOPC Fund's Assembly

5.1 At its 8th session, the Assembly of the IOPC Fund considered whether any special measures should be taken within the IOPC Fund with regard to those professional staff members who were given contracts of employment before the new scale became effective (ie 1 January 1985) and whose pensionable remuneration under the new scale would be lower than under the old one. This question concerned only two staff members, the Director (grade D.2) and the Legal Officer (grade P.4); the third staff member in the professional category (then grade P.1, but from 1 July 1986 grade P.2) would get a higher pensionable remuneration under the new scale than under the old one. The Legal Officer's contract was concluded on 1 November 1982, and he took up office on that date. The Director's contract was concluded on 12 October 1984. He did not take up office until 1 January 1985, but his contract of 12 October 1984 was definite and unconditional; a corresponding situation does not exist for any staff member within IMO.

5.2 The questions that the Assembly had to consider were set out in detail in document FUND/A.8/10/1, paragraphs 5.2 - 5.5, indicating the options that, in the view of the Director, were available.

5.3 The Assembly decided at its 8th session that the interim measures mentioned in paragraph 4.2 should be applied in respect of the Director and the Legal Officer, pending a final decision within the United Nations. If a solution were adopted within the United Nations protecting the rights of staff members in respect of whom the pensionable remuneration under the scale in operation as at 31 December 1984 was more favourable than under the new scale, then such a solution should also be applied, mutatis mutandis, to the Director and the Legal Officer. Should the Director not be able to apply the solution adopted, the Director should continue to apply these interim measures and refer the matter to the Assembly at its next session for decision (document FUND/A.8/15, paragraph 13.2).

5.4 Following IMO, the Assembly of the IOPC Fund likewise decided at its 8th session to raise the rates of contributions to the Provident Fund to 7.25% for staff members and 14.5% for the IOPC Fund, as from 1 January 1985 (document FUND/A.8/15, paragraph 13.3).

6 Developments within the United Nations since the 8th Session of the IOPC Fund's Assembly

6.1 At its 1985 session, the General Assembly of the United Nations decided that all staff should be placed on the new scale of pensionable remuneration and did not introduce any transitional measures in respect of the levels of pensionable remuneration, ie with regard to the basis on which contributions to the UN Joint Staff Pension Fund are made.

6.2 However, the General Assembly approved transitional measures concerning the pension benefits to be paid from the UN Joint Staff Pension Fund to staff members who were adversely affected by the new lower scale of pensionable remuneration which came into effect on 1 January 1985. The transitional measures apply to staff members who were in service on 31 December 1984 and ensure that no staff member will, on retirement, get a smaller benefit than if he had retired at an earlier date. The method of calculation for the purpose of establishing the level of pension benefits is somewhat complex.

6.3 It should be mentioned that the decision on transitional measures contains a further condition for it to be applied, ie that the staff member concerned should have been serving for at least 36 months on 31 December 1984. However, one reason for this requirement was that, under the UN pension scheme, the pension is calculated on the basis of the average of the best three years of pensionable remuneration during the last five years of service.

In view of the difference between a pension scheme of this kind and the IOPC Fund's Provident Fund scheme, it appears that this requirement is not directly relevant to the IOPC Fund.

6.4 The Secretary-General of IMO decided in January 1986 to terminate the application of the transitional measures referred to in paragraph 4.1 above. The amounts held on the special accounts in the name of the staff members and of IMO as a consequence of the application of these measures were returned to their respective sources (IMO document C.56/14(a), paragraph 11).

6.5 In view of the differences between the UN's pension system and the IOPC Fund's Provident Fund scheme, the Director decided to continue to apply the corresponding transitional measures, pending a decision by the IOPC Fund's Assembly.

6.6 The General Assembly also decided at its 1985 session to continue the suspension of the operation of the provisions of the Regulations of the UN Joint Staff Pension Fund providing for adjustments in pensionable remuneration. In addition, the General Assembly requested a comparative study of the levels of pension benefits and the ratios of pensions to salaries in the United Nations scheme and in that of the comparator country (USA). Moreover, it requested a review of the methodology for the determination of pensionable remuneration for professional and higher categories (IMO document C.56/14(b), paragraph 5).

6.7 Discussions have been going on in the UN Joint Staff Pension Board on further increases of the rates of contributions. At its session in 1985, the General Assembly deferred until its 1986 session a proposal by the Pension Fund Board that the contribution rate should be increased for staff members and for organisations by 0.25% and 0.50%, respectively, in order to reduce the actuarial deficit of the Pension Fund, and requested the Board to submit recommendations on additional economy measures with a view to eliminating the need for any increase in the liabilities of Member States (IMO document C.56/14(a), paragraph 9).

6.8 In March 1986, the ICSC reviewed proposals from its Secretariat with respect to the introduction of a different methodology for the determination of the scale of pensionable remuneration for the professional and higher categories, which will lead to a further reduction in the scale. The Pension Board has also recently considered the question of the levels of pensionable remuneration for these categories of staff. At its session in July 1986, the ICSC approved a recommendation to the General Assembly for a new lower scale of pensionable remuneration.

7 Measures to be Considered within the IOPC Fund

7.1 The decision of the IOPC Fund's Assembly, instructing the Director to implement the solution adopted within the United Nations, referred to a solution protecting the rights of staff members in respect of which the pensionable remuneration under the scale in operation as at 31 December 1984 was more favourable than

under the new scale. The solution adopted within the United Nations does protect "acquired rights", but in a way which is not directly applicable to the IOPC Fund. The Director has considered it appropriate, therefore, to refer the matter back to the Assembly for decision.

7.2 It should be noted that from 1 January 1986 the problem concerns only one staff member, the Director. The present Legal Officer was promoted as from that date from grade P.4 to grade P.5. His pensionable remuneration under grade P.5 step I is higher than the level of pensionable remuneration under his previous salary grade (grade P.4 step IV). For this reason, no interim measures have been applied as regards the Legal Officer from 1 January 1986.

7.3 Under Staff Regulation 14, the IOPC Fund's staff members' salaries, allowances and grants, and the conditions of entitlement thereto, shall, except as may otherwise be provided in the Staff Regulations, conform whenever appropriate to the United Nations common system, as applied by IMO. The IOPC Fund's Provident Fund, however, is established and operated outside the UN Joint Staff Pension Fund. The new pensionable remuneration scale was adopted by the UN General Assembly in order to reduce the actuarial deficit of the Pension Fund. An actuarial deficit can never arise in the Provident Fund, as the staff member will, on separation, receive exactly the amount corresponding to his share in the Provident Fund, and the IOPC Fund would have no further pension obligation towards the staff member.

7.4 The terms and conditions as regards the contributions to the Provident Fund are determined by the Executive Committee (Staff Regulation 23(b)) <1>. The Executive Committee is not obliged to follow the terms and conditions applied within the UN system for contributions to the UN Joint Staff Pension Fund. However, in the document that was the basis for the decision of the IOPC Fund's Assembly to establish a Provident Fund, it was stated that the staff member's remuneration would, for the purpose of calculating contributions to the Provident Fund, be an amount equal to the pensionable remuneration of an IMO staff member of identical grade and step (FUND/A.2/5/1, paragraph 13). The question is whether, due to the development within the UN Joint Staff Pension Fund, there are reasons for a temporary deviation, in respect of two IOPC Fund staff members, from the levels of pensionable remuneration applied by IMO, in view of the differences between the two systems.

Possible Solutions for the IOPC Fund

7.5 One solution would be for the Assembly to decide that the new scale of pensionable remuneration should be applied to all staff members without any transitional measures of any kind.

<1> Cf the Director's proposal in document FUND/A.9/16 for an amendment of Staff Regulation 23(b) to the effect that decisions in this regard should be taken by the Assembly.

7.6 As mentioned in paragraph 6.2, the UN General Assembly has, however, accepted the need for protection of "acquired rights" in respect of payments of pension benefits. It appears that a solution along the same lines could be sought in respect of the IOPC Fund. The solution adopted by the General Assembly cannot be applied directly to the IOPC Fund's Provident Fund. The payment from the Provident Fund to a staff member on his separation corresponds exactly to the amount which has been paid into the Provident Fund by the IOPC Fund and the staff member concerned (plus interest). It is not possible, therefore, to apply the lower scale of pensionable remuneration as the basis of the contributions to the Provident Fund, and at the same time to retain the benefits to be paid to the staff members on separation at the level which would have existed if the old scale had still been in effect. Unless the IOPC Fund were to apply higher rates of contributions than those applied within the UN system, the protection of "acquired rights" with regard to the level of benefits payable can be obtained only by using a higher scale as the basis for the contributions, ie the scale applicable on 31 December 1984.

7.7 If the IOPC Fund's Assembly were to consider that the level of benefits which would follow from the old scale should be preserved for the two staff members concerned, it appears that the appropriate solution would be to apply the old scale until such time as it is overtaken by the new scale, by means of the normal adjustment procedure.

7.8 Should a solution in accordance with paragraph 7.7 be adopted, the contributions to the Provident Fund payable by the IOPC Fund in 1985 in respect of those two staff members would be £1 643 higher (which amount is reserved in a special account) than if the new scale were applied; in 1986 and 1987 the payments by the IOPC Fund in respect of the only staff member concerned (the Director) would be approximately £1 200 and £1 300, respectively, higher than if the new scale were applied.

8 Action to be Taken by the Assembly

The Assembly is invited to take such decisions as it considers appropriate with regard to the levels of pensionable remuneration in respect of the Director and the Legal Officer (cf paragraphs 7.5 - 7.8).

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PENSIONABLE REMUNERATION FOR PROFESSIONAL AND HIGHER CATEGORIES
FOR PURPOSES OF PENSION BENEFITS AND PENSION CONTRIBUTIONS

(in US dollars)

(Effective 1 October 1984)

Level	Steps												
	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	XIII
P.1	26338	27443	28567	29689	30851	32011	33190	34332	35473	36591			
P.2	35069	36319	37578	38829	40094	41373	42679	43974	45274	46575	47868		
P.3	44164	45714	47247	48788	50381	52009	53623	55218	56730	58228	59741	61235	62770
P.4	55233	57014	58797	60580	62374	64205	66029	67852	69768	71702	73637	75501	
P.5	70419	72481	74521	76490	78461	80469	82494	84520	86565	88610			
D.1	80923	83546	86150	88770	91449	94061	96604						
D.2	96971	99753	102614	105536									
ASG	124257												
USG	140032												

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ANNEX I

FUND/A.9/10/1

PENSIONABLE REMUNERATION FOR PROFESSIONAL AND HIGHER CATEGORIES
FOR PURPOSES OF PENSION BENEFITS AND PENSION CONTRIBUTIONS

(in US dollars)

(Effective 1 January 1985)

Grade	Steps												
	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	XIII
P.1	27500	28600	29700	30800	31900	33000	34100	35200	36300	37400			
P.2	35500	36700	38000	39200	40500	41700	43000	44200	45400	46700	47900		
P.3	43800	45300	46900	48400	49900	51500	53000	54500	56100	57600	59100	60700	62200
P.4	53300	54900	56500	58100	59700	61300	62900	64500	66100	67700	69300	70900	
P.5	66100	68100	70100	72000	74000	76000	78000	80000	82000	83900			
D.1	74500	76700	79000	81200	83400	85700	87900						
D.2	84800	87300	89900	92400									
ASG	103900												
USG	115700												

ANNEX II