



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

ASSEMBLY  
9th session  
Agenda item 20

FUND/A.9/17  
4 August 1986

Original: ENGLISH

## NOTIFICATION OF INCIDENTS TO THE IOPC FUND

### Note by the Director

1 When an incident occurs which may involve the IOPC Fund, it is very important that the IOPC Fund is informed of the incident as soon as possible, for several reasons. Firstly, the IOPC Fund normally prefers to send an expert to the site of the incident immediately, in order to follow the preventive measures and clean-up operations. The expert will also advise the authorities responsible for the spill response, to the extent that such advice is requested or appreciated, on the best methods of preventing further pollution and carrying out clean-up operations. In addition, the expert can advise the authorities as to whether certain measures taken, or to be taken, may later be regarded by the IOPC Fund as not being "reasonable". This provides the opportunity of discussing the merits of certain measures before they are actually taken and thus avoiding disputes later about the recovery of the expenses incurred in this respect. Early notification to the IOPC Fund thus facilitates the rapid settlement of the claims.

2 In most cases, the IOPC Fund is informed immediately when a new incident occurs. Sometimes information is given by the competent authorities of the State in which the incident occurs. Very often, details are given to the IOPC Fund by the International Tanker Owners Pollution Federation Ltd (ITOPF). The P & I Club with which the ship in question is entered may also inform the IOPC Fund directly. Sometimes, the IOPC Fund Secretariat learns about an incident from other sources, such as Lloyd's List.

3 On occasions, the IOPC Fund is not informed immediately of a new incident in which it may become involved. This has been the case several times in the last year. In such cases, the Director is placed in a much more difficult position when examining the claims. This may result in a delay in settlement. It appears, therefore, that all parties affected by the incident (the Government of the State where the incident occurred, the

authorities responsible for the clean-up operations, the shipowner and the P & I Club concerned) would have a direct interest in the IOPC Fund being informed very promptly of any incident in which the latter will or might be involved.

4 It must be recognised that the response to oil spills is organised differently in various Member States. The question as to who should inform the IOPC Fund of an oil spill will, therefore, depend on the circumstances in each Member State. An important element is also who will first have actual knowledge of an oil spill. Normally the shipowner and the P & I Club will be informed rapidly when a spill occurs, and it would be natural that they notify the IOPC Fund. The Memorandum of Understanding signed in 1980 by the International Group of P & I Clubs and the IOPC Fund, as well as that signed in 1985 by the Japan Ship Owners' Mutual Protection and Indemnity Association (JPIA) and the IOPC Fund, contain provisions to the effect that the Club concerned should notify the IOPC Fund of any spill with which it may become involved. It appears that in most States a public body will normally become involved when an oil spill has occurred. It would be useful if this public body were charged with the responsibility in such cases of ensuring that the IOPC Fund is actually notified of incidents in which it may become involved.

5 It goes without saying that the IOPC Fund has no interest in being informed of incidents in respect of which it is clear that the IOPC Fund will not have to make any payments, eg because the total amount of the damage will be covered by the shipowner's limitation amount (or, for ships flying the flag of a State Party to the Fund Convention, the limitation amount minus the amount of indemnification provided for in Article 5.1 of the Fund Convention).

6 The Assembly may wish to consider whether it should draw the attention of the Governments of Member States and other parties concerned to the importance of the IOPC Fund being informed as soon as possible of any incident in respect of which it will have to pay compensation or indemnification, or in respect of which there is a real possibility that the IOPC Fund may have to make such payments.

7 The information which would be of use to the IOPC Fund is set out in the Annex to this document.

#### Action to be Taken by the Assembly

8 The Assembly is invited to consider the information contained in this document and take such decisions as it considers appropriate.

ANNEX

Information on Incidents to be Forwarded to the IOPC Fund

It would facilitate the IOPC Fund's handling of any new incident if the following particulars were forwarded to the Director as soon as possible, to the extent that they are available:

- (a) the identity of the ship involved in the incident;
  - (b) the date, place and specific details of the incident;
  - (c) the type and quantity of oil spilt;
  - (d) the kind of pollution damage sustained or threatening;  
and
  - (e) the measures that have been taken or which are to be taken in order to combat the oil.
-