



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

EXECUTIVE COMMITTEE
12th session
Agenda item 7

FUND/EXC.12/5
15 October 1984

Original: ENGLISH

RECORD OF DECISIONS OF THE 12th SESSION OF THE EXECUTIVE COMMITTEE
(held from 8 to 10 October 1984)

Chairman: Mr H Mutttilainen (Finland)

Vice-Chairman: Mr A J Kandakai (Liberia)

1 Adoption of the Agenda (Agenda item 1)

The Executive Committee adopted the Agenda as contained in document FUND/EXC.12/1.

2 Examination of Credentials (Agenda item 2)

The following members of the Executive Committee were present:

Algeria	Italy
Bahamas	Japan
Finland	Liberia
Gabon	Netherlands
Germany, Federal Republic of	Spain

The Executive Committee took note of the information given by the Director that all members of the Executive Committee had submitted credentials which were in order.

The following States were represented as observers:

Brazil	Norway
Canada	Sri Lanka
China	Sweden
Denmark	Syrian Arab Republic
France	United Kingdom
Indonesia	United States of America
Kuwait	

The following intergovernmental and international non-governmental organisations participated as observers:

International Maritime Organization (IMO)
International Chamber of Shipping (ICS)
International Group of P & I Clubs
International Tanker Owners' Pollution Federation Ltd
(ITOPF)
Oil Companies Institute for Marine Pollution Compensation
Ltd (CRISTAL)
Oil Companies International Marine Forum (OCIMF)

3 Information on and Approval of Settlement of Claims
(Agenda item 3)

3.1 TANIO Incident

3.1.1 In introducing document FUND/EXC.12/2 the Director explained the procedure of distributing a first part payment to claimants and the unusual workload that this had caused to the Secretariat of the IOPC Fund. He also informed the Executive Committee of details of the claims that had not yet been finally settled and expressed the hope that by the end of the year all claims against the IOPC Fund arising from the TANIO incident would be agreed, with the only exception of the claim made by the United Kingdom P & I Club, on which it appeared difficult to reach agreement. The Director stated that he intended to make a further part payment to claimants now that a large part of the CLC limitation fund had been distributed to claimants.

The Director also informed the Executive Committee of an agreement which he had concluded with the French Government in addition to the subrogation agreement which was annexed to document FUND/EXC.12/2. This second agreement contained details on the co-operation between the two parties regarding the taking of legal action against the owner and other persons, and also details on a distribution of any amount recovered in these proceedings, should it not be possible to recover the full amount claimed by the French Government and the IOPC Fund.

3.1.2 The Executive Committee took note of further information given by the IOPC Fund's legal expert with regard to the legal action taken by the IOPC Fund, the French Government and other claimants against the owner and other parties.

3.2 Other Incidents

3.2.1 The Director introduced documents FUND/EXC.12/3, FUND/EXC.12/3/Add.1 and FUND/EXC.12/WP.1, containing information with regard to oil pollution incidents in respect of which claims for compensation and/or indemnification have been made against the IOPC Fund. He reported the developments which had taken place since the Executive Committee's last session. The Executive Committee took note of this information and especially of the fact that there had not been many new or costly incidents since its last session. It appreciated the Director's success in finally settling a number of earlier incidents.

3.2.2 With respect to the ONDINA incident, the Director informed the Executive Committee that he had been advised by a technical expert employed by the IOPC Fund that there was no evidence that the incident had occurred as a result of the owner's actual fault or privity. The Executive Committee agreed that no further attempts should be undertaken to try to break the owner's limitation of liability.

3.2.3 With regard to the SHINKAI MARU N°3 incident, the Executive Committee discussed the question of whether the owner was entitled to limit his liability and, if so, whether he could recover from the IOPC Fund all the expenses which he had voluntarily incurred to minimise pollution damage. In this case the owner had also been the master of the vessel and the incident had occurred as a result of his negligence committed in his capacity as the master.

The Executive Committee agreed with the Director that the owner/master's negligence, attributable to his capacity as the master, should not deprive him of his right to limit his liability in accordance with Article V of the CLC.

With respect to the recovery from the IOPC Fund of expenses voluntarily incurred for the taking of preventive measures, the Executive Committee agreed that, in this case, the Director should fully accept the claim for preventive measures taken by the owner.

4 Amendment to Staff Rules (Agenda item 4)

The Executive Committee took note of the amendments to the IOPC Fund's Staff Rules, issued by the Director, as contained in document FUND/EXC.12/4.

5 Date of Next Session (Agenda item 5)

The Executive Committee decided to hold its 13th session on Friday 12th October 1984 at 9.30 am.

6 Any Other Business (Agenda item 6)

No items were raised under this Agenda item.

7 Adoption of the Report to the Assembly (Agenda item 7)

The draft report of the Executive Committee to the Assembly, as contained in document FUND/EXC.12/WP.1, was adopted, subject to some amendments.
