



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

EXECUTIVE COMMITTEE
27th session
Agenda item 6

FUND/EXC.27/6
18 June 1991

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RECORD OF DECISIONS OF THE TWENTY-SEVENTH SESSION OF THE EXECUTIVE COMMITTEE

(held on 18 June 1991)

Chairman: Mr W W Sturms (Netherlands)
Vice-Chairman: Mr B Diarra (Côte d'Ivoire)

1 Adoption of the Agenda

The Executive Committee adopted the Agenda as contained in document FUND/EXC.27/1.

2 Examination of Credentials

The following members of the Executive Committee were present:

Canada	Italy
Cyprus	Netherlands
Finland	Poland
France	Spain
Greece	United Kingdom
Indonesia	

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

The following Contracting States were represented as observers:

Bahamas	India
Cameroon	Japan
Denmark	Norway
Germany	Sweden
Ghana	Union of Soviet Socialist Republics

The following non-Contracting States were also represented as observers:

Belgium
Brazil
China

United States of America
Venezuela

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

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

3 Incidents in Italy

3.1 The Executive Committee was invited to consider the present situation with regard to two incidents which had occurred in Italy since its 26th session, viz the HAVEN and the AGIP ABRUZZO incidents. Two video films, one of each incident, were shown to the Committee.

HAVEN Incident

3.2 The Director introduced documents FUND/EXC.27/2 and FUND/EXC.27/2/Add.1 containing information on the HAVEN incident.

3.3 The Executive Committee expressed its appreciation of the spirit of co-operation shown by the Italian Government and other Italian authorities and, in particular, of the IOPC Fund's having been given the possibility of appointing experts as consultants to the Italian committees monitoring the operations.

3.4 The Italian delegation thanked the Director for the IOPC Fund's rapid involvement in this case and for the contributions made by the IOPC Fund's experts in respect of various aspects of the operations.

3.5 The Committee noted its appreciation of the measures taken by the Director on behalf of the IOPC Fund to monitor the operations on the wreck, at sea and on shore.

3.6 The Executive Committee endorsed the action taken by the Director lodging an opposition against the decision by the Court of Genoa to open limitation proceedings, thereby reserving the Fund's right to challenge the shipowner's right to limit his liability. In addition, the Committee endorsed the action taken by the Director lodging an opposition in respect of the constitution of the limitation fund by means of a letter of guarantee covering only the limitation amount, without any allowance for interest.

3.7 The Executive Committee instructed the Director to:

- (a) continue monitoring the operations on the wreck, at sea and on shore, and, in particular, the operations carried out under the contract with ATI;
- (b) follow the various investigations being carried out by the Italian authorities into the cause of the incident so as to enable him to submit to the Committee at a later session a proposal as to whether or not the IOPC Fund should take legal action to break the shipowner's right of limitation;

- (c) study the various legal problems arising from an incident of this magnitude having caused pollution damage in several Fund Member States; and
- (d) hold discussions with the various Governments involved concerning the possibility of facilitating a speedy settlement of the claims.

3.8 The Executive Committee emphasised that only reasonable measures are to be compensated under the Civil Liability Convention and the Fund Convention and, in addition, that only reasonable costs are admissible.

3.9 The Italian delegation informed the Executive Committee that all operations undertaken so far had been reasonable; measures at present being undertaken or to be undertaken in the future would also be reasonable. This delegation informed the Committee that the Italian Government reserved its position as to its right to submit claims for compensation for any damage and expenses arising out of this incident.

AGIP ABRUZZO Incident

3.10 The Chairman expressed to the Italian Government the Executive Committee's profound regret at the tragic loss of life resulting from the collision between the ferry MOBY PRINCE and the tanker AGIP ABRUZZO.

3.11 The Director introduced documents FUND/EXC.27/3 and FUND/EXC.27/3/Add.1 containing information on this incident.

3.12 Also in respect of this incident, the Executive Committee expressed its gratitude to the Italian Government for the co-operation between the Italian authorities and the IOPC Fund.

3.13 The Executive Committee noted its appreciation of the measures taken by the Director on behalf of the IOPC Fund to monitor the operations on the wreck, at sea and on shore. The Committee instructed the Director to continue monitoring the operations.

3.14 The Executive Committee also instructed the Director to follow the investigations into the cause of the incident so as to enable him to submit to the Committee at a later session a proposal as to whether or not the IOPC Fund should bring recourse action against the owner of the MOBY PRINCE or take any other legal action.

3.15 The Executive Committee held a session in private, pursuant to Rule 12 of the Rules of Procedure, to discuss a proposed agreement relating to certain aspects of possible recourse proceedings arising out of this collision. At this part of the session, covered by paragraphs 3.16 - 3.18 below, only the delegates of Fund Member States were present.

3.16 The Director introduced the problems that had arisen in the context of an approach made to the Director by certain parties involved in the collision concerning the possibility of concluding an agreement under which the parties involved would undertake to refrain from taking certain actions relating to the recourse proceedings. Under the proposed agreement, the IOPC Fund would undertake not to take legal action for the purpose of depriving the owner of the MOBY PRINCE of his right to limit his liability.

3.17 In view of the lack of information available at present concerning the cause of the incident, the Executive Committee decided that the IOPC Fund should not become a party to an agreement of the kind proposed.

3.18 The Executive Committee instructed the Director to follow the developments in respect of compensation to the victims of the ferry disaster and report to the Committee at its next session.

4 Information on Other Incidents

RIO ORINOCO Incident

4.1 The Director introduced document FUND/EXC.27/5, containing information on some developments in respect of the RIO ORINOCO incident which had taken place since the 26th session of the Executive Committee.

4.2 Referring to the decisions taken at its 26th session, and pursuant to Internal Regulation 8.4.2, the Executive Committee authorised the Director to settle the additional claim submitted by the Swedish Club for certain costs connected with on-shore clean-up operations undertaken up to 10 November 1990 (paragraphs 6 and 7 of document FUND/EXC.27/5).

Other Incidents

4.3 The Director informed the Executive Committee of two other incidents involving the IOPC Fund which had occurred since its 26th session, viz the HOKUNAN MARU N°12 and KAIKO MARU N°86 incidents, and of the VISTABELLA incident which had occurred just before that session.

4.4 The Director also notified the Executive Committee of recent developments with regard to the AKARI, TOLMIROS, AMAZZONE, CZANTORIA and PORTFIELD incidents.

5 Any Other Business

Establishment of Post of Claims Officer

5.1 The Director introduced document FUND/EXC.27/4 in which he proposed that a new post of Claims Officer should be established in the IOPC Fund Secretariat.

5.2 The Executive Committee approved the establishment of the post of a Claims Officer from 1 September 1991. The Committee classified the post at Grade P3/P4, the actual grade to be determined on the basis of qualifications and experience. In addition, the Committee approved that the cost of this post for 1991 should be financed out of the major claims fund or funds constituted for the HAVEN and AGIP ABRUZZO incidents.

Lease of IOPC Fund's Offices

5.3 The Director informed the Executive Committee of the developments in respect of the lease of the IOPC Fund's offices in the IMO building. He stated that the Secretary-General of IMO had recently indicated that IMO could now make available the two additional office rooms to which the IOPC Fund was entitled under the present lease and which the Director had requested in May 1990. As some office space would be vacant in the IMO building in August 1991, however, IMO preferred to solve at the same time the problem relating to the extension of the IOPC Fund's lease beyond 31 October 1992, the date of expiry of the present lease.

5.4 It was noted that the Assembly at its 13th session had expressed the view that it was preferable that the IOPC Fund's offices should remain *within the IMO building* after 31 October 1992, and had emphasised the necessity that any new lease contract with IMO should give an adequate guarantee that additional office space be made available to the IOPC Fund, if the need arose. The Assembly had instructed the Director to examine the matter and discuss it with the Secretary-General of IMO and the United Kingdom Government, in order to find the best solution, and to report the results of its examination to the Assembly at its 14th session (document FUND/A.13/21 paragraph 18.4).

5.5 The Director stated that, in view of the position taken by the Assembly at its 13th session and considering the importance of the matter for the IOPC Fund, he considered it necessary to reach an agreement of principle as soon as possible with the Secretary-General which would solve the problem of the extension of the IOPC Fund's lease beyond 31 October 1992. In his view, the IOPC Fund should take the opportunity which existed at present to secure sufficient office space within the IMO building. For this reason, he intended to negotiate an agreement with the Secretary-General which would immediately give the IOPC Fund not only the two additional rooms to which it was entitled under the present lease but also further space which would facilitate the efficient running of the organisation and in addition would give the Fund adequate guarantees for further expansion if the need arose.

5.6 The United Kingdom delegate, as representative of the host Government, stressed the need for a rapid solution to the problem of the IOPC Fund's lease beyond 31 October 1992. For this reason, that delegation supported that the Director should reach an agreement with the Secretary-General as soon as possible along the lines indicated.

5.7 The Executive Committee took note of the information provided by the Director and of the intervention by the United Kingdom delegation.

6 Adoption of the Report to the Assembly

The draft report of the Executive Committee to the Assembly, as contained in document FUND/EXC.27/WP.1, was adopted, subject to some amendments.
