

INTERNATIONAL OIL POLLUTION COMPENSATION FUND
FONDS INTERNATIONAL D'INDEMNISATION POUR LES DOMMAGES
DUS A LA POLLUTION PAR LES HYDROCARBURES

EXECUTIVE COMMITTEE -
2nd session
Agenda item 11

FUND/EXC.2/6
20 March 1980
Original: ENGLISH

RECORD OF DECISIONS

1. Adoption of Agenda (Agenda item 1)

The Agenda as contained in document FUND/EXC.2/1 was adopted.

2. Election of Chairman and Vice-Chairman (Agenda item 2)

The Executive Committee appointed Professor H. Tanikawa (Japan) as Chairman of the Executive Committee and Mr. Y.N. Ohene-Akrasi (Ghana) as Vice-Chairman.

3. Admission of Observers (Agenda item 3)

The Executive Committee took note that the Assembly had granted observer status to eight international non-governmental organizations and agreed that this observer status was granted to all organs of the Fund and, therefore, applicable for the Executive Committee as well.

4. Examination of Credentials (Agenda item 4)

The Director informed the Executive Committee that representatives of all seven Members of the Executive Committee had submitted credentials to the Fund and that they were in order.

5. Adoption of Rules of Procedure (Agenda item 5)

The Executive Committee adopted the Rules of Procedure for the Executive Committee, being the Rules of Procedure for the Assembly, as proposed in the Annex to document FUND/EXC.2/2.

In addition, the following amendments were adopted:

- (a) "In case a member or a public authority of a member has a claim against the Fund, such a member shall have no voting right when that claim is being considered by the Executive Committee";

- (b) "The Chairman shall hold office at all sessions of the Executive Committee between two ordinary sessions of the Assembly. The first session of the Executive Committee after an ordinary session of the Assembly shall be opened by the representative of the former Chairman's delegation or, if that delegation is not a Member of the Executive Committee, of the Vice-Chairman's delegation or, if this delegation is not a Member either, by the Director";
- (c) Rules 41 and 55 shall not apply.

The Executive Committee agreed that these Rules be published together with the Rules of Procedure for the Assembly in one document and that footnotes in the Rules of Procedure for the Assembly indicate if and to what extent the Rules of Procedure for the Executive Committee foresee alterations to a specific Rule.

6. Adoption of Provisions on Provident Fund (Agenda item 6)

The Executive Committee adopted the terms and conditions of the IOPC Fund's Provident Fund as contained in Rule VIII.5 of the Staff Rules.

The Executive Committee, with regard to Rule VIII.5(b)(iii), approved the calculation of interest as follows:

- (a) For the period 1 February 1979 to 31 August 1979 an interest of 13.67 per cent shall be payable;
- (b) From 1 September 1979 onwards interest rates will be calculated and fixed monthly by the Director, after consultation with the Administrative Assistant, according to the investments held during that month.

7. Adoption of the Report under Article 26.2 of the Fund Convention (Agenda item 7)

The Executive Committee adopted the report prepared by the Director as contained in document FUND/EXC.2/4, subject to some amendments, and requested the IOPC Fund's Secretariat to prepare the report in printed form for general distribution.

8. Information on and Approval of Settlement of Claims (Agenda item 8)

The Executive Committee took note of the information given in document FUND/EXC.2/5 concerning several incidents in respect of which the IOPC Fund has been or may be asked for compensation and considered different aspects of these incidents.

Details of the Antonio Gramsci incident dealt with in documents FUND/EXC.2/5 and FUND/EXC.2/5/Add.1 were discussed by a Working Group consisting of the delegations of the Federal Republic of Germany, Italy and Japan with the United Kingdom, CRISTAL, ITOPF and the International Group of P and I Clubs attending as observers, under the Chairmanship of Mr. P. Novia (Italy). The Swedish delegation attended the meetings of the Working Group and provided additional information.

According to the recommendations agreed upon by the Working Group, the Executive Committee took the following decisions:

- (a) The Agreement of 7 February 1980 concluded between the Kingdom of Sweden and the Latvian Shipping Company as to the distribution of the shipowner's limitation fund (Annex to document FUND/EXC.2/5) was approved.
- (b) The Agreement of 6 March 1980 concluded between the Kingdom of Sweden and the IOPC Fund, subject to the Executive Committee's approval, (Annex II to document FUND/EXC.2/5/Add.1) was approved. It was noted that the dates in paragraph 4 of this Agreement were changed in such a way that the amount agreed upon included interest up to 4 April 1980 and interest was payable from 5 April 1980.
- (c) The wording of the letter to be sent to the Chancellor of Justice as the representative of Sweden was agreed. The draft letter is as follows:

Dear Sir

I refer to the Agreement of 7 February 1980 concluded between the Kingdom of Sweden and the Latvian Shipping Company in respect of the apportionment of a limitation fund established under the International Convention on Civil Liability for Oil Pollution Damage, because of damage caused by pollution resulting from the escape of oil from the tanker Antonio Gramsci as a result of an incident on 27 February 1979 outside the port of Ventspils.

The Kingdom of Sweden, as a Contracting State to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage claims under Article 4 of this Convention, compensation for oil pollution damage from the IOPC Fund.

I have the honour to inform you that the Executive Committee of the International Oil Pollution Compensation Fund has, for the purpose of settling the claims against the IOPC Fund, approved the afore-mentioned Agreement.

This approval is given without prejudice as to the justification of the claims mentioned in that Agreement.

Yours faithfully.

- (d) It was agreed that no annual contributions should be raised at this time but should rather be left to the Assembly for decision at its forthcoming extraordinary session in October 1980.

The Director was requested to ask the Government of Sweden to consider the possibility of reducing or waiving the interest to which it is entitled under the Agreement.

The Executive Committee noted that in the discussion on the settlement of the Antonio Gramsci incident, some major questions of principle arose in connexion with the interpretation of the Fund Convention, in particular the recovery of costs of standing personnel and equipment, and the extent to which clean-up and restorative measures can be considered as being reasonable. The Executive Committee recommends further study of those and related questions by a body and at a time to be decided by the Assembly. In this connexion it requested the Director to collect relevant information including National Laws or Regulations.

The Executive Committee requested the Assembly to consider for adoption a draft resolution, to be prepared by the Director and to be submitted to the Assembly, expressing the IOPC Fund's concern about the claim for ecological damage raised by the USSR Ministry of Waters against the shipowner and accordingly to include in the agenda for its next extraordinary session an item to this effect.

9. Date of Next Session (Agenda item 9)

The Executive Committee decided to hold its third session in London on 6 and 7 October 1980, with possible extension to the morning of 8 October.

10. Any Other Business (Agenda item 10)

No items were raised under this Agenda item.
