

INTERNATIONAL OIL POLLUTION COMPENSATION FUND

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

EXECUTIVE COMMITTEE -
3rd session
Agenda item 5

FUND/EXC.3/4
1 September 1980
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ADOPTION OF THE REPORT UNDER ARTICLE 26.2
OF THE FUND CONVENTION

Note by the Director

1. Article 26.2 of the Fund Convention provides that the Executive Committee shall prepare and publish a report on the activities of the IOPC Fund during the previous calendar year.
2. A draft report covering the beginning of 1980 until August 1980 is herewith submitted to the Executive Committee. According to the Assembly's decision that the Fund's annual meetings shall generally be held in October each year, the next session of the Executive Committee may not take place until October 1981. The Director proposes, therefore, that the Executive Committee authorise him to complete the report with regard to the last four months of 1980 and to publish this report after its approval by the Chairman of the Executive Committee.
3. The Executive Committee is invited to consider the enclosed draft report and to decide on the procedure as to its completion.

DRAFT REPORT ON THE ACTIVITIES OF THE INTERNATIONAL
OIL POLLUTION COMPENSATION FUND DURING
THE CALENDAR YEAR 1980

A. GENERAL

1. Membership

In 1980 the Fund Convention entered into force for Papua New Guinea on 10 June, for Iceland on 15 October and for As at 31 December 1980, the Fund has ... Members.

The Director has continued in his efforts to persuade Governments of non-Contracting States of the advantages of Fund membership. Increased membership would mean that more countries would get better protection against oil pollution incidents and that the burden of contributions to the Fund would be spread more broadly. The Fund has received information that several States are favourably considering ratification or accession to the Fund Convention. It is hoped that, in 1981, further instruments of ratification or accession will be deposited.

Based on the oil receipts in 1979, the percentage of contributions payable to the Fund by contributing persons in the Member States is as follows:

(Table to be inserted)

2. Assembly and Executive Committee

In 1980 the Assembly, under the chairmanship of Mr. J. Bredholt (Denmark), held its third session from 17 to 18 March and its first extraordinary session from 8 to 10 October. The Executive Committee, under its Chairman Prof. Tanikawa (Japan), met from 19 to 21 March and from 6 to 8 October for its second and third sessions. The most significant decisions taken at these meetings were the following:

Third session of the Assembly

(a) The Assembly decided to grant observer status to the following eight international non-governmental organizations:

- Baltic and International Maritime Conference (BIMCO);
- Comité Maritime International (CMI);
- International Chamber of Shipping (ICS);
- International Group of P & I Clubs;
- International Tanker Owners Pollution Federation Limited (ITOPF);
- Oil Companies Institute for Marine Pollution Compensation Limited and Marine Pollution Compensation Services Limited (CRISTAL);
- Oil Companies International Marine Forum (OCIMF);
- Permanent International Association of Navigation Congresses (PIANC).

(b) The Assembly adopted the Fund's budget for the financial period 1980 with an expenditure of about £173,000, not including appropriations for claims arising from pollution incidents.

(c) The Assembly elected the members of the Executive Committee, who will hold office until the end of the fourth regular session of the Assembly. The members are the Federal Republic of Germany, Italy and Japan, elected under Article 22.2(b) of the Fund Convention, and Ghana, Indonesia, Sweden and the Syrian Arab Republic, elected under Article 22.2(a) of the Fund Convention.

(d) The Assembly decided to allocate several of its functions to the Executive Committee, including among others the following:

- the function to authorize the Director to settle claims and to make provisional payments beyond the limits established in the Internal Regulations;
- the function to consider the payment for the satisfaction of claims if annual contributions are

not sufficient and if the Director is unable to obtain loans on reasonable terms;

- the determination of the terms and conditions of service of the Director and the decision of whether the privileges and immunities of the Director are to be waived; and

- the function to approve the classification standards on the basis of which the Director can determine appropriate categories and grades for established posts.

The power to approve the budget and to assess annual contributions has not been allocated to the Executive Committee and still lies, therefore, with the Assembly.

(e) The Financial Regulations governing the financial administration of the Fund were adopted.

(f) The Assembly decided, in accordance with Article 5.4 of the Fund Convention, to replace the International Convention for the Safety of Life at Sea, 1960, by the International Convention for the Safety of Life at Sea, 1974. This replacement will take effect on 1 January 1981. From this date shipowners will not be entitled to indemnification under Article 5.1 of the Fund Convention if the Fund proves that, as a result of the actual fault or privity of the owner, the ship from which the oil causing the pollution damage escaped did not comply with the requirements laid down in SOLAS, 1974.

Second session of the Executive Committee

(g) The Executive Committee took note of the particulars of the incidents with which the Fund was dealing and of the settlement of claims achieved by the Director. It approved the agreement, with regard to the ANTONIO GRAMSCI incident, concluded between the Fund and the Swedish Government.

According to this agreement, the IOPC Fund has to pay to Sweden an amount of 93 million Swedish Crowns, minus the Swedish portion of the shipowner's liability, plus interest.

(h) The Executive Committee adopted the Rules of Procedure for the Executive Committee and the terms and conditions of the Provident Fund contained in the Staff Rules.

First Extraordinary session of the Assembly

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Third session of the Executive Committee

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3. Accounts of the Fund

(a) The financial statements for the financial period 16 October 1978 to 31 December 1979 were submitted to the External Auditor for his certification and for his Report thereon. The External Auditor certified that the financial statements were correct.

(b) The Balance Sheet of the Fund as at 31 December 1979 is as at Annex I.

4. Contributions

In 1980 the Fund collected initial and annual contributions which were invoiced in 1979 but had not been paid in that year. In addition, initial and annual contributions with respect to a Member that had only sent its report on contributing oil receipts to the Fund in 1980 were collected. Furthermore, in accordance with the decision of the Assembly at its first extraordinary session that a total of £... for annual contributions 1980 should be collected, invoices were sent out on ... for payment by

5. General activities

The Director continued to pay visits to both Contracting States and non-Contracting States. These missions proved to

be useful in making Governments familiar with the administration of the Fund Convention. Furthermore, the Director participated in seminars organized by IMCO and held in Brazil and Barbados. These seminars offered opportunities to discuss in detail with Government representatives of developing countries the advantages of membership of the Fund. These activities were supported by lectures and the presentation of papers by the Director at several conferences.

The Fund concluded with the International Group of P & I Clubs a Memorandum of Understanding which is at Annex II. This Memorandum follows a similar agreement between the P & I Clubs and CRISTAL. It stipulates in general terms a co-operation with respect to incidents involving both a P & I Club and the Fund.

B. SETTLEMENT OF CLAIMS

1. ANTONIO GRAMSCI

The IOPC Fund agreed with the Swedish Government on a settlement of Swedish claims amounting to about 12 million Swedish Crowns, arising from the grounding of the Soviet tanker ANTONIO GRAMSCI on 27 February 1979 in the Baltic Sea. It was agreed that the IOPC Fund pays to Sweden an amount of 93 million Swedish Crowns, minus the Swedish share in the shipowner's limitation sum (about 4 million Swedish Crowns), plus interest. This agreement was negotiated by the Director and approved by the Executive Committee. Payment has to be made by 31 March 1981.

The question of whether the IOPC Fund can take recourse action against a third party liable for that incident is still being investigated.

2. MIYA MARU NO.8

The third party claims arising out of this incident, which occurred in Japan on 22 March 1979, amounting to about £273,000, were already paid in 1979. Recourse action against the other ship liable for the collision has been taken and an amount of about £19,000 has been recovered. It has been found in court proceedings that the owner of the MIYA MARU NO.8 was entirely free of fault and, therefore, entitled to limit his liability. After the finalisation of the limitation proceedings, payments to the owner will be made by the IOPC Fund for the owner's own clean-up expenses and the indemnification under Article 5 of the Fund Convention.

3. TARPENBEK

(Development of claims as at 31 December to be included)

4. MEBARUZAKI MARU NO.5

The sea-going ship MEBARUZAKI MARU NO.5 (19.73 GRT), loaded with heavy oil, sank on 8 December 1979. The damage arising out of this incident is about ¥11.4 million (£21,000), consisting of ¥3 million for fishery damage and ¥8.4 million for clean-up costs. The claims have been satisfied by the IOPC Fund.

5. SHOWA MARU

On 9 January 1980 the Japanese tanker SHOWA MARU (199.96 GRT), carrying 500 kls of heavy oil, collided with the Panamanian chemical tanker CHEMICARY NO.18 (629.08 GRT) in the Naruto Straits, Japan. As a result of that collision, 100 kls of heavy oil were released and polluted seaweed farms.

The cost of the clean-up effected by the Maritime Disaster Prevention Centre was about ¥10 million and the clean-up effected by the Maritime Safety Board (MSB) amounted

to about ¥1.3 million. These claims have been paid. The shipowner's clean-up expenses were ¥525,740 and the limitation amount according to Article V.1 of the CLC is ¥8,123,140.

6. UNSEI MARU

On 9 January 1980 the Japanese tanker UNSEI MARU (99 GRT), carrying 140 tons of heavy fuel oil, collided with the SUN EDELWEISS (4816 GRT) and sank. Some oil was spilt. The Maritime Safety Board and local fishermen undertook clean-up operations.

The question of whether the wreck will be removed has not yet been decided. It is uncertain whether there is still oil on board the ship. The pollution damage is estimated at ¥....

7. TANIO

On 7 March 1980 the Madagascan tanker TANIO (28,572 dwt), carrying 26,000 tons of heavy fuel oil, encountered heavy seas, broke in two amidships and spilled approximately 3,000 - 6,000 tons of heavy oil. The incident happened 35 miles off the French coast. Immediately after the incident the oil drifted to the coast of Brittany, France. The stern section of the TANIO, with about 13,000 tons of cargo, remained afloat and was towed without further spillage from the casualty area to Le Havre; the fore-section, containing about 10,000 tons of cargo, sank to a depth of 90 metres.

After thorough discussions between the French Government, the owner, his insurer and the IOPC Fund, it was decided by the French Government that, in order to finally and permanently prevent further pollution from the wreck, pumping the oil from the wreck was the technically safest and economically best solution available. This operation was carried out during the summer months and finalized on

The pollution damage caused to the French territory was considerable. About 200 kms of the north coast of Brittany were affected. Through intensive use of the services of the armed forces it was possible, to a very large extent, to clean most of the beaches by 1 July, the beginning of the tourist season. The cleaning of the rocks proved a greater problem and some areas of the polluted coastline are inaccessible for clean-up measures. The Fund has closely surveyed all clean-up operations and has discussed with, and sometimes advised, the French authorities on the different cleaning measures.

Although the French authorities have not yet filed any claims against the IOPC Fund for oil pollution damage and preventive measures, the total amount of their claims is expected to be very high and may reach the Fund's limit of 675 million francs. The pumping operations alone have cost about FF.50,000,000. The expenses for the on-shore clean-up operations cannot yet be estimated.

8. NITTAN MARU NO.3

On 15 May 1980 the Japanese tanker NITTAN MARU NO.3 (1622 GRT), carrying 3540 kls of minus heavy oil, collided with the chemical tanker HOKUTOU MARU (699 GRT) in the Japanese Inland Sea. Following the collision about 190 kls of oil spilt into the sea. The Maritime Safety Board, the Maritime Disaster Prevention Centre and local fishermen undertook clean-up operations, by which 80% to 90% of the spilt oil has been recovered.

The fishermen's clean-up costs are estimated at ¥6,000,000. Claims from the Maritime Safety Board and the Maritime Disaster Prevention Centre have not yet been received. It is possible that the damage will not exceed the shipowner's liability under the CLC.

9. FURENÄS

On 3 June 1980 the Swedish tanker FURENÄS (2100 dwt) collided with the Danish ferry KÄRNAN in the Öresund between Sweden and Denmark. As a result of the collision, two cargo tanks of the FURENÄS, containing about 500 tons of fuel oil (no.4) were damaged and about 200 tons of oil were released. The spilt oil was partly recovered by the Swedish and Danish Coast Guards, but some oil drifted to the shores and polluted the Swedish coast, especially the Swedish Isle of Ven, situated in the middle of the Öresund, and a very small part of the Danish coast.

(Information on claims to be inserted.)

The ship's limitation tonnage is 834 tons. The limitation amount under the CLC is 610,121 Swedish Crowns.

ANNEX I

GENERAL FUND

BALANCE SHEET AS AT 31 DECEMBER 1979

| | E | ASSETS | E |
|--------------------------|------------------|------------------------------------------|------------------|
| <u>LIABILITIES</u> | | | |
| Surplus 1978/1979 | 2,107,246 | Cash at banks and in hand | 2,016,819 |
| Staff Provident Fund | 11,451 | Contributions receivable | 127,825 |
| | | VAT recoverable | 898 |
| Miscellaneous Payable | 3,664 | Miscellaneous Receivable | 320 |
| | | Interest on overdue annual contributions | 92 |
| Unliquidated Obligations | 23,593 | | |
| | <u>2,145,954</u> | | <u>2,145,954</u> |

Note: 1. There is a contingent liability in respect of incidents amounting to £10,600,659.

Details of these are given in Schedule II.

Note: In addition to the assets shown in this statement, investment in equipment, furniture, office machines, supplies and library books as at 31 December 1979 amounted at cost price to £7,312 net of VAT.

R. H. Ganten
DIRECTOR

S. O. Nte
ADMINISTRATIVE ASSISTANT

FUND/EXC.3/4

ANNEX II

(to be included)
