

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

EXECUTIVE COMMITTEE -
4th session
Agenda item 4

FUND/EXC.4/3
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DRAFT REPORT ON THE ACTIVITIES OF THE
INTERNATIONAL OIL POLLUTION COMPENSATION FUND
DURING 1981

A. GENERAL

1. Membership

In 1981 the Fund Convention entered into force for ... more States: Finland became a Member on 8 January; Maldives on 14 June; Kuwait on 1 July; The IOPC Fund now has ... Members.

The Director continued to visit Contracting States to make Governments familiar with the administration of the Fund Convention and the interpretation of its provisions. At visits to conferences and seminars the Director had talks with representatives of non-Contracting States on the advantages of membership in the IOPC Fund and the possibility of these States joining the IOPC Fund. It is hoped that in 1982 further instruments of ratification or accession will be deposited.

2. Assembly and Executive Committee

In 1981 the Assembly, under the chairmanship of Mr. J. Bredholt (Denmark), held its fourth session from 29 September to The Executive Committee, under its Chairman Professor Tanikawa (Japan), met from 28 to 29 September for its fourth session. The following significant decisions were made at these meetings.

Fourth session of the Assembly

(a)

(b)

Fourth session of the Executive Committee

(a)

(b)

3. Accounts of the IOPC Fund

(a) The financial statements for the financial period 1 January to 31 December 1980 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 IOPC Fund as at 31 December 1980 is at the Annex.

4. Contributions

In accordance with the decision of the Assembly at its fourth session that a total of £... for 1981 annual contributions should be collected, invoices were sent out in October for payment by 15 December 1981. As in preceding years, payments were made promptly and most of the contributions were received by the end of the year.

5. The IOPC Fund enjoyed close and very friendly co-operation with the host Government, with IMCO and with observer Organizations, especially CRISTAL, ITOPF, OCIMF and the P & I Clubs. The IOPC Fund gratefully appreciates the continuous support given to it by the UK Government and the technical assistance accorded to it by IMCO. Without IMCO's help it would not be possible for the IOPC Fund's Secretariat of six to administer the Organization. The regular and co-operative exchange of information and views with observer Organizations contributes a great deal to the IOPC Fund's ability to respond quickly and effectively to pollution incidents.

6. Revision of the CLC and the Fund Convention

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B. SETTLEMENT OF CLAIMS

1. ANTONIO GRAMSCI

On 15 January 1981 the IOPC Fund paid to the Kingdom of Sweden an amount of S.Kr.95,707,157 (£9,247,068) in accordance with the Agreement of 6 March 1980 between the IOPC Fund and the Kingdom of Sweden. With this payment, all claims against the IOPC Fund arising out of this incident were finalised.

2. MIYA MARU NO.8

All claims arising out of the MIYA MARU NO.8 incident have been finalised. The final amounts of the third party claims were as follows:

	<u>Yen</u>
(a) Shipowner's clean-up costs	27,645,081
(b) Maritime Safety Agency's clean-up costs	10,673,267
(c) Japan Maritime Disaster Prevention Centre's clean-up costs	99,502,574
(d) Fishery damage	40,000,000
	<hr/>
	177,820,922
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	(£409,706)

Out of this amount, the IOPC Fund and the shipowner paid ¥140,110,582 and ¥37,710,340 respectively, the latter amount being the shipowner's liability under Article V of the CLC.

The indemnification to the shipowner under Article 5 of the Fund Convention in the amount of ¥9,427,585 (£21,723) was paid after the finalisation of the limitation proceedings. Recourse action against the other ship liable for the collision was taken and an amount of ¥6,902,773 (£15,905) has been recovered.

3. TARPENBEK

The tanker TARPENBEK, loaded with about 1,600 tonnes of lubricating oil, collided on 21 June 1979 with the ship SIR GERAINT off the English coast. The cargo tanks of the TARPENBEK remained undamaged; no cargo was spilled. Only some light diesel oil from

the bunker tanks spilled into the sea. The TARPENBEK was towed to a sheltered bay and the cargo was successfully pumped out. There is disagreement over whether or not any quantities of cargo oil were spilled during the pumping operations.

The owner of the TARPENBEK and the UK Government incurred expenses in order to prevent the spill of cargo and the pollution of the English coast. The owner claimed recovery of his expenses under the Civil Liability Convention and from the IOPC Fund. The UK Government made a claim against TOVALOP and CRISTAL.

The IOPC Fund rejected the owner's claim on the basis that under the CLC and the Fund Convention, as implemented by the UK Merchant Shipping Acts of 1971 and 1974, the Fund would accept liability only for expenses incurred for preventive measures taken after the actual discharge or escape of persistent oil from the ship. The claim, as presented by the owner, did not show that any of the expenses claimed were incurred after a spill of persistent oil in order to prevent a further spill. This legal view was supported by an opinion obtained from Counsel.

4. MEBARUZAKI MARU NO.5

The settlement of the third party claims arising out of this incident, which occurred on 8 December 1979 in Japan, has been finalised.

The agreed amounts of the third party claims are as follows:

	<u>Yen</u>
(a) Shipowner's clean-up costs	7,141,350
(b) Maritime Safety Agency's clean-up costs	956,646
(c) Fishery damage	2,935,819
	<u>11,033,815</u>
	(£25,424)

For the above third party claims, the IOPC Fund and the shipowner paid ¥10,188,335 and ¥845,480 respectively, the latter

amount being the shipowner's liability according to Article V of the CLC. Indemnification under Article 5 of the Fund Convention amounting to ¥211,370 (£487) was paid after the finalisation of the limitation proceedings.

5. SHOWA MARU

All third party claims arising out of the SHOWA MARU incident, which occurred on 9 January 1980 in Japan, have been settled as follows:

	<u>Yen</u>
(a) Shipowner's clean-up costs	518,670
(b) Maritime Safety Agency's clean-up costs	1,330,886
(c) Japan Maritime Disaster Prevention Centre's clean-up costs	9,378,458
(d) Fishery damage	100,000,000
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	111,228,014
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	(£256,286)

The IOPC Fund and the shipowner paid ¥103,104,874 and ¥8,123,140 respectively in settlement of these third party claims, the latter figure being the owner's limitation fund under the CLC. The indemnification to the shipowner under Article 5 of the Fund Convention amounts to ¥2,030,785 which has not yet been paid.

In the investigation into the collision between the SHOWA MARU and the CHEMICARRY NO.18 (the other ship involved in the collision) the Kobe Marine Court held that the collision was solely caused by improper navigational manoeuvres on the part of the CHEMICARRY NO.18 itself and not by any fault or privity of the owner of the CHEMICARRY NO.18. The IOPC Fund therefore agreed to the proposal made by the owner of the CHEMICARRY NO.18 that a settlement be made on the basis that the owner accepts liability but is entitled to limit his liability. The CHEMICARRY NO.18 limitation fund amounts to ¥12,427,130 (£28,643).

6. UNSEI MARU

On 9 January 1980 the Japanese tanker UNSEI MARU (99 GRT), carrying 140 tonnes of heavy fuel oil, collided with the SUN EDELWEISS (4,816 GRT). As a result, the UNSEI MARU sank and some oil was spilled. The Maritime Safety Agency (MSA) and local fishermen undertook clean-up operations.

The clean-up costs incurred by the owner of the UNSEI MARU are estimated at ¥7 million (£16,000). No further claims have so far been made against the Fund.

7. TANIO

The Madagascan tanker TANIO broke in two on 7 March 1980 off the Brittany coast, France. 5,000 - 6,000 tonnes of heavy fuel oil were spilled and caused considerable pollution damage to the French territory. The stern section, with about 13,000 tonnes of cargo aboard, remained afloat and was towed to a safe port. The bow section, with 10,000 tonnes of cargo aboard, sank to a depth of 90 metres.

Despite the considerable amount of oil polluting the tourist beaches of Brittany, the clean-up operations were carried out quickly and were completed by the beginning of the 1980 summer season. The pumping operations to remove the 10,000 tonnes of cargo oil remaining in the bow section of the sunken TANIO began in summer 1980. However, the operations were greatly hindered by adverse weather conditions during the autumn and winter months.

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The claims arising out of the TANIO incident are as follows:

French Government
<u>Channel Islands</u>	
Jersey	£10,000
Guernsey	£15,000
Shipowner	£200,000
French boatowners	F.Fr.40,000

Since the Fund's upper limit is exceeded, a method of settlement procedure which could expedite the assessment and settlement of the claims was considered with the claimants.

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8. FURENÄS

On 3 June 1980, the Swedishtanker FURENÄS (2,100 dwt) collided with the Danish ferry KÄRNÄN in the Öresund between Sweden and Denmark. As a result, 200 tonnes of fuel oil (No.4) were released and polluted the Swedish coast and a small part of the Danish coast.

The total claims of S.Kr.3,800,131 (£390,558) and D.Kr.418,589.80 (£29,069) arising out of the FURENÄS incident are made up as follows:

<u>Swedish claims</u>	<u>Swedish Crowns</u>
(a) Swedish Coast Guard and Swedish State Fire Service Board	3,500,000
(b) Swedish boatowners	35,050
(c) Private clean-up company	241,000
(d) Helsingborg Port Authorities	24,081
	<hr/>
	3,800,131
	<hr/>
<u>Danish claims</u>	<u>Danish Crowns</u>
(a) Danish National Environment Agency	396,150.00
(b) Helsingør kommune	8,809.35
(c) Karlebo kommune	3,673.50
(d) Danish boatowners	7,800.00
(e) Danish fishermen	2,156.95
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	418,589.80
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All third party claims have been settled by the IOPC Fund and the shipowner who paid his liability under the CLC amounting to S.Kr.662,443.66. Indemnification under Article 5 of the Fund Convention is S.Kr.153,110.92 which has not yet been paid.

9. HOSEI MARU

On 21 August 1980 the Japanese tanker HOSEI MARU (983.05 GRT), carrying about 2,000 tons of heavy oil "C", collided with another Japanese tanker, the KINREI MARU (997.82 GRT), in dense fog in the northern part of Honshu, Japan. As a result 270 tons of heavy oil "C" were spilled from the HOSEI MARU. The spilt oil polluted fishing areas in small bays where culture fishery is extensively carried out.

The final costs for the clean-up operations and the compensation for fishery damages are as follows:

	<u>Yen</u>
(a) Agencies' clean-up costs	183,785,028
(b) HOSEI MARU crew's clean-up costs	130,000
(c) Contractors' clean-up costs	6,474,620
(d) Fishery damage	58,700,000
	<u>249,089,648</u>
	(£573,939)

Out of the above third party claims, the IOPC Fund paid ¥213,323,728 and the shipowner ¥35,765,920, this amount being the shipowner's liability according to Article V of the CLC. Indemnification to the shipowner under Article 5 of the Fund Convention (¥8,941,480) has not yet been paid.

10. JUAN ANTONIO LAVALLEJA

On 28 December 1980 the Uruguayan tanker JUAN ANTONIO LAVALLEJA (130,000 dwt) struck a breakwater in the port of Arzew, Algeria and got stranded within the port area during an exceptionally heavy storm. As a result some 40,000 tonnes of her cargo of LNG Condensate were spilled into the sea.

The incident resulted in only little pollution. The greater problem was the risk of explosion created by the volatile nature of the cargo. This resulted in sections of the industrial zone being exposed to hazardous atmosphere and necessitated the closure of several installations. So far it has not been possible to ascertain whether the spilt oil was "persistent" as defined in Article I.5 of the CLC.

11. JOSE MARTI

On 7 January 1981 the USSR tanker JOSE MARTI (27,706 GRT) grounded in a narrow channel near Dalaro, Sweden in the southern part of the Stockholm Archipelago. More than 1,000 tonnes of fuel oil (No.4) were spilled and quickly spread to the Archipelago islands in the north-east.

Immediately after the incident, off-shore clean-up operations were initiated by the Swedish Coast Guard. Extensive on-shore clean-up operations were commenced only in the spring, when weather conditions improved, by the local communes and private contractors.

The extent of the total damage for off-shore and on-shore clean-up operations is estimated at 17 million Swedish Crowns. The owner's liability under the CLC is about S.Kr.15.5 million so there may remain a liability for the IOPC Fund of approximately S.Kr.1.5 million (£154,162).

ANNEX

BALANCE SHEET OF IOPC FUND AS AT 31 DECEMBER 1980

<u>LIABILITIES</u>	£	<u>ASSETS</u>	£
Surplus 1978/1979	£2,107,246	Cash at banks and in hand	11,563,123
1980	£1,178,396	Accounts receivable	
	3,285,642	Contributions:	
Due to Staff Provident Fund	28,294	Gen Fund 1979	£ 26,946
Accounts Payable	6,954	Gen Fund 1980	£110,012
Unliquidated Obligations	36,118	Major Claims	
Reserve for Major Claims Fund		Fund 1980	£857,347
"ANTONIO GRAMSCI" (in			994,305
accordance with Internal		VAT recoverable	1,080
Regulation 4.3)	9,203,024	Miscellaneous	530
		Interest on overdue	
		contributions	
		Gen Fund	£651
		Major Claims Fund	£343
			994
	<u>12,560,032</u>		<u>12,560,032</u>

Note 1: Arising from significant accounting policy (d), liabilities on the General Fund and Major Claims Fund as at 31 December 1980 in respect of claims agreed but not paid before that date amounted to £650,453 and £8,617,783 respectively. In addition, there is a contingent liability in respect of incidents which is estimated to amount to £24,461,389.

Note 2: In addition to the assets shown in this statement, investment in equipment, furniture, office machines, supplies and library books as at 31 December 1980 amounted at cost price to £14,304 net of VAT.