

ASSEMBLY
1st session
Agenda item 33

ANY OTHER BUSINESS

INTERNATIONAL CONVENTION ON LIABILITY AND COMPENSATION FOR DAMAGE IN CONNECTION WITH THE CARRIAGE OF HAZARDOUS AND NOXIOUS SUBSTANCES BY SEA

Note by the Director of the International Oil Pollution Compensation Fund

- 1 An International Conference on Hazardous and Noxious Substances and Limitation of Liability was held under the auspices of IMO from 16 April to 3 May 1996 in London.
- 2 The Director of the 1971 Fund had been instructed by the 1971 Fund Assembly to represent the IOPC Fund at the Conference and to make such interventions as might be appropriate in respect of issues where the 1971 Fund's experience in operating the system of liability and compensation for oil pollution damage could be of benefit to the Conference. The 1971 Fund participated as an observer at the Conference, submitting documents and making interventions on a number of points, primarily on practical questions on the system of levying contributions.
- 3 The Conference adopted the International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention). Under the Convention, there will be established a system of compensation similar to that created by the Civil Liability Convention and the Fund Convention. The financial burden will be shared between the shipping industry and the cargo interests. The primary liability will rest on the shipowner, and additional compensation will be available from the International Hazardous and Noxious Substances Fund (HNS Fund), financed by the cargo interests. The functioning of the HNS Fund under the HNS Convention will follow very closely the operation of the 1992 Fund under the 1992 Fund Convention.
- 4 In a Resolution adopted by the Conference (Resolution 1, reproduced at the Annex), the Assembly of the 1992 Fund was invited to assign to the Director of the 1992 Fund, in addition to his functions under the 1992 Fund Convention, the administrative tasks necessary for setting up the HNS Fund in accordance with the HNS Convention, on condition that this did not unduly prejudice the interests of the Member States of the 1992 Fund, including holding negotiations with IMO to enable the HNS Fund to conclude agreements as soon as possible on the necessary premises and support services. In addition, the 1992 Fund was requested to hold negotiations with the host Government, on behalf of the HNS Fund, to ensure that

the question of the privileges, immunities and facilities accorded to the HNS Fund is considered and satisfactorily settled by mutual agreement. It is stated in the Resolution that such tasks would be undertaken by the 1992 Fund on the basis that all expenses incurred would be repaid by the HNS Fund.

Action to be taken by the Assembly

5 The Assembly is invited:

- (a) to take note of the information contained in this document; and
- (b) to give the Director such instructions in respect of the setting up of the HNS Fund as it may deem appropriate.

* * *

ANNEX**Resolution 1 of the 1996 International Conference****RESOLUTION ON SETTING UP THE HNS FUND****THE CONFERENCE,**

HAVING ADOPTED the International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (HNS Convention),

CONSIDERING that before the HNS Convention enters into force and for some time thereafter, it will be necessary to prepare some administrative and financial measures in order to ensure that, as from the date of entry into force of the Convention, the International Hazardous and Noxious Substances Fund (HNS Fund), to be set up under the Convention, can operate properly,

1 REQUESTS the Assembly of the International Oil Pollution Compensation Fund, 1992 (IOPC Fund 1992), set up by the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (1992 Fund Convention), to give its Director the following assignments, on the basis that all expenses incurred would be reimbursed by the HNS Fund:

- (a) to carry out, in addition to the tasks under the 1992 Fund Convention, the administrative tasks necessary for setting up the HNS Fund, in accordance with the provisions of the HNS Convention, on condition that this does not unduly prejudice the interests of the Parties to the 1992 Fund Convention;
- (b) to give all necessary assistance for setting up the HNS Fund;
- (c) to make the necessary preparations for the first session of the Assembly of the HNS Fund, which is to be convened by the Secretary-General of the International Maritime Organization, in accordance with article 44 of the HNS Convention;
- (d) to hold negotiations with the International Maritime Organization to enable the HNS Fund to conclude agreements as soon as possible on the necessary premises and support services; and

2 RECOMMENDS that on behalf of the HNS Fund, the IOPC Fund 1992 should hold negotiations with the host Government to ensure that the question of the privileges, immunities and facilities accorded to the HNS Fund is considered and satisfactorily settled by mutually agreement, taking into account the privileges, immunities and facilities currently accorded at present to the IOPC Fund 1992.
