



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

ASSEMBLY
16th session
Agenda item 17

FUND/A.16/14/Add.1
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ASSESSMENT OF ANNUAL CONTRIBUTIONS

Note by the Director

1 Introduction

1.1 Since document FUND/A.16/14 was issued, developments have taken place in respect of the claims arising out of the AEGEAN SEA, BRAER and TAIKO MARU incidents. In addition, an incident occurred in the Republic of Korea on 27 September 1993, the KEUMDONG N°5 incident, which will result in significant claims against the IOPC Fund.

1.2 In view of these developments, the Director has re-examined his estimates in respect of the 1993 annual contributions as set out below.

2 General Fund

2.1 In paragraph 2.5 of document FUND/A.16/14, it was estimated that contributions of £16 211 384 would be needed to balance the 1994 account of the General Fund and to increase the working capital from £6 million to £20 million. It was proposed that the levy of annual contributions for the General Fund in 1993 should be fixed at £16 million.

2.2 The IOPC Fund will have to make payments of compensation in respect of the KEUMDONG N°5 incident during 1993 exceeding the maximum amount payable from the General Fund, ie 15 million (gold) francs (£933 146). A further amount of £933 146 is thus required to balance the 1994 account of the General Fund.

2.3 The table reproduced in paragraph 2.1.2 of document FUND/A.16/14 is therefore amended to read:

		£
(i)	Expenditure	
(a)	Administrative expenses	1 010 010
(b)	Minor claims	1 753 472
(c)	Working capital	<u>20 000 000</u>
		<u>22 763 482</u>
(ii)	Income	
(a)	Surplus as at 31.12.93	5 218 952
(b)	Interest to be earned in 1994	400 000
(c)	Annual contributions required for General Fund	<u>17 144 530</u>
		<u>22 763 482</u>

2.4 Taking into account the KEUMDONG N°5 incident, contributions of £17 144 530 would be needed to balance the 1994 account of the General Fund and to increase the working capital to £20 million. The Assembly may therefore wish to levy annual contributions for the General Fund in 1993 in the amount of £17 million.

3 AEGEAN SEA Major Claims Fund

3.1 In paragraph 3.5.1 of document FUND/A.16/14, it was estimated that the IOPC Fund will be called upon to make payments during 1994 for some £20 million in respect of the AEGEAN SEA.

3.2 Many of the claims submitted do not indicate exact figures. The examination of the claims arising out of this incident is still not completed. It is therefore very difficult to make any accurate estimate of the total amount to be paid by the IOPC Fund. In addition, the court proceedings which have been initiated in Spain (cf document FUND/EXC.36/4, paragraph 6) have led to uncertainty as to when major payments can be made. Although there is a considerable risk that the total payments to be made by the IOPC Fund will exceed £20 million, the Director nevertheless considers it premature to suggest an increase of the proposed levy to the AEGEAN SEA Major Claims Fund, viz £20 million. Any payments in excess of that amount during 1994 would have to be made using money borrowed from the General Fund.

4 BRAER Major Claims Fund

4.1 As regards the BRAER Major Claims Fund, the Director proposed in paragraph 3.6.2 of document FUND/A.16/14 that 1993 annual contributions should be levied in the amount of £20 million.

4.2 As of 27 September 1993, claims had been approved for a total amount of £15 million.

4.3 In view of recent developments, and in particular the decisions taken by the Executive Committee at its 36th session, the Director estimates that the total amount of the established claims will reach £40 million. The limitation amount applicable to the BRAER is approximately £5.5 million, and the shipowner's P & I insurer has already made payments for nearly that amount. On the basis of his assessment, the Director proposes that 1993 annual contributions should be levied to the BRAER Major Claims Fund in the amount of £35 million.

5 TAIKO MARU Major Claims Fund

5.1 In paragraph 3.7.1 of document FUND/A.16/14, the Director estimated the total amount of the established claims in respect of the TAIKO MARU incident would be in the region of £10-12 million. He proposed, therefore, that 1993 annual contributions to the TAIKO MARU Major Claims Fund should be levied in the amount of £10 million.

5.2 In the light of the developments set out in document FUND/EXC.36/6/Add.1, the Director considers that the total amount of the established claims may be somewhat higher than £12 million. In view of the difficulty in assessing the fishery claims, the Director, nevertheless, takes the position that it is not appropriate to increase the levy to the TAIKO MARU Major Claims Fund from that proposed in document FUND/A.16/14. Any payments during 1994 in excess of £10 million would have to be made using money borrowed from the General Fund.

6 KEUMDONG N°5 Major Claims Fund

6.1 As regards the KEUMDONG N°5 incident, it is very difficult at this early stage to estimate the total amount of the established claims. The limitation amount applicable to the shipowner is only £66 000. In view of the extent of the pollution on shore and at sea, and taking into account that the spill affected a very sensitive area where extensive aquaculture is carried out, the Director considers that the IOPC Fund will be called upon to make significant payments of compensation. In his view, these payments will exceed £10 million, and the total amount may be considerably higher.

6.2 In order to enable the IOPC Fund to make prompt payments to the claimants in this case, the Director proposes that 1993 annual contributions to the KEUMDONG N°5 Major Claims Fund should be levied in the amount of £10 million. Any payments during 1994 in excess of this amount would have to be made using money borrowed from the General Fund.

7 Action to be Taken by the Assembly

The Assembly is invited, in accordance with Article 12 of the Fund Convention, to:

- (a) take note of the information contained in this document;
- (b) decide in respect of:
 - (i) the assessment of 1993 annual contributions to the General Fund (paragraph 2.4 of the present document);
Director's proposal: £17 million
 - (ii) the assessment of 1993 annual contributions to the HAVEN Major Claims Fund (paragraph 3.4 of document FUND/A.16/14);
Director's proposal: £10 million
 - (iii) the assessment of 1993 annual contributions to the AEGEAN SEA Major Claims Fund (paragraph 3 of the present document);
Director's proposal: £20 million
 - (iv) the assessment of 1993 annual contributions to the BRAER Major Claims Fund (paragraph 4 of the present document);
Director's proposal: £35 million
 - (v) the assessment of 1993 annual contributions to the TAIKO MARU Major Claims Fund (paragraph 5 of the present document);
Director's proposal: £10 million
 - (vi) the assessment of 1993 annual contributions to the KEUMDONG N°5 Major Claims Fund (paragraph 6 of the present document);
Director's proposal: £10 million

- (vii) the date of payment of 1993 annual contributions to the General Fund and to the HAVEN, AEGEAN SEA, BRAER, TAIKO MARU and KEUMDONG N°5 Major Claims Funds (paragraph 4 of document FUND/A.16/14);

Director's proposal: 1 February 1994

- (viii) the surplus on the amalgamated BRADY MARIA and THUNTANK 5 Major Claims Funds (paragraph 5.5 of document FUND/A.16/14);

Director's proposal: reimburse £200 000 to contributors and transfer the balance to the General Fund

- (c) take note of the Director's position that it is premature to levy contributions to any PATMOS, VISTABELLA or AGIP ABRUZZO Major Claims Funds (paragraphs 3.1, 3.2 and 3.3 of document FUND/A.16/14); and

- (d) take note of the situation in respect of the KASUGA MARU N°1 and RIO ORINOCO Major Claims Funds (paragraphs 6 and 7 of document FUND/A.16/14).
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