



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

ASSEMBLY
16th session
Agenda item 21

FUND/A.16/18
23 August 1993

Original: ENGLISH

REVIEW OF FINANCIAL REGULATIONS

Note by the Director

1 Introduction

1.1 At its 15th session, the Assembly reviewed the IOPC Fund's investment policy. In the light of the discussions on the subject, the Director informed the Assembly that he intended to carry out a general review of the IOPC Fund's Financial Regulations in order to establish if modifications should be made to meet the concerns expressed during the discussions, for example with regard to the relationship between the General Fund and Major Claims Funds, and to adapt these Regulations to the needs of the expanded activities of the organisation (document FUND/A.15/28, paragraph 15.11).

1.2 Having reviewed the Financial Regulations in their entirety, the Director has come to the conclusion that a certain amount of updating of the provisions would be appropriate, in particular in the light of the experience of the operations of the Fund over the years and the expanded activities of the organisation. In document FUND/A.16/11, however, the Director has invited the Assembly to consider whether it may wish to give him instructions in respect of the preparations for the entry into force of the 1992 Protocol to the Fund Convention. In that document the Director has, inter alia, mentioned the need for elaboration of Financial Regulations for the organisation to be set up under that Protocol (the "1992 Fund"). If the Assembly were to instruct the Director to make the study referred to in that document, the Director would consider it appropriate that a general review of the Financial Regulations applicable to the present organisation (the "1971 Fund") were made in conjunction with the elaboration of Financial Regulations to be applied by the new organisation (the "1992 Fund"). For this reason the Director has for the time being limited his review of the Financial Regulations to certain points where he considers that there is an urgent need for modifications, as set out below.

1.3 The proposals for amendments to the Financial Regulations set out in this document have been made in consultation with the External Auditor.

2 Authority to Make Payments

2.1 The authority to make payments on behalf of the IOPC Fund is governed by Financial Regulation 6.2 which reads:

The Fund's bankers shall only be empowered to accept instructions on behalf of the Fund if such instructions are signed by the Director and, in respect of payment instructions for any sum in excess of £14 000, countersigned by one other properly authorized officer. The Director may empower another officer or other officers to sign instructions to the Fund's bankers on his behalf only in respect of payment instructions for any sum of less than £5 000. For payment of salaries the Director may exceptionally, in circumstances where he is unable to do so himself, empower two other officers to sign jointly instructions for any sum up to £25 000.

2.2 The total amount of monthly salaries is now close to £25 000. With the present staff, the total monthly salary is around £23 000. If, as proposed in document FUND/A.16/12, the Director were to be authorised by the Assembly to employ one more professional staff member and he were to use this authority, the monthly salaries would be in the region of £27 000. For this reason, the Director proposes that he be authorised to empower two other officers to sign jointly instructions for payment of salaries up to £35 000.

2.3 With regard to payments not relating to salaries the low limit of £5 000 has caused problems in the context of the BRAER incident. The IOPC Fund is thus not able to make payments of any claims in excess of £5 000 if the Director is not available to sign instructions (eg if he is away on mission or on leave). In view of the fact that it is often crucial that compensation to individuals and small businesses can be paid immediately, the Director proposes that this limit be increased. The Assembly may wish to consider whether the Director should be empowered to authorise two other officers jointly to make payments of claims already approved by the Director up to £25 000 in cases where a delay in payment would cause financial hardship for the victims concerned.

2.4 In the light of the considerations set out above, the Director submits the following proposal for a revised text of Financial Regulation 6.2 for examination by the Committee (amendments underlined)

The Fund's bankers shall only be empowered to accept instructions on behalf of the Fund if such instructions are signed by the Director and, in respect of payment instructions for any sum in excess of £14 000, countersigned by one other properly authorized officer. The Director may empower another officer or other officers to sign instructions to the Fund's bankers on his behalf only in respect of payment instructions for any sum up to £5 000. For payment of salaries the Director may exceptionally, in circumstances where he is unable to do so himself, empower two other officers to sign jointly instructions for any sum up to £35 000. In addition, the Director may authorise two other officers to sign jointly instructions for payment of compensation to any claimant up to £25 000 in respect of a claim already approved by the Director, in the event that a delay in payment would cause financial hardship to the claimant concerned.

3 Relationship Between the General Fund and Major Claims Funds

3.1 The IOPC Fund's assets consist of a General Fund and Major Claims Funds. The General Fund consists of the initial contributions, annual contributions levied pursuant to Article 12.2(a) of the Fund Convention and income received from the investment of monies in the General Fund. The General Fund is used to meet the costs and expenses for the administration of the IOPC Fund and to satisfy claims for compensation and indemnification, up to 15 million (gold) francs per incident (Financial Regulation 5.1). A Major Claims Fund is established for each incident giving rise to payments by the IOPC Fund in excess of 15 million (gold) francs. Each Major Claims Fund consists of annual contributions levied under Article 12.2(b) of the Fund Convention to that Major Claims Fund and income received from the investment of monies in that Major Claims Fund. The assets of any Major Claims Fund shall be used for the payment of claims to the extent that the total cost to the IOPC Fund of that particular incident exceeds 15 million (gold) francs (Financial Regulation 5.2).

3.2 Under the Financial Regulations loans may be made from the General Fund to a Major Claims Fund, from a Major Claims Fund to the General Fund and between Major Claims Funds, to the extent

that sufficient money is not available in the Fund in question (Financial Regulations 5.1(c)(iv), 5.2(d) and 5.2(e)). Any loan between the various Funds is repaid with interest.

3.3 The assets of the General Fund and the assets of the various Major Claims Funds are invested together.

3.4 During the discussions at the 15th session of the Assembly, concerns were expressed with regard to the relationships between the General Fund and the Major Claims Funds. The Director has interpreted these concerns as relating to the fact that the assets of the General Fund and the assets of the various Major Claims Funds are not invested separately. In the Director's opinion, it would be very difficult, from a practical point of view, to separate the investments of the various Funds. In addition, he does not consider that the present practice of joint investment is in any way detrimental to the contributors to the various Funds. It should be noted that the contributors to the individual Funds are generally the same. For these reasons, the Director proposes that the present investment policy in this regard should be continued.

4 Provisions Relating to the Provident Fund

The Assembly will be invited to consider a document prepared by the Director concerning the legal status of the Provident Fund (document FUND/A.16/15). This document also includes certain proposals for amendments to the Financial Regulations in respect of the Provident Fund.

5 Action to be Taken by the Assembly

The Assembly is invited to:

- (a) take note of the information contained in this document;
 - (b) consider the Director's proposal for amendments to the Financial Regulations in respect of the authority to make payments (paragraph 2);
 - (c) consider the Director's proposal to maintain the present policy of joint investment of the assets of the General Fund and Major Claims Funds (paragraph 3); and
 - (d) give the Director such instructions in respect of his further study of the Financial Regulations as it may deem appropriate.
-