



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

ASSEMBLY
16th session
Agenda item 1

FUND/A.16/1
1 July 1993

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PROVISIONAL ANNOTATED AGENDA OF THE SIXTEENTH SESSION OF THE ASSEMBLY

to be held at the Headquarters of the
International Maritime Organization, 4 Albert Embankment,
London SE1, from Tuesday 5 October, 2.30 pm,
to Friday 8 October 1993

Opening of the Session

1 Adoption of the Agenda

2 Election of the Chairman and Two Vice-Chairmen

In accordance with Article 18.1 of the Fund Convention and Rule 20 of the Rules of Procedure, the Assembly will be invited to elect a Chairman and two Vice-Chairmen who shall hold office until the next regular session.

3 Examination of Credentials

In accordance with Rule 10 of the Rules of Procedure, the Director will report to the Assembly on the credentials received from representatives of Members.

4 Grant of Observer Status

A request for the granting of observer status has been made; the Assembly will be invited to consider this request (FUND/A.16/2).

5 Report of the Director

The Assembly may wish to consider the Director's report on the operations of the IOPC Fund since the 15th session of the Assembly; a written report will be circulated (FUND/A.16/3).

6 Report on Investments

In accordance with Internal Regulation 10.3, the Director will submit a detailed report on the IOPC Fund's investments since the 15th session of the Assembly (FUND/A.16/4).

7 Financial Statements and Auditor's Report and Opinion

In accordance with Article 29.2(f) of the Fund Convention, the Director has prepared the Financial Statements of the IOPC Fund for the financial year 1992. According to Financial Regulation 10.9, the External Auditor shall transmit his Report on the Financial Statements to the Chairman of the Assembly not later than 30 June following the end of the accounting year. The Assembly will be invited to consider the Auditor's Report and Opinion and to approve the accounts of the IOPC Fund (FUND/A.16/5).

8 Report on Contributions

The Director will submit a report to the Assembly on the payment of contributions (FUND/A.16/6).

9 Reports of the Executive Committee on its 33rd, 34th, 35th and 36th sessions

According to Article 18.12 of the Fund Convention, the Assembly has to review and approve the reports on the activities of the Executive Committee. The reports on the Committee's 33rd, 34th, 35th and 36th sessions will be presented to the Assembly by the Committee's Chairman (documents FUND/EXC.33/2, FUND/EXC.34/9 and FUND/EXC.35/10, in respect of the sessions held prior to the issuance of this document).

10 Election of Members of the Executive Committee

Pursuant to Article 23.1 of the Fund Convention, the Assembly will be invited to elect new members of the Executive Committee. The Director will submit a document containing the necessary information (FUND/A.16/7).

11 Appointment of Members and Substitute Members of the Appeals Board

In accordance with Section II(c) of the Statute of the Appeals Board, the Assembly will be invited to appoint members and substitute members of the IOPC Fund's Appeals Board. A document containing the necessary information will be submitted (FUND/A.16/8).

12 Supplementary Budget for 1993

The Assembly will be invited to consider the adoption of a supplementary budget appropriation for 1993, as a result of a decision by the Executive Committee in respect of the translation of IOPC Fund documents. A document on this issue will be submitted by the Director (FUND/A.16/9).

13 Outcome of the International Conference on the Revision of the 1969 Civil Liability Convention and the 1971 Fund Convention

An International Conference, held in November 1992, adopted Protocols amending the 1969 Civil Liability Convention and the 1971 Fund Convention (the 1992 Protocols). A document will be submitted to the Assembly on the outcome of this Conference (FUND/A.16/10).

14 Preparations for the Entry Into Force of the 1992 Protocols Amending the 1969 Civil Liability Convention and the 1971 Fund Convention

The International Conference which adopted the 1992 Protocols amending the 1969 Civil Liability Convention and the 1971 Fund Convention also adopted a Resolution which invited the Assembly of the IOPC Fund to instruct the Director to make the necessary preparations for the entry into force of the 1992 Protocol to the 1971 Fund Convention, in particular as regards the administration of the organisation ("the 1992 Fund") which will be established under that Protocol. The Assembly will be invited to consider giving the Director instructions in respect of the preparations referred to in that Resolution (FUND/A.16/11).

15 Budget 1994

A draft budget for the calendar year 1994 will be circulated to Governments of Member States for consideration and adoption (FUND/A.16/12).

16 Increase of the Working Capital

At its 14th session, the Assembly increased the IOPC Fund's working capital from £4 million to £6 million. The Assembly will be invited, in a document to be submitted by the Director (FUND/A.16/13), to consider whether a further increase of the working capital is necessary.

17 Assessment of Annual Contributions

In accordance with Article 12 of the Fund Convention, the Assembly will be invited to decide on the assessment of annual contributions. The Director will submit a document on this matter (FUND/A.16/14).

18 Legal Status of the Provident Fund

As instructed at its 15th session, the Director will submit to the Assembly for consideration a document concerning the legal status of the Provident Fund (FUND/A.16/15).

19 Review of Investment Policy

At its 15th session, the Assembly instructed the Director to examine certain aspects relating to the IOPC Fund's investment policy, in consultation with the External Auditor. A document on this issue will be submitted to the Assembly by the Director (FUND/A.16/16).

20 Establishment of Investment Advisory Body

At its 15th session, the Assembly instructed the Director to examine, in consultation with the External Auditor, whether it would be appropriate for the IOPC Fund to set up a special body to advise the Director on investment matters and to consider the composition of such a body. The Director will submit a document to the Assembly on this matter (FUND/A.16/17).

21 Review of Financial Regulations

In the light of discussions at the 15th session of the Assembly, the Director has carried out a general review of the IOPC Fund's Financial Regulations. The Director's report on this review will be submitted to the Assembly for consideration (FUND/A.16/18).

22 Investigations Into the Cause of Incidents

At its 15th session, the Assembly accepted an offer by the delegation of the United Kingdom that the United Kingdom Government would be prepared to carry out a study of how the IOPC Fund could be afforded the opportunity of becoming involved in the investigations carried out by the competent coastal or flag State into the cause of incidents and of the Fund being granted access as soon as possible to the results of any such investigations. The Assembly will be invited to examine the results of this study (FUND/A.16/19).

23 Criteria for the Admissibility of Claims for Compensation

At its 35th session, the Executive Committee addressed a number of important questions in respect of the admissibility of claims for compensation. During the discussions several delegations expressed the view that the IOPC Fund should give general consideration to the criteria to be applied by the Fund in this regard. The Assembly may wish to consider whether this matter should be examined by the IOPC Fund in the light of the experience gained from recent major incidents. The Director will submit a document on this issue (FUND/A.16/20).

24 Applicability of the Fund Convention to Oil Pollution Damage Caused by Spills from Unidentified Sources

In connection with an oil spill which occurred in Portugal in December 1992, an important question of principle has arisen, viz to what extent the IOPC Fund is liable to pay compensation in respect of an oil spill, the source of which has not been identified. The Assembly may wish to consider this question of principle. The Director will present a study of this issue (FUND/A.16/21).

25 Director's Authority to Settle Claims for Compensation

The Director's authority to make final settlements in respect of claims for compensation against the IOPC Fund is governed by Internal Regulations 8.4.1 and 8.4.2. The Assembly will be invited to consider, on the basis of a document to be submitted by the Director, whether the limits of the Director's authority in this regard should be modified, in view of experience gained from recent incidents (FUND/A.16/22).

26 Functions of the Executive Committee

The Assembly decided, at its 3rd session, to allocate certain functions to the Executive Committee, in addition to the functions allocated to the Committee directly in the Fund Convention. The Assembly may wish to reconsider the functions to be allocated to the Executive Committee, in the light of experience gained during recent years (FUND/A.16/23).

27 Application of the Contribution System Laid Down in the Fund Convention to Oil Passing Through the SUMED Pipeline

At its 15th session, the Assembly invited the Director to examine a problem raised by the Government of the Arab Republic of Egypt, viz the application of the contribution system laid down in the Fund Convention to the activities of the company operating the SUMED pipeline, which runs from the Gulf of Suez to the Mediterranean. The Director will submit to the Assembly for consideration a document dealing with this matter which has been elaborated in consultation with the Government of Egypt (FUND/A.16/24). The Government of Egypt will also present a document on this issue (FUND/A.16/24/1).

28 Interpretation of the Notion of "Received" In Article 10 of the Fund Convention

Some storage companies in the Netherlands have argued that the interpretation of the notion of "received" in Article 10 of the Fund Convention adopted by the IOPC Fund is incorrect. The IOPC Fund is involved in legal proceedings on this matter in the Netherlands. The Director will present a document on the developments on this issue (FUND/A.16/25).

29 Definition of "Contributing Oil" in Article 1.3 of the Fund Convention

The question has arisen as to whether a certain kind of crude oil falls within the definition of contributing oil laid down in Article 1.3 of the Fund Convention. A document on this issue will be submitted by the Director (FUND/A.16/26).

30 Levy of Contributions in respect of Oil Receivers in the Former USSR

At its 15th session, the Assembly considered certain questions with regard to contributions levied in respect of oil receivers in States which were formerly part of the Union of Soviet Socialist Republics (USSR). The Director was instructed to approach the Governments of the newly independent States (other than the Russian Federation) which were formerly part of the USSR, in particular the Governments of Azerbaijan, Georgia and Turkmenistan, in consultation with the Secretary-General of IMO, in order to establish the respective positions of the Governments of those States vis-à-vis the Fund Convention, and to report the results of these enquiries to the Assembly at its 16th session. A document dealing with this question will be submitted by the Director (FUND/A.16/27).

31 Replacement of Instruments Enumerated in Article 5.3 of the Fund Convention

The Assembly will be invited to examine whether to include certain Amendments to MARPOL 73/78 and SOLAS 74 in the list of instruments contained in Article 5.3 of the Fund Convention (FUND/A.16/28).

32 Refund of Indirect Taxes

Under Article 34.2 of the Fund Convention the Government of Member States shall take, whenever possible, appropriate measures for the remission or refund of indirect taxes and sales taxes paid by the IOPC Fund in the exercise of its official activities. At its 15th session, the Assembly considered certain difficulties which the IOPC Fund had encountered in the application of this provision. The Director will submit a document on the developments on this issue (FUND/A.16/29).

33 Amendments to the Staff Rules

The Director will report to the Assembly on amendments to the Staff Rules issued by him in accordance with Staff Regulation 28 (FUND/A.16/30).

34 Draft International Convention on Liability and Compensation for Damage In Connection with the Carriage of Hazardous and Noxious Substances by Sea

The Legal Committee of the International Maritime Organization is examining a draft Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea. Under the Convention there would be established a system of compensation similar to that created by the Civil Liability Convention and the Fund Convention. The Director will submit a document containing information on this matter (FUND/A.16/31).

35 Date of Next Session

Article 19 of the Fund Convention provides that the Assembly shall have regular sessions once every calendar year. In accordance with the Assembly's wish to hold its regular sessions normally in September/October each year, tentative arrangements have been made with the International Maritime Organization for a meeting in this period in 1994.

36 Any Other Business

The Assembly will be invited to consider other matters which may be proposed by Members or by the Director.

37 Adoption of the Report of the 16th Session

Rule 27 of the Rules of Procedure provides that the Secretariat shall prepare a report of the session incorporating the decisions taken. The Assembly will be invited to adopt this report.
