



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

ASSEMBLY  
16th session  
Agenda item 23

FUND/A.16/20  
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## CRITERIA FOR THE ADMISSIBILITY OF CLAIMS FOR COMPENSATION

Note by the Director

### 1 Introduction

1.1 At its 35th session, the Executive Committee considered a number of claims for compensation arising out of the HAVEN, AEGEAN SEA and BRAER incidents. In that context, the Committee addressed several important questions of principle in respect of the admissibility of claims. The Committee discussed in particular the extent to which so-called "pure economic loss" would fall within the definition of "pollution damage" and whether the notion of "preventive measures" covered measures to prevent or minimise pure economic loss, such as tourism promotion and the marketing of fish products (document FUND/EXC.35/10).

1.2 In the light of the important questions in respect of the admissibility of claims which had arisen in connection with the HAVEN, AEGEAN SEA and BRAER incidents, several delegations expressed the view that the IOPC Fund should give consideration to these questions. It was recognised that there was a need for general criteria for the admissibility of claims, and it was suggested that the Assembly should consider this matter (document FUND/EXC.35/10, paragraph 3.1.11).

1.3 In the present document the Assembly is invited to consider the matter raised by the Executive Committee.

### 2 Previous Practice Within the IOPC Fund

In 1980 the IOPC Fund addressed certain questions of principle relating to the admissibility of claims. At its 1st extraordinary session, the Assembly established an Intersessional Working Group with the mandate to consider the Fund's general policy in respect of the admissibility and payment of claims, with particular regard to their expeditious settlement (document FUND/A/ES.1/13, paragraph 11 (a)). The Working Group based its work on a note prepared by the Director (document FUND/WGR.5/1). The report of the Working Group is set out in document FUND/A.4/10. This report was considered by the Assembly at its 4th session. The Assembly generally endorsed the results of the Working Group's discussions (document FUND/A.4/16, paragraph 13).

### **3 Director's Proposal**

3.1 The Director agrees with the Executive Committee that it would be useful if the IOPC Fund were to consider the general criteria for the admissibility of claims for compensation, in the light of the practice of the Fund since 1979. The question would then arise as to what procedure should be used for such an examination.

3.2 In the view of the Director, it would be difficult for the Assembly itself to carry out this examination. The Director proposes, therefore, that a Working Group be set up to study the issues referred to by the Executive Committee. It is suggested that the Working Group should submit a report to the Assembly for consideration at its 17th session.

3.3 If the Assembly were to agree to the proposed procedure, the Director would be prepared to make a preliminary study, setting out the practice of the IOPC Fund as regards various types of claims and identifying questions of principle which may have to be addressed in the near future.

### **4 Action to be Taken by the Assembly**

The Assembly is invited to:

- (a) take note of the information contained in this document;
  - (b) decide whether the IOPC Fund should give consideration to the general criteria to be applied by the Fund in respect of the admissibility of claims for compensation;
  - (c) decide on the procedure to follow, if a study of this issue were to be carried out by the IOPC Fund;
  - (d) determine the composition and mandate of such a Working Group, if any; and
  - (e) give the Director such instructions in respect of this issue as the Assembly may deem appropriate.
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