

ASSEMBLY - 1st session
Agenda item 9

ADOPTION OF INTERNAL REGULATIONS

Observations by Oil Companies International Marine
Forum and the Oil Companies Institute for
Marine Pollution Compensation Limited

The Oil Companies International Marine Forum and the Oil Companies Institute for Marine Pollution Compensation Limited wish to submit the following comments upon the draft Internal Regulations which are to be placed before the Assembly of the International Oil Pollution Compensation Fund for adoption.

Regulation 2

2.3 and 2.4

Initial contributions are payable solely in the currency of the Headquarters State while annual contributions are payable under Alternative A of Regulation 2.4 either in the currency of the Headquarters State or, at the option of the Director, in the national currency of the location of the contributor. Alternative B of 2.4 would give the contributor the right to pay in his national currency.

It is suggested that in order to ensure flexibility in operations, both initial and annual contributions should be payable in the currency of the Headquarters State or in the national currency of the location of the contributor if required by the Director.

We are concerned that Alternative B could subject the Fund to risk of losses in the event of severe currency fluctuations and cause portions of the Fund's assets being sterilised in blocked countries. We accordingly suggest that Alternative A would be preferable.

2.5

It is proposed that the date for the conversion of the sum of 15 million francs referred to in Article 12(1)(i)(b) and (c) should be the date of the incident. However, it is unlikely that claims will be settled for some time after the incident giving rise to them, and during the interval currency fluctuations may occur. It is suggested that conversion should be at the date of assessment of annual contributions.

2.6

This Regulation would appear to require a State ratifying the Convention during the course of a year to pay an annual contribution in respect of the entire year. We appreciate that under Article 12(1)(i)(c) such a State would not contribute towards payments by the Fund in respect of incidents occurring before the Fund Convention entered into force for that State where the claims exceed 15 million francs, but we nevertheless do not consider the requirement equitable. We would suggest that the annual contribution for the first year during which a State ratifies the Convention should be prorated according to the time for which the Convention is in effect for the State.

Initial contributions would be payable in full whenever the State ratifies.

2.11

We consider that this Regulation is out of place, and would be more appropriate in Regulation 3 or Regulation 6.

Regulation 6

There appears to be no reference in this Regulation to the payment of the indemnity to the shipowner under Article 5 of the Convention.

6.4

We would prefer Alternative B to Alternative A, in that a number of claims not exceeding 5 million francs could exceed a total of 25 million francs. It is also felt that the figure of 25 million francs referred to in Alternative B could be reduced to 12.5 million francs. This would provide an amount sufficient for meeting immediate small claims.

6.8

We would seriously question the desirability of this Regulation being included in its present form. Where proration of claims is necessary, a provisional payment to any one claimant of 60% of his claim might be excessive, particularly if the Director cannot be certain that he has received all claims. There would also appear to be some conflict between the 60% figure and 225 million francs. We would much prefer to see the Regulation leaving provisional payments of this nature to the discretion of the Director, with suitable wording to instruct him to ensure that those receiving provisional payments would not receive more than they would be likely to receive in the event that claims are prorated.

6.9

We are concerned at the prospects of the Assembly increasing still further the limits of provisional payments.

Regulation 7

We would wish to see this Regulation deleted in its entirety. We see no reason why the International Fund should bear part of the cost of establishing a limitation fund for a shipowner under the 1969 Civil Liability Convention. By establishing a limitation fund the shipowner obtains the benefit of limitation, but the International Fund does not receive any benefit in consequence, and it seems unreasonable therefore to expect the International Fund to pay part of the costs.

Regulation 10

10.5

The maximum amount for which credit facilities are provided are referred to as being the total amount which the International Fund may ultimately be liable to pay. However, by Regulation 10.1 such facilities are stated as being for the taking of adequate preventive measures. It is suggested that in order to be entirely clear Regulation 10.5 should refer to "the total amount which the Fund may ultimately be liable to pay in respect of the cost of preventive measures under the Fund Convention ...".

Appendix

Regulation X

While accepting the role of the International Fund to indemnify a shipowner, we would strongly object to the International Fund acting as a guarantor, and would not wish this Regulation to be adopted.
