

ASSEMBLY - 1st session

SUMMARY RECORD OF THE THIRD PLENARY MEETING

held at IMCO Headquarters, 104 Piccadilly, London, W.1,
on Tuesday, 14 November 1978 at 10.05 a.m.

Chairman:	Mr. J. BREDHOLT (Denmark)
Director designate:	Mr. R.H. GANTEN
Secretary-General of IMCO:	Mr. C.P. SRIVASTAVA
Secretary:	Mr. T.S. BUSH (IMCO Secretariat)

A list of participants is given in OPCF/A.I/INF.1

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AGENDA ITEM 6 - APPOINTMENT OF DIRECTOR (OPCF/A.I/4 and Add.1)

The CHAIRMAN called upon the Assembly to elect the Fund's first Director, in accordance with Article 16 (Organization and Administration), Article 18(4) (Functions of the Assembly), and Articles 32(d) and 33(2) (Voting). A Director would be appointed following election by secret ballot, the requisite number of votes being a two-thirds majority of members present and voting.

The heads of the delegations of Liberia and Sweden acted as scrutineers.

After voting had taken place in secret session, and votes had been counted, the CHAIRMAN announced the result, as follows:

Members present and voting:	10
In favour of Mr. Ganten (Federal Republic of Germany)	7
In favour of Mr. Nakayama (Japan)	3

Mr. Ganten (Federal Republic of Germany) was accordingly declared duly elected.

The CHAIRMAN offered Mr. Ganten his congratulations on his election to the post of first Director of the International Oil Pollution Compensation Fund.

Mr. GANTEN (Director designate) thanked the Assembly for electing him to his new post. He assured members that he would do all within his power to see that the Fund functioned efficiently, and to justify the confidence they had shown in him.

Mr. DOUAY (France) also extended his delegation's congratulations to Mr. Ganten on his appointment. Mr. Ganten was well known to most of those present for his human and diplomatic qualities shown at the diplomatic conferences on liability, at the IMCO Legal Committee and also at UNCTAD, where he would be missed. Mr. Nakayama possessed ability of the highest order, particularly on the technical plane, and had he been elected Director he would have served the Fund well in that capacity. Nevertheless, Mr. Ganten would assuredly appoint a team of assistants with the necessary technical competence to enable him successfully to co-ordinate the efforts of the Fund.

The CHAIRMAN suggested that the Secretary-General be asked to prepare draft terms of contract, after consultation with the new Director.

Mr. HALL (United Kingdom) proposed that a small working group be constituted for that task. Such a group would need the assistance of the IMCO Secretariat.

The CHAIRMAN suggested that representatives of France, Japan, Sweden and the United Kingdom might constitute such a working group and might work with the assistance of the IMCO Secretariat.

It was so decided.

AGENDA ITEM 2 - ELECTION OF TWO VICE-CHAIRMEN (resumed)

The CHAIRMAN asked for nominations for the election of the Vice-Chairmen of the first Assembly.

On a proposal from Mr. HALL (United Kingdom), seconded by Mr. DOUAY (France) the heads of the delegations of Yugoslavia and Tunisia were elected by acclamation as the first and the second Vice-Chairman respectively of the first Assembly.

Mr. STALIO (Yugoslavia) thanked the Assembly for the honour that election conferred on him and on his country.

Mr. KESRAOUI (Tunisia) expressed on behalf of the head of his delegation deep appreciation for the honour to his country and to Africa as a whole.

AGENDA ITEM 13 - DETERMINATION OF HEADQUARTERS STATE
(OPCF/A.I/10, OPCF/A.I/10/1, OPCF/A.I/10/2)

Mr. HALL (United Kingdom) said that, while his Government would be greatly honoured by a decision to locate the Fund in London and would do all it could to facilitate its establishment there, it also commended a decision to that effect to the Assembly on more objective grounds.

With regard to costs, his Government would supplement the funds already made available by IMCO if that were necessary. Further, as regards rental, if it were considered important and proper in the circumstances, his Government would enter into an arrangement similar to that which it had with IMCO. His Government visualized a self-financing body with a small staff ensuring maximum liaison with IMCO.

Under its new Director, the Fund would have the best of opportunities for efficiency, and that criterion again led to the selection of London as its Headquarters.

While the guidance and help the Fund could receive from IMCO would be invaluable during its settling-in period, he also foresaw it as a great asset in the longer term. Indeed location elsewhere would constitute a handicap.

He further stressed the significance of the economic impact of the presence in London of the marine insurance industry and the Protection and Indemnity Clubs.

In order further to facilitate liaison with IMCO, he suggested that accommodation for the Fund be found within or alongside IMCO, and also that space be reserved for the Fund in IMCO's new headquarters.

His delegation had already prepared a draft headquarters agreement on privileges and immunities for the Fund, not in order to prejudge the issue but in view of its importance to the inauguration of the Fund. That draft could be tabled either at the present or at the next Assembly.

His present delegation included officials from the United Kingdom Property Services Agency who could be consulted as and how the Assembly might direct in respect of accommodation in London.

He summed up his Government's position by saying that it had made its proposal in what it considered to be the best interests of the Fund and of the Contracting States.

Mr. DOUAY (France) said that his country had made a very positive offer to locate the Fund's headquarters in Paris, and had good reason for doing so. France was the second largest contributor to the Fund, after Japan, and had had considerable experience in fighting pollution on its coasts, the most serious instance being the result of the grounding of the "Amoco Cadiz". France's legal and technical experience would be placed at the disposal of the Fund, and \$100,000 would be made available immediately to facilitate its installation in Paris; that sum was flexible and not to be repaid.

The Government of France was ready to provide premises in the best conditions possible to assist the material and financial independence of the Fund. Initially, IMCO could provide very useful assistance, but the Fund should become autonomous as soon as possible; it should not be a

satellite of IMCO and there was a danger of this happening if its headquarters were located in London, close to those of IMCO. Paris also had a marine insurance industry, and CRISTAL was represented there too. It was due to the contribution of France that the Fund had been able to get off the ground as quickly as it had.

Mr. KESRAOUI (Tunisia) said that it was difficult to decide between two such generous offers. It was true that the Fund would need the initial assistance of IMCO, but it should gradually become autonomous. In his view more information was needed and in order to allow further time to consider the matter he suggested that it might be discussed again at the next session of the Assembly.

Mr. NAKAYAMA (Japan) said that as the largest contributor to the Fund his country was greatly concerned that it be as efficient as possible. It needed to have a close association with the IMCO Secretariat, and he agreed with the delegate of the United Kingdom on the advantage gained by proximity to the marine insurance industry, and especially the Protection and Indemnity Clubs, which were located in London. A close link between the Fund and the Clubs was most important. He wondered whether the operating cost of locating the Fund's headquarters in Paris would be greater than if it were in London.

Ms BRUZELIUS (Norway) saw great advantages in the offers of both the United Kingdom and France and said that she understood the desire to postpone taking a difficult decision. However, it was important that the decision be taken at the first session of the Assembly so that the Director of the Fund had somewhere to work. She agreed with the delegate of France that it was important for the Fund to be autonomous and independent of IMCO, but it would have to work in close conjunction with IMCO, the insurance market, the oil industry and CRISTAL, which operated from London, and for that reason the Government of Norway favoured the United Kingdom offer.

Mr. NILSSON (Sweden) said that he agreed with both the arguments and the conclusions voiced by the delegates of Japan and Norway, and felt that it was very important for a decision to be taken during the current session. The Director of the Fund had already been given a great deal of work to do before the next session in the Spring of 1979, and it was vital that he appoint his staff as soon as possible. He therefore had to know where his headquarters would be permanently located.

Mr. KELLER (Liberia) said that he, too, was in favour of a decision being taken during the current session; his choice was for London.

Mr. STALIO (Yugoslavia) said that he agreed with the delegate of Tunisia that there was not enough information available to make a definitive decision. He would like further details from both the United Kingdom and France so that a decision could be taken at the next session.

Mr. HERBER (Federal Republic of Germany) felt that there might be something to be said for postponing a decision, since the next session of the Assembly should be held fairly soon, say in February 1979. Decisions on other substantive problems had already been deferred. In any case, wherever the Fund's permanent headquarters were located, the Director would certainly start his work at IMCO, and he would hardly be likely to move before February 1979.

Another advantage of postponing the decision was that, although there were 14 Members of the Fund, only ten of them were represented at the present session. By the next session of the Assembly, Indonesia would be among them and other States might well have become Parties.

The decision must of course be taken in accordance with the criterion of economy. If the Fund were in London, it could make use of IMCO's technical and language staff and hence keep its expenses down. But the proximity of the insurance market might have drawbacks as well as advantages, and in any case Paris was also an important insurance market.

His delegation was in favour of deferring a decision on the location of the Fund's headquarters if the next session of the Assembly were held early in 1979.

Mr. OWADA (Japan) endorsed the view of the Norwegian representative. The Director needed to know where he was going to work before he could start. Moreover, contributions had to be calculated in the currency of the Headquarters State, and that was an issue that could not be postponed. He also wondered whether it would be possible to hold the next session of the Assembly so soon in view of IMCO's heavy commitments in the months ahead. A decision was therefore needed at the current session.

Mr. DOUAY (France) pointed out, in reply to the various points raised, that Paris was the fourth largest international market in the world, with all the necessary technical, legal and insurance expertise. Protection and Indemnity Clubs and CRISTAL had representatives in France, and there were close links with other international markets. France had also had considerable experience in coping with large-scale oil spills. Moreover, since Paris was so near to London, the important link with IMCO could be maintained.

He was unable to reply to the question about operating costs in Paris at the present stage; a study would be made to determine those costs. However, a similar study ought to be carried out to determine operating costs in London, which were not necessarily lower.

He stressed that it would be just as feasible for contributions to be made in French francs as in sterling. Finally, the number of Contracting States might well increase during the next few months. For all those reasons, it was advisable that consideration of the matter should be deferred until the next session of the Assembly. The Director would not thereby be prevented from starting work, for in any case he would need IMCO's help in the initial stage. The important point was that after that stage the Fund should become independent, and that might best be achieved by siting its headquarters away from London.

Ms BRUZELIUS (Norway) said that she was not convinced by the arguments in favour of postponing a decision. A choice had to be made at the present session. She endorsed the Japanese representative's point about the need to calculate contributions in the currency of the Headquarters State. Oil companies had to pay their contributions by 16 January 1979 and they had to know the currency in which their payments were to be made. In the draft internal regulations it was foreseen

that at least part of those contributions should be made in the currency of the Headquarters State, and therefore even if a decision on the location of the headquarters were deferred a decision on the currency of the contributions was needed.

The argument that there might be more Members by the next session was not very convincing. All 14 States Members of the Fund had been invited to the present session, but four had chosen not to attend, and there was little to show that they would come to the next session.

Mr. HALL (United Kingdom) endorsed the arguments of the Norwegian and Japanese delegations. It would be very difficult for the Director to start work in a climate of uncertainty, and practically impossible to engage any staff until the location of the Fund's headquarters were decided upon.

The question of the Headquarters State had been discussed at the 1971 Diplomatic Conference, and the argument in favour of London had received great support at that time. He therefore believed that even if all 14 Members of the Fund were represented at the present session, the decision would not be greatly affected.

It was essential to take a decision at the present session. He therefore proposed that the Assembly should take a vote on whether or not to postpone the decision. However, in order to allow the representatives of Tunisia and Yugoslavia time to consult their Governments, the decision on the Headquarters State might be postponed until Thursday, 16 November.

The CHAIRMAN invited the Assembly, in accordance with Rule 32 of the Rules of Procedure, to take a vote on the postponement of the decision on the location of the headquarters to the next session of the Assembly.

The proposal to postpone the decision was rejected by 6 votes to 4.

It was decided to take a decision on the location of the headquarters of the Fund on Thursday, 16 November.

The meeting rose at 12.25 p.m.