



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

ASSEMBLY
16th session
Agenda item 37

FUND/A.16/32
8 October 1993

Original: ENGLISH

RECORD OF DECISIONS OF THE SIXTEENTH SESSION OF THE ASSEMBLY

(held from 5 to 8 October 1993)

Opening of the Session

The 16th session of the Assembly was opened by Mr J Bredholt (Denmark), in his capacity as representative of the delegation from which the Chairman of the previous session was elected.

1 Adoption of the Agenda

The Assembly adopted the Agenda as contained in document FUND/A.16/1.

2 Election of the Chairman and Two Vice-Chairmen

The Assembly elected the following delegates to hold office until the next regular session of the Assembly:

Chairman:	Mr J Bredholt (Denmark)
First Vice-Chairman:	Professor H Tanikawa (Japan)
Second Vice-Chairman:	Mr A Al-Yagout (Kuwait)

a compromise solution should be sought. The Assembly decided, therefore, that this question should be re-examined if a firm compromise proposal were made or new arguments advanced.

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

28.1 The Assembly recalled that, at its 15th session, it had considered the problems that had arisen due to the fact that certain storage companies in the Netherlands, which had been reported by the Dutch Government as having received contributing oil, argued that the interpretation of the notion of "received" in the Fund Convention applied by the IOPC Fund was incorrect and that they should not be under any obligation to pay contributions to the IOPC Fund.

28.2 The Director introduced document FUND/A.16/25 which set out the developments which had taken place since the 15th session.

28.3 The Assembly noted that the Minister of Economic Affairs of the Netherlands had rejected an appeal made by a Dutch storage company, which had been included in the report of the Government of the Netherlands to the IOPC Fund as a receiver of contributing oil during 1990, requesting that it be decided that the company was not liable to pay contributions to the IOPC Fund since it should not be considered as a "receiver" of oil for the purposes of Article 10 of the Fund Convention. It was also noted that this company had appealed to the Administrative Court of Appeal against the decision of the Minister.

28.4 Since the IOPC Fund had been granted the opportunity of being heard as a third party in the proceedings before the Administrative Court of Appeal, the Assembly instructed the Director to present the IOPC Fund's position to the Court.

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

29.1 It was noted that, in connection with its submission of reports on receipts of contributing oil for 1992, the Government of Canada had requested clarification as to whether a particular kind of oil, cohasset-panuke crude, from an oil field off Nova Scotia should be considered as "contributing oil" for the purposes of the Fund Convention.

29.2 The Assembly noted that, in view of the characteristics of cohasset-panuke crude oil, as set out in paragraph 7 of document FUND/A.16/26, an application of the criteria laid down in the Non-technical Guide to the Nature and Definition of Persistent Oil elaborated within the IOPC Fund would result in this product being considered as "non-persistent" oil. The Assembly took the view that this product should therefore be considered as non-persistent oil and that it would thus fall outside the scope of application of both the Civil Liability Convention and the Fund Convention as regards compensation for oil pollution damage.

29.3 With regard to the question of whether oil which was not persistent oil could fall within the notion of "contributing oil" and therefore be subject to the levy of contributions, the Assembly shared the Director's view that it was reasonable to interpret the definition of "crude oil" within the definition of "contributing oil" in the Fund Convention as being limited to persistent crude oil, since the compensation system established by the Civil Liability Convention and the Fund Convention applied only to persistent oil. For this reason, the Assembly decided that cohasset-panuke crude should be considered as falling outside the definition of "contributing oil".

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

30.1 It was recalled that, at its 15th session, the Assembly had considered, on the basis of a document submitted by the Director (document FUND/A.15/19), certain problems which had arisen with regard to the levy of contributions in respect of oil receivers in States which were formerly part of the