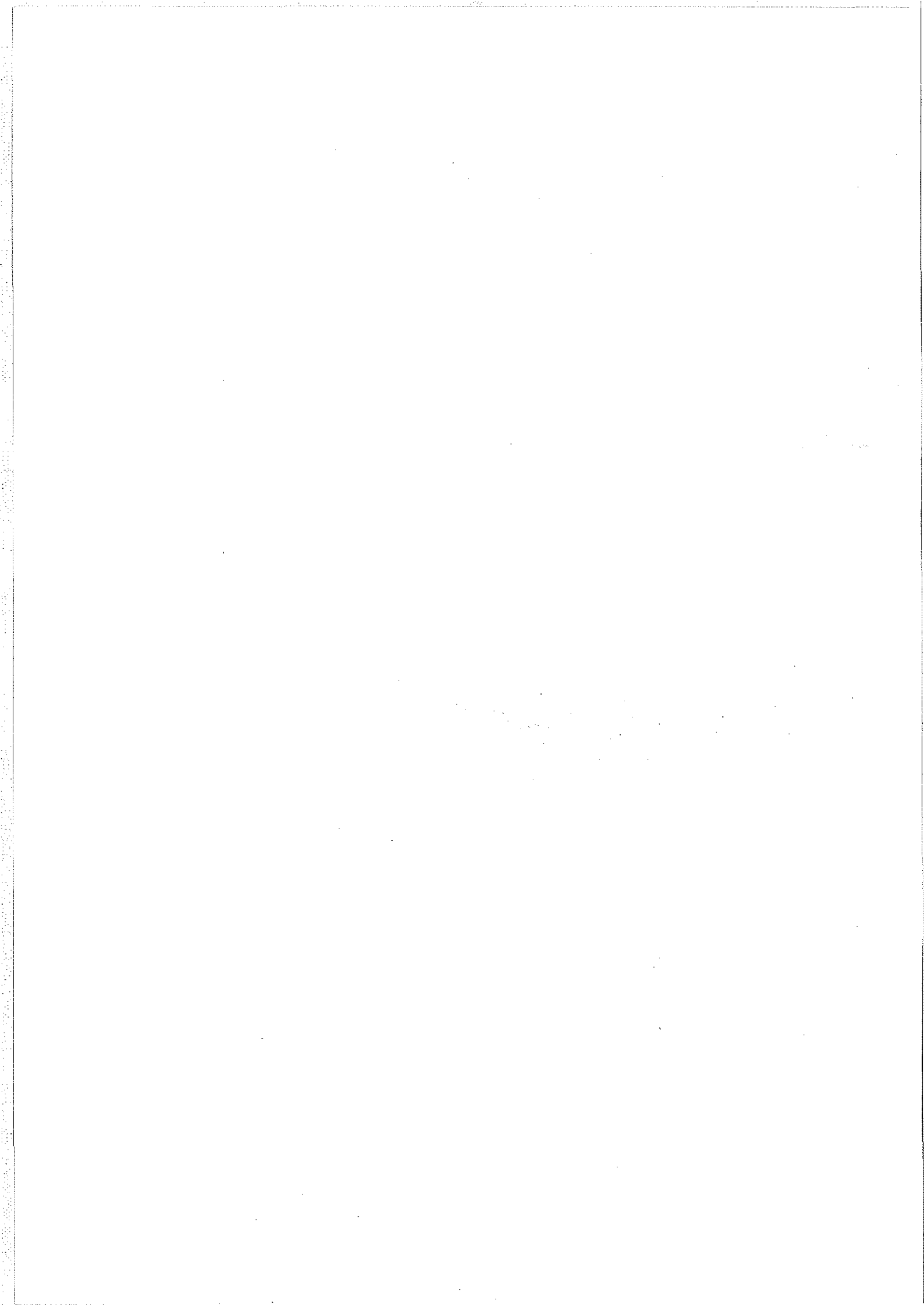


**INTERNATIONAL OIL POLLUTION
COMPENSATION FUND**

**REPORT
ON THE ACTIVITIES OF THE
INTERNATIONAL OIL POLLUTION
COMPENSATION FUND
DURING 1980**



Report on the Activities of the International Oil Pollution Compensation Fund during the Calendar Year 1980

A. GENERAL

1. Membership

In 1980 the Fund Convention entered into force for Papua New Guinea on 10 June and for Iceland on 15 October. As at 31 December 1980, the Fund has 20 Members. For Finland the Convention will enter into force on 8 January 1981.

The Director has continued in his efforts to persuade Governments of non-Contracting States of the advantages of Fund membership. Increased membership would mean that more countries would get better protection against oil pollution incidents and that the burden of contributions to the Fund would be spread more broadly. The Fund has received information that several States are favourably considering ratification of or accession to the Fund Convention. It is hoped that, in 1981, further instruments of ratification or accession will be deposited.

Based on the oil receipts in 1979, the percentage of contributions payable to the Fund by contributing persons in the Member States is as follows:

Algeria	0.062	
Bahamas	3.759	
Denmark	1.353	
France	15.618	
Ghana	0.011	
Germany, Federal Republic of	6.151	
Iceland	—	
Indonesia	1.764	
Italy	17.627	
Japan	37.505	
Liberia	0.057	
Monaco	—	
Norway	0.900	
Papua New Guinea	0.023	
Sweden	2.801	
Syria	—	
Tunisia	0.157	
Tuvalu	—	
United Kingdom	10.579	} total 10.982
Hong Kong	0.403	
Yugoslavia	1.129	

2. Assembly and Executive Committee

In 1980 the Assembly, under the chairmanship of Mr. J. Bredholt (Denmark), held its third session from 17 to 18 March and its first extraordinary session from 8 to 10 October. The Executive Committee, under its Chairman, Professor Tanikawa (Japan), met from 19 to 21 March and from 6 to 8 October for its second and third sessions. The most significant decisions taken at these meetings were the following:

Third session of the Assembly

(a) The Assembly decided to grant observer status to the following eight international non-governmental organizations:

- Baltic and International Maritime Conference (BIMCO);
- Comité Maritime International (CMI);
- International Chamber of Shipping (ICS);
- International Group of P & I Clubs;

International Tanker Owners Pollution Federation Limited (ITOPF);

Oil Companies Institute for Marine Pollution Compensation Limited and Marine Pollution Compensation Services Limited (CRISTAL);

Oil Companies International Marine Forum (OCIMF);

Permanent International Association of Navigation Congresses (PIANC).

(b) The Assembly adopted the Fund's budget for the financial period 1980 with an expenditure of about £173,000, not including appropriations for claims arising from pollution incidents.

(c) The Assembly elected the members of the Executive Committee, who will hold office until the end of the fourth regular session of the Assembly. The members are the Federal Republic of Germany, Italy and Japan, elected under Article 22.2(b) of the Fund Convention, and Ghana, Indonesia, Sweden and the Syrian Arab Republic, elected under Article 22.2(a) of the Fund Convention.

(d) The Assembly decided to allocate several of its functions to the Executive Committee, including, among others, the following:

- the function to authorize the Director to settle claims and to make provisional payments beyond the limits established in the Internal Regulations;
- the function to consider the payment for the satisfaction of claims if annual contributions are not sufficient and if the Director is unable to obtain loans on reasonable terms;
- the determination of the terms and conditions of service of the Director and the decision of whether the privileges and immunities of the Director are to be waived; and
- the function to approve the classification standards on the basis of which the Director can determine appropriate categories and grades for established posts.

The power to approve the budget and to assess annual contributions has not been allocated to the Executive Committee and still lies, therefore, with the Assembly.

(e) The Financial Regulations governing the financial administration of the Fund were adopted.

(f) The Assembly decided, in accordance with Article 5.4 of the Fund Convention, to replace the International Convention for the Safety of Life at Sea, 1960, by the International Convention for the Safety of Life at Sea, 1974. This replacement will take effect on 1 January 1981. From this date shipowners will not be entitled to indemnification under Article 5.1 of the Fund Convention if the Fund proves that, as a result of the actual fault or privity of the owner, the ship from which the oil causing the pollution damage escaped did not comply with the requirements laid down in SOLAS, 1974. Algeria has declared, in accordance with Article 5.4 of the Fund Convention, that it does not accept this replacement.

Second session of the Executive Committee

(g) The Executive Committee took note of the particulars of the incidents with which the Fund was dealing and of the

settlement of claims achieved by the Director. It approved the agreement, with regard to the "Antonio Gramsci" incident, concluded between the Fund and the Swedish Government. According to this agreement, the IOPC Fund has to pay to Sweden an amount of 93 million Swedish Crowns, minus the Swedish portion of the shipowner's liability, plus interest.

(h) The Executive Committee adopted the Rules of Procedure for the Executive Committee and the terms and conditions of the Provident Fund contained in the Staff Rules.

First extraordinary session of the Assembly

(a) Observer status was granted to the European Economic Community.

(b) The Assembly approved the financial statements for the financial period 16 October 1978 to 31 December 1979. The Fund's External Auditor had certified that these financial statements were correct. The total administrative expenditure for the first financial period amounted to £120,258. The Balance Sheet of the Fund as at 31 December 1979 is as at Annex I.

(c) The Assembly adopted the Fund's budget for 1981 with an expenditure of about £190,000 for administrative expenditure, excluding appropriations for claims from pollution incidents.

(d) Annual contributions 1980 were assessed at a total of £10 million. The major share of these contributions (£9.2 million) is for the settlement of claims arising out of the "Antonio Gramsci" incident (see B.1 below), and £800,000 is for the settlement of minor claims.

(e) A Memorandum of Understanding, as at Annex II, was concluded between the Fund and the International Group of P & I Clubs. This Memorandum follows a similar agreement between the P & I Clubs and CRISTAL. It stipulates in general terms a co-operation with respect to incidents involving both a P & I Club and the Fund.

(f) The Assembly set up an Intersessional Working Group to consider the Fund's general policy on the admissibility and payment of claims, with particular regard to their expeditious settlement. This Working Group will hold its first meeting in February 1981.

(g) The Assembly adopted three resolutions, dealing with the assessment of compensation for oil pollution damage, the conversion of (gold) francs into national currencies and efforts to increase membership of the Fund. The resolutions are at Annexes III, IV and V.

Third session of the Executive Committee

The Executive Committee took note of the information on the pollution incidents with which the Fund is presently dealing and discussed several aspects of the settlement of claims arising out of these incidents.

3. Contributions

In 1980 the Fund collected initial and annual contributions which were invoiced in 1979 but had not been paid in that year. In addition, initial and annual contributions with respect to a Member that only sent its report on contributing oil receipts to the Fund in 1980 were collected. Furthermore, in accordance with the decision of the Assembly at its first extraordinary session that a total of £10 million for annual contributions 1980 should be collected, invoices were sent out in October for payment by 15 December 1980.

4. General Activities

The Director continued to pay visits to both Contracting States and non-Contracting States. These missions proved to be useful in making Governments familiar with the administration of the Fund Convention. Furthermore, the Director participated in seminars organized by IMCO and held in Brazil and Barbados. These seminars offered opportunities to discuss in detail with Government representatives of developing countries the advantages of membership of the Fund. These activities were supported by lectures and the presentation of papers by the Director at several conferences.

B. SETTLEMENT OF CLAIMS

1. Antonio Gramsci

The IOPC Fund agreed with the Swedish Government on a settlement of Swedish claims amounting to about 112 million Swedish Crowns, arising from the grounding of the Soviet tanker "Antonio Gramsci" on 27 February 1979 in the Baltic Sea. It was agreed that the IOPC Fund pays to Sweden an amount of 93 million Swedish Crowns, minus the Swedish share in the shipowner's limitation sum (about 4 million Swedish Crowns), plus interest. This agreement was negotiated by the Director and approved by the Executive Committee. Payment has to be made by 31 March 1981.

2. Miya Maru No. 8

The third party claims arising out of this incident, which occurred in Japan on 22 March 1979, amounting to about £273,000, were already paid in 1979. Recourse action against the other ship liable for the collision has been taken and an amount of about £19,000 has been recovered. It has been found in court proceedings that the owner of the "Miya Maru No. 8" was entirely free of fault and, therefore, entitled to limit his liability. After this decision, payment to the owner for his own clean-up expenses and for indemnification under Article 5 of the Fund Convention can be made.

3. Tarpenbek

With respect to this incident which occurred on 21 June 1979 off the English coast, a claim for approximately £450,000 has been submitted by the shipowner to the Fund. This claim raises the very difficult legal question of whether the Fund is liable for expenses incurred with respect to a stricken laden tanker if no persistent oil has been spilled. This question is still under investigation; no payment has so far been made.

4. Mebaruzaki Maru No. 5

The sea-going ship "Mebaruzaki Maru No. 5" (19.73 GRT), loaded with heavy oil, sank on 8 December 1979. The damage arising out of this incident is about Yen11.4 million (£23,500), consisting of Yen3 million for fishery damage and Yen8.4 million for clean-up costs. The claims have been satisfied by the IOPC Fund.

5. Showa Maru

On 9 January 1980 the Japanese tanker "Showa Maru" (199.96 GRT), carrying 500 kls of heavy oil, collided with the Panamanian chemical tanker "Chemicary No. 18" (629.08 GRT) in the Naruto Straits, Japan. As a result of that collision 100 kls of heavy oil were released and polluted seaweed farms.

The cost of the clean-up effected by the Maritime Disaster Prevention Centre was about Yen10 million (approx. £20,600) and the clean-up effected by the Maritime Safety Board (MSB) amounted to about Yen 1.3 million (approx. £2,700). These claims have been paid. The

shipowner's clean-up expenses were Yen518,670 (approx. £1,100) and the limitation amount according to Article V.1 of the CLC is Yen8,123,140 (approx. £16,700).

6. Unsei Maru

On 9 January 1980 the Japanese tanker "Unsei Maru" (99 GRT), carrying 140 tons of heavy fuel oil, collided with the "Sun Edelweiss" (4,816 GRT) and sank. Some oil was spilt. The Maritime Safety Board and local fishermen undertook clean-up operations.

The question of whether the wreck will be removed has not yet been decided. It is uncertain whether there is still oil on board the ship. The claim for clean-up operations is about Yen7 million (£14,400).

7. Tanio

On 7 March 1980 the Madagascan tanker "Tanio" (28,572 dwt), carrying 26,000 tons of heavy fuel oil, encountered heavy seas, broke in two amidships and spilled approximately 3,000-6,000 tons of heavy oil. The incident happened 35 miles off the French coast. Immediately after the incident the oil drifted to the coast of Brittany, France. The stern section of the "Tanio", with about 13,000 tons of cargo, remained afloat and was towed without further spillage from the casualty area to Le Havre; the fore section, containing about 10,000 tons of cargo, sank to a depth of 90 metres.

After thorough discussions between the French Government, the owner, his insurer and the IOPC Fund, it was decided by the French Government that, in order to finally and permanently prevent further pollution from the wreck, pumping the oil from the wreck was the technically safest and economically best solution available. This operation started in the beginning of October but has not yet been finalized because of bad weather conditions.

The pollution damage caused to the French territory was considerable. About 200 km of the north coast of Brittany were affected. Through intensive use of the services of the armed forces it was possible, to a very large extent, to clean most of the beaches by 1 July, the beginning of the tourist season. The cleaning of the rocks proved a greater problem and some areas of the polluted coastline are inaccessible for clean-up measures. The Fund has closely surveyed all clean-up operations and has discussed with, and some-

times advised, the French authorities on the different cleaning measures.

Although the French authorities have not yet filed any claims against the IOPC Fund for oil pollution damage and preventive measures, the total amount of their claims is expected to be very high and may reach the Fund's limit of 675 million francs.

8. Furenäs

On 3 June 1980 the Swedish tanker "Furenäs" (2100 dwt) collided with the Danish ferry "Kärnan" in the Öresund between Sweden and Denmark. As a result of the collision, two cargo tanks of the "Furenäs", containing about 500 tons of fuel oil (No. 4) were damaged and about 200 tons of oil were released. The spilt oil was partly recovered by the Swedish and Danish Coast Guards but most of the oil drifted to the shores and polluted the Swedish coast, especially the Swedish Isle of Ven, situated in the middle of the Öresund, and a very small part of the Danish coast.

The total damage arising from this incident is estimated at approximately £450,000. The ship's limitation tonnage is 834 tons. The limitation amount under the CLC is 612,443 Swedish Crowns (approx. £58,100).

9. Hosei Maru

On 21 August 1980 the Japanese tanker "Hosei Maru" (983.05 GRT) carrying about 2,000 kls of heavy oil "C", collided with another Japanese tanker "Kinrei Maru" (997.82 GRT), in dense fog off the Miyagi Prefecture in the northern part of Honshu, Japan. As a result of the collision, 270 kls of heavy oil "C" were spilt from the cargo tank of the "Hosei Maru".

The Maritime Safety Board ordered the Maritime Disaster Prevention Centre to undertake the clean-up operation. The estimated cost of the clean-up operations carried out by the Maritime Disaster Prevention Centre amounts to about Yen180 million (£371,000). In addition, the shipowner's clean-up costs will amount to about Yen6.5 million (£13,400). The fishery damages are estimated at about Yen50 million, but claims may reach Yen100 million (£206,200).

The shipowner's limitation amount under the CLC is Yen35,765,920 (£74,000).

ANNEX I

GENERAL FUND

BALANCE SHEET AS AT 31 DECEMBER 1979

<i>Liabilities</i>	£	<i>Assets</i>	£
Surplus 1978/1979	2,107,246	Cash at banks and in hand	2,016,819
Staff Provident Fund	11,451	Contributions receivable	127,825
		VAT recoverable	898
Miscellaneous Payable	3,664	Miscellaneous receivable	320
		Interest on overdue annual contributions	92
Unliquidated Obligations	23,593		
	<u>2,145,954</u>		<u>2,145,954</u>

Note: 1. There is a contingent liability in respect of incidents amounting to £10,600,659.

Note: In addition to the assets shown in this statement, investment in equipment, furniture, office machines, supplies and library books as at 31 December 1979 amounted at cost price to £7,312 net of VAT.

ANNEX II

MEMORANDUM OF UNDERSTANDING

The International Group of P & I Clubs (hereinafter referred to as "the Clubs"), whose names and addresses are scheduled hereto, and the International Oil Pollution Compensation Fund (hereinafter referred to as "the IOPC Fund") agree as follows:

1. The Clubs (together or individually, as the case may be) shall encourage and recommend that each of their Members promptly take or cause to be taken preventive measures when there is an escape or discharge of oil from one of their ships (as defined in Article 1(1) of the CLC) threatening to cause pollution damage to the territory, including the territorial sea, of a Fund Convention Contracting State, unless there is no liability on the part of the Member concerned. However, the Clubs shall not be obliged to encourage or recommend to take such preventive measures to the extent that the cost thereof is likely to exceed the limit of that Member's legal liability or the maximum P & I cover available for oil pollution liabilities.
2. The Clubs will report to the IOPC Fund each escape or discharge of oil which is likely to involve a claim against the IOPC Fund, and thereafter the parties hereto will exchange views concerning the same and co-operate with a view towards avoiding, eliminating or minimizing pollution damage.
3. The IOPC Fund recognizes the primary responsibility of the Clubs for the handling of claims against their Members. However, the Clubs will consult with the IOPC Fund concerning such claims as involve the likelihood of claims being made against the IOPC Fund.
4. Wherever possible and practical the Clubs and the IOPC Fund shall co-operate in the use of lawyers, surveyors and other experts necessary to determine the liability of the shipowner to third party claimants. In these circumstances the costs incurred shall be pro-rated between the shipowner concerned and the IOPC Fund in accordance with the respective amounts of their ultimate liability for the incident.
5. Where on payment of compensation or indemnification by the IOPC Fund, the IOPC Fund acquires subrogated rights, the Clubs will use their best efforts to ensure that any of their Members who have received any such compensation or indemnification shall fully assist the IOPC Fund to enforce such rights, subject to the usual indemnity as to costs and other customary indemnities being provided by the IOPC Fund.
6. The Clubs and the IOPC Fund shall exchange views from time to time with each other and shall co-operate in an effort to alleviate and dispose of such problems as may arise. In particular, the Clubs and the IOPC Fund will exchange views and will consult with one another when an incident occurs so that the term "pollution damage", which has the same definition in the Civil Liability Convention and the Fund Convention, receives the same interpretation by the Clubs and by the IOPC Fund.
7. This Memorandum shall enter into force when signed on behalf of the Clubs and the IOPC Fund. Either party may terminate this Memorandum by giving six months' prior written notice to the other party.

Dated this 5th day of November 1980.

Signed

ANNEX III

ASSEMBLY RESOLUTION 3

THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND

CONSCIOUS of the dangers of pollution posed by the world-wide maritime carriage of oil in bulk,

AWARE of the detrimental effect the escape or discharge of persistent oil into the sea may have on the environment and, in particular, on the ecology of the sea,

CONSCIOUS of the problems of assessing the extent of such damage in monetary terms,

NOTING that under the Civil Liability Convention a claim for ecological pollution damage has been raised against the shipowner which was based on a theoretical model for assessment,

CONFIRMS ITS INTENTION that the assessment of compensation to be paid by the International Oil Pollution Compensation Fund is not to be made on the basis of an abstract quantification of damage calculated in accordance with theoretical models.

ANNEX IV

ASSEMBLY RESOLUTION 4

THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND

AWARE of the problems caused by the use of (gold) francs as the monetary unit in the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, and the lack of uniformity in Member States regarding the methods of converting this unit of account into national currencies.

CONCERNED that this lack of uniformity may seriously affect the operations of the Fund,

NOTING that the Protocol of 19 November 1976 to the Fund Convention has so far been ratified or acceded to by only four States and that the entry into force in the near future for all Members of the Fund is not likely,

URGES Governments of Member States to ensure that their national laws are brought into line with the method of conversion provided for by a resolution at the first session of the Assembly (OPCF/A.1/Res.1) and laid down in Regulation 2 of the Fund's Internal Regulations.

AND REAFFIRMS the recommendation contained in that resolution that Contracting States should become Parties to the Protocol of 19 November 1976 to the Fund Convention as soon as possible.

ANNEX V

ASSEMBLY RESOLUTION 5

THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND

RECALLING that the International Oil Pollution Compensation Fund was established by the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, which entered into force in 1978, with a view to ensuring that adequate compensation is available to persons who suffer pollution damage caused by the world-wide maritime carriage of oil in bulk,

NOTING with regret that only twenty-one States, far from covering the whole world, have become Contracting States

to the said Convention and that the aims which led to the creation of the Fund have not yet been achieved,

RECOGNIZING the need and importance to promote the ratification, acceptance, approval or accession of the said Convention by a greater number of countries as early as possible,

REQUESTS the Contracting States to the Convention and the Director of the Fund to make appropriate efforts in order to convince non-Contracting States to become Parties to the Convention, especially to make such efforts on the occasions of the meetings of the International Organizations concerned, such as IMCO.

