



International Oil Pollution
Compensation Funds

Agenda Item 9	IOPC/OCT17/9/2/1/1	
Date	12 October 2017	
Original	English	
1992 Fund Assembly	92A22	●
1992 Fund Executive Committee	92EC69	
Supplementary Fund Assembly	SA14	

ASSESSMENT OF CONTRIBUTIONS TO MAJOR CLAIMS FUNDS

1992 FUND

Note by the Director

Summary:	The Director proposes that, subject to the decision by the 1992 Fund Executive Committee at its October 2017 session to authorise him to make compensation payments for the <i>Agia Zoni II</i> incident (which occurred on 10 September 2017), there will be a requirement to establish a Major Claims Fund for this incident. He therefore proposes to establish a Major Claims Fund and to levy 2017 Contributions.
Action to be taken:	<p><u>1992 Fund Assembly</u></p> <p>Decide whether to:</p> <ul style="list-style-type: none"> (a) establish a Major Claims Fund for the <i>Agia Zoni II</i> incident; (b) levy 2017 contributions of £26 million to the <i>Agia Zoni II</i> Major Claims Fund, payable by 1 March 2018; and (c) defer the remaining amount of £25 million, or part thereof, to be invoiced later in 2018 if it proves necessary.

1 Introduction

- 1.1 Document [IOPC/OCT17/9/2/1](#) (Assessment of contributions to Major Claims Funds – 1992 Fund) dated 13 September 2017 only deals with the *Prestige*, *Volgoneft 139*, *Hebei Spirit*, *Alfa I* and *Nesa R3* Major Claims Funds.
- 1.2 This document deals with the *Agia Zoni II* incident which occurred on 10 September 2017 in Greece, and provides the Director's analysis for the need to establish a Major Claims Fund for the incident and the need to levy contributions.
- 1.3 Article 12 of the 1992 Fund Convention provides that the 1992 Fund Assembly shall determine the amount of contributions to be levied, if any. For this purpose, the Assembly shall make an estimate in the form of a budget of the 1992 Fund's expenditure and income for each calendar year, taking into account the necessity to maintain sufficient liquid funds.

- 1.4 The 1992 Fund's expenditure consists of:
- (a) costs and expenses of the administration of the 1992 Fund, and any deficit from preceding years;
 - (b) payments of claims and claims-related expenditure up to SDR 4 million^{<1>} per incident (minor claims); and
 - (c) payments of claims and claims-related expenditure to the extent that the aggregate amount of the payments in respect of any one incident is more than SDR 4 million (major claims).
- 1.5 Expenses mentioned in sub-paragraphs (a) and (b) of paragraph 1.4 must be met from the General Fund (Financial Regulation 7.1 (c)) and expenses with respect to major claims as defined in sub-paragraph (c) above have to be met from Major Claims Funds (Financial Regulation 7.2 (d)).

2 Agia Zoni II Major Claims Fund

Analysis

- 2.1 It is not possible at this stage to determine the total amount of claims that may be payable for this incident. The Director is of the view that the amounts available under the General Fund £4 316 320 (SDR 4 million) will not be sufficient and that a Major Claims Fund shall need to be established for this incident prior to 1 March 2019 (the date when any 2018 contributions would be receivable).
- 2.2 Since the tonnage of *Agia Zoni II* (1 597 GT) is below 5 000 units of tonnage, the limitation amount applicable under the 1992 Civil Liability Convention (1992 CLC) is SDR 4.51 million (EUR 5.41 million).
- 2.3 The insurers have indicated that they will honour the blue card insurance which they issued and will establish a limitation fund, but at present, the formalities for this have not been completed.
- 2.4 Current estimates from experts engaged by the 1992 Fund are that compensation in the region of some EUR 50 million to EUR 60 million (£45 million to £53 million) is likely to be payable in respect of this incident.
- 2.5 Should the 1992 Fund Executive Committee decide to authorise the Director to make compensation payments for the *Agia Zoni II* incident, the Director is of the view that excluding claims and claims related payments payable by the General Fund, some £51 million, comprising compensation of £50 million and claims related expenses of some £1 million may be payable by the *Agia Zoni II* Major Claims Fund for the period up to 1 March 2019 (the date when any 2018 contributions would be receivable).

3 Director's Proposals

- 3.1 Based on the considerations set out above, the Director proposes that there should be a levy of £51 million to the *Agia Zoni II* Major Claims Fund.

Timing of levy

- 3.2 Internal Regulation 3.6 provides that unless the 1992 Fund Assembly decides otherwise, payment of annual contributions shall be due on 1 March of the year following that in which the Assembly decides on the levy of annual contributions.

^{<1>} The SDR (Special Drawing Right), which is the unit of account used in the Conventions, is valued on the basis of a basket of key international currencies and serves as the unit of account of the International Monetary Fund (IMF) and a number of other intergovernmental organisations.

- 3.3 At its 1st session, the 1992 Fund Assembly decided to introduce a deferred invoicing system. Under this system the Assembly fixes the total amount to be levied in contributions for a given calendar year, but may decide that only a specific lower amount should be invoiced for payment by 1 March in the following year, the remaining amount, or a part thereof, to be invoiced later in the year if it should prove to be necessary (document [92FUND/A.1/34](#), paragraph 16).
- 3.4 Since the timing of compensation payments is not clear at this point, the Director proposes that there should be a levy of £26 million to the *Agia Zoni II* Major Claims Fund for payment by 1 March 2018 and that the remaining amount of £25 million, or a part thereof, to be invoiced later in the year if it should prove necessary.

4 Action to be taken

1992 Fund Assembly

The 1992 Fund Assembly is invited to decide whether to:

- (a) establish a Major Claims Fund for the *Agia Zoni II* incident;
 - (b) levy 2017 contributions of £26 million to the *Agia Zoni II* Major Claims Fund, payable by 1 March 2018; and
 - (c) defer the remaining amount of £25 million, or part thereof, to be invoiced later in 2018 if it proves necessary.
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