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INCIDENTS INVOLVING THE 1971/1992 FUNDS

LESSONS LEARNED FROM THE NAKHODKA INCIDENT FOR REVIEW AND IMPROVEMENT OF THE COMPENSATION PROCESS

Submitted by the Japanese delegation

Summary:

To secure victims' relief and assure the credibility of the international oil pollution compensation regime, it is necessary to improve the management of the international oil pollution compensation regime through such lessons as learned from the *Nakhodka* incident. Japan presents several points based on this experience where further improvement is needed

Action to be taken:

Information to be noted.

1 Introduction

The *Nakhodka* incident was the first large-scale oil pollution disaster that Japan experienced. In addition to the damage, victims suffered from the compensation process itself, which took nearly five and a half years to complete and thus the victims considered the process as problematic. It is necessary to improve the management of the international oil pollution compensation regime through the lessons learned from this disaster and to secure the victims' relief and the credibility of the international oil pollution compensation regime. Japan appreciates the intensive work of the Secretariat to draw some lessons learned from the *Nakhodka* incident corresponding to our proposal.

2 Proposals

- 2.1 In the document submitted by the Director last October, various lessons are drawn up, including the improvement of the claims handling procedure. Japan considers the following points to be further improved.
- 2.2 Firstly, the document pointed out that it was unrealistic to expect all claims arising from an incident of such magnitude to be dealt with in less than three years. However, if the agreement is not reached among victims, the P&I Club and the Funds within three years, the victims are obliged to litigate in order to protect their claims. Since lawsuit requires additional burdens to the victims, such as drafting considerable volume of documents for the court, a prompt claims handling procedure is a crucial matter to consider. To achieve the promptness of the claims handling, it is necessary not only to take into account the actual situation of the effected country in claims assessment (e.g. the huge volume of translation work of the invoices issued in its native

language, the assessment of the pollution damage related to the fishery and marine resources), but also to flexibly increase the number of surveyors in accordance with the number of claims.

2.2 Secondly, the document pointed out the way of the claims assessment. The victims considered taking time to reach an agreement with the P&I Club became problematic even after the Funds concluded its assessment. The framework between the Funds and the P & I Club should be established in order to further facilitate the assessment.

2.3 Thirdly, various devices should be examined as follows:

- to unify the format of the claims documents other than the assessment reports and to place the format in the Claims Manual in the view of facilitating the understanding of the documents and to facilitate prompt claims handling;
- to supplement the Claims Manual with examples of actual assessments for the purpose of ensuring uniform assessments and assisting victims in the presentation of their claims.
