



ANY OTHER BUSINESS

IDENTIFICATION OF INDIVIDUAL CLAIMANTS

Note by the Director

Summary:	The document deals with the issue of the circumstances under which individual claimants should be identified in Fund documents.
Action to be taken:	Give the Director instructions on this issue.

1 Introduction

- 1.1 At the Executive Committee's 24th session held in February 2004, one delegation asked why the names of the claimants had not been given in a document relating to the *Erika* incident and what the Fund's policy was regarding the naming of claimants. A number of delegations pointed out that since the Committee only considered claims from the point of view of questions of principle, it was generally not necessary to include the names of individual claimants, although there had been exceptions in the past.
- 1.2 The Director stated that the Fund's practice had been to name claimants in documents only when it was relevant for the matter under consideration to do so, although once litigation commenced the names of claimants were then in the public domain. A number of delegations expressed support for maintaining the current practice.
- 1.3 One delegation stated that it was important that the Fund adopted a uniform approach as regards stating or withholding the names of claimants in documents and proposed that the Director should draw up criteria governing the Fund's policy on this issue.
- 1.4 The Committee instructed the Director to present a document on this issue for its consideration at a later session (document 92FUND/EXC.24/8, paragraph 3.1.32).

2 Director's considerations

- 2.1 The Director has considered the matter further and would like to make following observations.
- 2.2 When claims are presented by Government or other public authorities, the claimant is normally identified in the documents presented to the Executive Committee. In addition, the Director considers that it is in certain cases necessary to identify the claimant in order to enable the

Executive Committee to make a meaningful assessment of the admissibility of a claim. This, in his view, was the case in respect of, for example, Brittany Ferries and Lorient Airport. In some cases, the identity of the claimant is known to the general public in any event, and the claimants would then probably have no objection to their identities being revealed in Fund documents. However, the Director believes in general that most claimants, in particular individuals and small businesses, would prefer their identity not to be revealed in Fund documents, which are circulated widely and are available to the general public on the IOPC Funds' Document Server.

- 2.3 The Director considers that the Funds should continue to take a flexible approach on this issue in the light of the circumstances of each claimant and proposes that past practice should be followed.

3 Action to be taken by the Executive Committee

The Executive Committee is invited:

- (a) to take note of the information contained in this document; and,
 - (b) to give the Director such instructions in respect of the identification of individual claimants in incident-related Fund documents as it deems appropriate.
-