



INCIDENTS INVOLVING THE 1992 FUND

PRESTIGE

Note by Spain

Summary:

This document contains information about the current situation of claims submitted by the Spanish State to the 1992 Fund, relating to the disaster caused by the *Prestige* incident.

Action to be taken:

Take note of the information contained in this document, and thereby contribute to the clarification of the claims concerned.

1 Claims submitted by the Spanish State to the 1992 Fund

- 1.1 The Spanish Administration is continuing to work on the submission of outstanding claims, collaborating with the IOPC Funds' experts on the study and analysis of the voluminous documentation already submitted. This detailed and thorough work is intended to avoid duplication and repetition of claims already submitted.
- 1.2 Thus, as the Executive Committee has been informed in previous sessions, and as set out in the note by the Director, due to the adjustments resulting from the work in collaboration with the IOPC Funds' experts, the necessary analysis of the voluminous documentation submitted, and approval of other sources of financing, the amount claimed by the Spanish State has been progressively reduced to €559.4 million.
- 1.3 The outstanding claims also include payments by the Spanish Government to the Municipalities of the Autonomous Communities of Cantabria and the Basque Country which were affected by the *Prestige* disaster, as well as payments to individuals through the direct evaluation system.

2 Legal actions

- 2.1 As a consequence of the *Prestige* disaster, two legal actions were initiated which are being heard in the Lower Criminal Court of Corubi3n (Coru3a, Spain) and the New York South District Court (United States) respectively.
- 2.2 With regard to paragraph 12.8 of the note by the Director (document 92FUND/EXC.36/5), it should be noted that the New York Court rejected the possibility of the American Bureau of Shipping (ABS) appealing the decision on the sovereign immunity of the Spanish State.
- 2.3 The Committee is further informed that in May 2005, the Spanish State submitted to the New York Court an application to disallow the defence by ABS relating to *Port of Refuge* as, according to the United Nations Convention on the Law of the Sea (UNCLOS), Spain, as a sovereign State,

had the right to refuse entry in the circumstances involved. The New York Court has still not taken any decision in this respect.

- 2.4 With regard to paragraph 12.18 of the note by the Director (document 92FUND/EXC.36/5), it should also be noted that Spain has refuted the claim by ABS since Spain has produced emails corresponding to the days when the disaster occurred and ABS has not shown that the emails contained information relevant to the proceedings. The Court has not yet rendered its judgement on this matter.

3 Action to be taken by the Executive Committee

The Executive Committee is invited to take note of the information contained in this document and thereby contribute to the clarification of the claims concerned.
