

 <p>INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS</p>	Agenda item: 3	IOPC/OCT09/3/2/2	
	Original: ENGLISH	1 October 2009	
	1992 Fund Assembly	92A14	
	1992 Fund Executive Committee	92EC46	●
	Supplementary Fund Assembly	SA5	
1971 Fund Administrative Council	71AC24	●	

INCIDENTS INVOLVING THE IOPC FUNDS – 1971 FUND & 1992 FUND

AL JAZIAH 1

Note by the Director

Objective of document:	To inform the 1971 Fund Administrative Council and the 1992 Fund Executive Committee of the recent developments in respect of this case.
Summary of incident so far:	<p>In a judgment rendered in March 2008, the Abu Dhabi Court of First Instance ordered the registered owner of the <i>Al Jaziah 1</i> to pay the 1971 Fund and the 1992 Fund Dhs 6 402 282 (£1 million) and that this amount should be distributed equally between both Funds.</p> <p>The Funds had been informed that the shipowner had debts of some Dhs 63 million (£10 million), including the judgement awarded in favour of the Funds, and that the shipowner could only pay an amount of Dhs 4 200 (£700) per month from his salary towards his debts.</p> <p>The Funds, through their lawyers in the United Arab Emirates, had approached the shipowner to discuss a settlement, taking into account its financial situation.</p>
Recent developments:	The Funds' United Arab Emirates lawyers have informed the Funds that the settlement discussions with the shipowner have not progressed.
Action to be taken:	<p><u>1971 Fund Administrative Council and 1992 Fund Executive Committee:</u></p> <p>Consider the Director's proposal and to give the Director such further instructions in respect of the handling of this incident as they may deem appropriate.</p>

1 Discussions with the shipowner

On 28 September 2009, the Funds' United Arab Emirates lawyers informed the Funds that the negotiations with the shipowner had not progressed and that recently the Execution Judge had decided to transfer the file to the United Arab Emirates' nationals department where other debts would be added. The Funds' lawyers have advised that the Funds will have to compete with other creditors and that a certain amount will be set monthly to be distributed *pro rata* between the creditors. In their view, the best case scenario for the Funds now would be to receive between Dhs 2 000 (£340) and Dhs 3 000 (£500) per month. The Fund's lawyers have also advised the Funds to appeal the Execution Judge's decision.

2 **Director's considerations**

The Director takes the view that, since there is not a matter of principle involved in this case, it is not in the interest of the 1971 Fund, the 1992 Fund or their contributors to continue to incur costs in executing the judgement which may well exceed the amounts which will be recovered. The Director therefore proposes that the Funds should continue to try to recover what they can from the shipowner but that he be authorised to discontinue the execution of the judgement once it is clear that the costs will exceed the recoverable amount and that the Funds should then write off the debt.

3 **Action to be taken**

1971 Fund Administrative Council and 1992 Fund Executive Committee:

The 1971 Fund Administrative Council and 1992 Fund Executive Committee are invited:

- (a) to take note of the information contained in this document; and
 - (b) to consider the Director's proposal and to give the Director such further instructions in respect of the handling of this incident as they may deem appropriate.
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