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FUND

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SHARING OF JOINT COSTS IN RESPECT OF INCIDENTS INVOLVING BOTH THE 1992 FUND AND THE SUPPLEMENTARY FUND

Note by the Director of the International Oil Pollution Compensation Funds 1971 and 1992

Summary:	It is proposed that the apportionment of joint costs in respect of incidents involving both the 1992 Fund and the Supplementary Fund should be agreed by the governing bodies of the two Funds on a case-by-case basis.
Action to be taken:	To consider the apportionment of such joint costs.

1 The issue

- 1.1 At its first session in June 1996, the 1992 Fund Assembly considered how costs incurred in handling incidents involving both the 1992 Fund and the 1971 Fund should be shared between the two Organisations. The Assembly took the view that, subject to the agreement of the 1971 Fund Assembly, a certain flexibility should be allowed in the apportionment of costs incurred in the handling of such incidents, but that normally such costs should be shared on the basis of the ultimate liabilities of the two Funds in respect of the incident in question. The Assembly also considered that the Director should be authorised to use other methods in cases where he deemed this more equitable, for example if, following the joint examination of claims, the amount of compensation payable in respect of an incident was ultimately reduced to such a level that the 1992 Fund would not be called upon to pay compensation (document 92FUND/A.1/34, paragraph 22.1).
- 1.2 At its May 2004 session, the 1992 Fund Assembly noted the Director's view that the situation was different as regards the relationship between the 1992 Fund and the Supplementary Fund. Since it was likely that the Supplementary Fund would become involved in a very limited number of incidents, the Director considered that it would be preferable that the distribution be agreed between the governing bodies of the respective Funds on a case-by-case basis, taking into account the particular circumstances of the incident in question.
- 1.3 The 1992 Fund Assembly agreed with the Director and recommended to the Supplementary Fund that the distribution of joint costs in respect of incidents involving both the 1992 and the Supplementary Fund be agreed between the governing bodies of the respective Funds on a case-by-case basis, taking into account the particular circumstances of the incident in question (document 92FUND/A/ES.8/4, paragraph 3.6.11).

2 Action to be taken

The Assembly is invited consider whether to apportion such joint costs on a case-by-case basis.
