



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUNDS

Agenda item: 3	IOPC/MAY14/3/10/1	
Original: ENGLISH	2 May 2014	
1992 Fund Assembly	92AES18	
1992 Fund Executive Committee	92EC61	
1971 Fund Administrative Council	71AC32	•
1992 Fund Working Group 7	92WG7/3	

INCIDENTS INVOLVING THE IOPC FUNDS – 1971 FUND

NISSOS AMORGOS

Note by the Secretariat

Summary:	To inform the 1971 Fund Administrative Council of the recent developments in respect of the application for a freezing injunction made by the Gard P&I Club against the 1971 Fund.
Action to be taken:	<u>1971 Fund Administrative Council</u> Information to be noted.

1 **Introduction/Background information**

The background information to this incident is provided in document IOPC/MAY14/3/10.

2 **Application for a ‘freezing injunction’ against the 1971 Fund.**

2.1 As reported in paragraph 6.3.3 of document IOPC/MAY14/3/10, the Gard P&I Club has made an application to the High Court in London seeking a ‘freezing injunction’. The injunction, if granted, would prevent the 1971 Fund from removing from the jurisdiction any assets belonging to the 1971 Fund up to US\$58 million, although the 1971 Fund would be entitled to make normal payments in the ordinary course of its activities. The injunction is intended to ensure that funds remain within the jurisdiction to satisfy the Gard Club’s claim in case it is successful.

2.2 The Director, together with the 1971 Fund’s legal advisers, met with the Legal Advisers of the United Kingdom Foreign & Commonwealth Office (FCO) on 24 April 2014 to inform them of the claim against the 1971 Fund in the High Court in London (see paragraph 6.3.1 of document IOPC/MAY14/3/10) and of the application for a ‘freezing injunction’. The Director requested the assistance of the FCO to ensure that the High Court in London is aware that, under the Headquarters Agreement between the United Kingdom Government and the 1971 Fund, the 1971 Fund, within the scope of its official activities, has immunity from jurisdiction and execution and that its property and assets are immune from administrative or provisional judicial constraint.

2.3 In a letter to the Director dated 25 April 2014, the FCO stated the following:

I confirm that the United Kingdom is bound by the terms of the Headquarters Agreement of 27 July 1979 to afford to the 1971 International Oil Pollution Compensation Fund the privileges and immunities set out in the Agreement. The International Oil Pollution Compensation Fund (Privileges and Immunities) Order 1979 (SI 1979/912) was made to give effect to the Agreement. The language of the Order reflects the terms of the International Organisations Act 1968, which contains the relevant enabling power. Accordingly I confirm that the obligations of the United Kingdom under the Headquarters Agreement, including in particular Article 5 thereof, are given full effect in the Order.

2.4 The Director submitted a copy of the letter from the FCO to the High Court in London for its consideration.

3 Hearing of the application for a ‘freezing injunction’

3.1 The hearing of the application for a ‘freezing injunction’ took place on 1 May 2014 before Mr Justice Hamblen in the High Court (Commercial Court) of London.

3.2 After a full day’s hearing during which both parties’ submissions were completed, Mr Justice Hamblen decided to reserve judgement. It is expected to be delivered on Wednesday 7 May 2014.

4 Action to be taken

1971 Fund Administrative Council

The 1971 Fund Administrative Council is invited to take note of the information contained in this document.
