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COMPENSATION
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SHARING OF JOINT COSTS IN RESPECT OF INCIDENTS INVOLVING BOTH THE 1971 FUND AND THE 1992 FUND

Note by the Director

1 It can be assumed that there will be incidents involving both the 1971 Fund and the 1992 Fund. It will be necessary to make provision for the sharing between the two Organisations of the costs incurred in handling such incidents, eg fees of lawyers, surveyors and other experts.

2 One possible approach would be to follow that used normally in sharing joint costs between the 1971 Fund and the shipowner/P & I Club involved in an incident, in accordance with the Memorandum of Understanding signed in 1980 by the 1971 Fund and the International Group of P & I Clubs, ie that the costs are apportioned on the basis of the ultimate liabilities of the two parties in respect of the incident in question. The drawback of this approach, however, would be that it might take a number of years before all claims arising out of an incident are finally settled. An interim apportionment could be made at the end of each financial year, in order to get a more accurate picture of the financial standing of the two Funds, and a reassessment would then have to be made when all claims were finally settled.

3 The approach referred to in paragraph 2 has the advantage of being relatively simple. The cost of the work carried out by lawyers and experts in many cases, however, would not have any direct relationship with the amounts of compensation paid by the respective Organisations. It is submitted that a certain flexibility should be exercised in the apportionment of joint costs of the type discussed. The Assemblies of the two Organisations may wish to consider whether the Director of the two Funds would be authorised to use a method other than the one set out in paragraph 2 in the cases where he deemed this more equitable.

4 During its consideration in October 1995 of the preparations for the entry into force of the 1992 Fund Convention, the Assembly agreed that a certain flexibility should be allowed in the apportionment of costs incurred in the handling of incidents involving both Organisations, but that the most appropriate method might be to share the costs on the basis of the ultimate liabilities of the two Funds in respect of the incident in question.

Action to be taken by the Assembly

5 The Assembly is invited to consider the apportionment of joint incident costs between the 1971 Fund and the 1992 Fund.
