



INTERNATIONAL
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COMPENSATION
FUND

EXECUTIVE COMMITTEE
24th session
Agenda item 3

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INFORMATION ON AND APPROVAL OF SETTLEMENT OF CLAIMS

Note by the Director

1 Introduction

Since the issuance of document FUND/EXC.24/4, further developments have taken place with regard to the KOSHUN MARU N°1, AMAZZONE, DAITO MARU N°3, VOLGONEFT 263 and HATO MARU N°2 incidents.

2 KOSHUN MARU N°1

(Japan, 5 March 1985)

On 11 September 1990, the IOPC Fund received its share of the amount recovered from the owner of the RYOZAN MARU N°1, viz ¥8 866 222 (£34 365).

3 AMAZZONE

(France, 31 January 1988)

The outstanding claim submitted by a French fisherman, which had been settled at FF21 600 (£2 200) (cf document FUND/EXC.24/4, Annex, paragraph 7.16) was paid by the Standard Club in September 1990. All claims presented by individuals in France have thus been settled and paid, amounting in total to FF196 799 (£20 060).

4 DAITO MARU N°3

(Japan, 5 April 1990)

4.1 In view of the very high legal costs that would be incurred in establishing the limitation fund, compared with the low limitation amount of ¥2 495 360 (£9 350), the shipowner's P & I insurer (the Japan Ship Owners' Mutual Protection and Indemnity Association, JPIA) has requested that the IOPC Fund should, in this case, waive the requirement to establish the limitation fund.

4.2 The Executive Committee has in previous cases decided that the IOPC Fund normally requires the establishment of the limitation fund in order to be able to pay compensation and that this requirement could be waived only in exceptional cases, such as the SHINKAI MARU N°3 case. In that case, the Executive Committee agreed that, in view of the disproportionately high legal costs that would be incurred in establishing the limitation fund compared with the limitation amount under the Civil Liability Convention, the IOPC Fund could, as an exception, pay compensation without the limitation fund being established (document FUND/EXC.10/5, paragraph 3.1.4).

4.3 Requests for the waiving of this requirement in three cases were considered by the Executive Committee at its 22nd session. The Committee took into account the Memorandum of Understanding, signed on 25 November 1985 by JPIA and the IOPC Fund, under which JPIA undertakes to repay in full any amount paid by the IOPC Fund in compensation if it is held by the competent court that the shipowner is not entitled to limit his liability under the Civil Liability Convention. In view of the disproportionately high legal costs that would be incurred in establishing the limitation fund compared with the low limitation amounts under the Civil Liability Convention in these cases, and referring to the Memorandum of Understanding, the Executive Committee agreed that the IOPC Fund could, as an exception, pay compensation without the limitation fund being established in the HINODE MARU N°1, FUKKOL MARU N°12 and TSUBAME MARU N°16 cases. The Executive Committee also authorised the Director to waive the requirement to establish the limitation fund in the KIFUKU MARU N°103 case if a request to this effect were made (document FUND/EXC.22/5, paragraphs 3.2.8 and 3.2.9).

4.4 For the reasons given by the P & I insurer and in view of the Executive Committee's decisions at its 22nd session, the Director supports the request that the requirement to establish the limitation fund should be waived in the DAITO MARU N°3 case. He proposes, therefore, that this requirement should be waived in this case.

5 VOLGONEFT 263

(Sweden, 14 May 1990)

5.1 The owner of the VOLGONEFT 263 has made a request to the Court for the constitution of a limitation fund in the amount of SKr3 123 585 (£294 960).

5.2 After discussions with the IOPC Fund's local surveyor, the Swedish fisherman referred to in paragraph 20.5 of the Annex to document FUND/EXC.24/4 submitted a claim for compensation for a total amount of SKr530 239 (£49 157). SKr250 000 of this amount related to damage to fishing nets, SKr126 640 to damage to his fishing boat, SKr137 500 to loss of income for 13 weeks and SKr22 699 to miscellaneous expenses; deduction was made for SKr6 600 for saved fuel costs. The Director accepted this claim in full. The balance of the claim, after deducting the amounts already paid, viz SKr87 349 (£8 110), was paid on 20 September 1990.

6 HATO MARU N°2

(Japan, 27 July 1990)

6.1 The shipowner's insurer (JPIA) has requested that, in view of the very high legal costs that would be incurred in establishing the limitation fund, compared with the very low limitation amount of approximately ¥793 600 (£2 975), the IOPC Fund should, in this case, waive the requirement to establish the limitation fund.

6.2 For the reasons set out in paragraph 4.4 above in respect of the DAITO MARU N°3 incident, the Director supports this request and proposes that the requirement to establish the limitation fund should be waived in the HATO MARU N°2 case.

7 Action to be Taken by the Executive Committee

The Executive Committee is invited:

- (a) to take note of the information contained in this document; and
- (b) to take a decision on the Director's proposal that the requirement to establish the limitation fund be waived in respect of the DAITO MARU N°3 and HATO MARU N°2 incidents (paragraphs 4 and 6 above).