



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

EXECUTIVE COMMITTEE
34th session
Agenda item 4

FUND/EXC.34/6
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INFORMATION ON OTHER INCIDENTS

FUKKOL MARU N°12

Note by the Director

1 While the Japanese tanker FUKKOL MARU N°12 (94 GRT) was supplying heavy fuel oil to a fishing boat in the port of Ishinomaki (Japan) on 9 June 1992, a bunkering hose was mishandled, resulting in a small quantity of oil flowing into a cargo hold where about 50 tonnes of fish were being stored. Some 20 tonnes of fish were contaminated and had to be destroyed. The remaining part of the cargo was sold but at a lower price than usual.

2 Claims for compensation totalling ¥6 442 397 (£35 000) were presented by the owner of the fishing boat, the supplier of the clean-up equipment and the clean-up operator. These claims were settled in full in December 1992. The IOPC Fund will have to pay ¥4 243 997 (£23 100) representing the aggregate amount of the settled claims minus the shipowner's limitation amount of ¥2 198 400 (£11 900), plus indemnification of the shipowner amounting to ¥549 600 (£2 900).

3 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 The Executive Committee has in several previous cases decided that the IOPC Fund normally required 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. In several cases in Japan, the Executive Committee has, however, waived this requirement, 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. The Committee has taken into account that under the Memorandum of Understanding, signed on 25 November 1985 by JPIA and the IOPC Fund, 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 fact, in a previous case involving the FUKKOL MARU N°12, the Executive Committee agreed, for these reasons, that the IOPC Fund could, as an exception, pay compensation without the limitation fund being established (document FUND/EXC.22/5, paragraph 3.2.8).

5 The Director supports JPIA's request and proposes that the requirement to establish the limitation fund should be waived in the present FUKKOL MARU N°12 case.

6 **Action to be Taken by the Executive Committee**

The Executive Committee is invited to:

- (a) take note of the information contained in this document; and
 - (b) take a decision on the Director's proposal that the requirement to establish the limitation fund should be waived in respect of the FUKKOL MARU N°12 incident.
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