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COMPENSATION
FUND

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INCIDENTS INVOLVING THE IOPC FUND

TAIKO MARU

Note by the Director

1 The Incident

1.1 On 31 May 1993, the Japanese coastal tanker TAIKO MARU (699 GRT), carrying 2 062 tonnes of heavy fuel oil as cargo, collided with the Japanese cargo ship KENSHO MARU N°3 (499 GRT) some five kilometres off Shioyazaki, Fukushima (Japan). As a result, two cargo tanks of the TAIKO MARU were ruptured and some 520 tonnes of oil escaped into the sea. The oil remaining on board the TAIKO MARU was transferred to another vessel.

1.2 The IOPC Fund is following the investigations into the cause of the incident. Proceedings in the Marine Court are expected to take place during 1994.

2 Clean-up Operations

2.1 The shipowner and his P & I insurer, the Japan Shipowners' Mutual Protection and Indemnity Association (JPIA), engaged the services of the Japan Maritime Disaster Prevention Center (JMDPC) to carry out clean-up operations in accordance with the directives given by the Maritime Safety Agency. JMDPC engaged a number of contractors to carry out these operations. The shipowner set up a response center and engaged some contractors to respond to the spill. The operations were monitored by a surveyor employed jointly by JPIA and the IOPC Fund.

2.2 A number of boats were involved in the clean-up operations, but these operations were not effective since the visibility was restricted due to dense fog. The oil from the TAIKO MARU spread over a large area and affected some 70 kilometres of coast from Hisanohama to Hitachi. The popular tourist beaches along this part of the coast between Obama and Otsu were polluted and were closed for swimming during the period of 20-30 July 1993. Some 5 000m³ of oily sand had to be removed from these beaches. The fishing ports of Ena and Nakanosaku and their piers and breakwaters were

heavily contaminated. The cleaning of the piers and breakwaters was carried out mainly by the use of chemicals. The sea off these two ports is used for collecting abalone and sea urchins, and this area was severely affected by the spill.

2.3 On-shore clean-up operations were carried out by local contractors and fishermen under contract with the JMDPC. The operations consisted of the manual and mechanical removal of stranded oil and contaminated beach sediments. Collected oil and oily waste was transported to a disposal factory for incineration. Most shore clean-up was completed by mid June 1993.

2.4 Considerable quantities of oil sank to the bottom of the sea. Removal of the submerged oil was carried out by a vessel specially equipped for this purpose. On 27 August, a typhoon caused some of the sunken oil to resurface at various places, and this oil threatened to cause further contamination of the coast. Since clean-up operations were undertaken immediately, the pollution damage caused by this oil was minimal.

3 Impact on Fishing Activities

3.1 The fishermen in the area are members of fishery cooperative associations which represent their members. There are also Federations of Fishery Cooperative Associations for the two Prefectures affected by the spill, which represent all the member associations. Fishing activities in certain areas, including the farming and gathering of sea-bed products, may be carried out only on the basis of fishing rights registered by the individual fishermen at the competent office in the Prefecture. Under Japanese law, fishing rights are deemed to be a property right and the law relating to land is to be applied to such rights. The fishermen who hold fishing rights are entitled to carry out specific types of fishing activities within a certain area, as specified in the registry.

3.2 A number of fishermen carry out boat fishing in the affected area. The oil caused damage to fishing nets and led to the disruption of fishing activities. Four fixed fishing nets, varying between 200 and 800 metres in length, were contaminated, and the fishermen were prevented from fishing until 25 June when the nets had been cleaned.

3.3 Most of the fishermen affected by the spill collect abalone, sea urchins and hokkigai shellfish. These species are cultivated under controlled conditions before being placed on the sea bed by the fishery associations. Abalone and sea urchins are harvested by divers, whereas the hokkigai shellfish are harvested from small boats using metal rakes.

3.4 Soon after the incident a committee composed of representatives of the fishery associations, the local authorities and the health authorities decided to suspend the catching of young sardines and abalone and the gathering of sea-urchins and shellfish in the affected area. These fishing activities were partly resumed by the end of June or early in July. The lifting of the suspension in respect of hokkigai shellfish was not approved by the respective local health authorities until 6 and 12 August 1993, after analysis of samples showed that there was no remaining contamination of shellfish which previously had been tainted.

4 Claims for Compensation

4.1 Two contractors which had carried out clean-up operations under contract with the Marine Pollution Prevention Centre, received provisional payments from JPIA and the IOPC Fund in July and August 1993 for ¥95 494 000 (£585 000) and ¥25 014 634 (£153 200), respectively. An advance payment of ¥100 million (£612 600) was made by the IOPC Fund to some fishery associations in respect of participation by over 7 000 of their members in the clean-up operations.

4.2 At its 36th session, the Executive Committee authorised the Director to make final settlements of claims, if presented by the following entities, except to the extent that questions of principle arose in respect of which the Committee had not previously taken a decision (document FUND/EXC.36/10, paragraph 3.5.7) :

- (a) Maritime Safety Agency, Fukushima Prefecture and City of Iwaki in respect of clean-up operations;
- (b) a power station and a chemical factory in respect of costs for cleaning their water intakes;
- (c) hotels, restaurants and other tourist related businesses for loss of income;
- (d) a shop providing diving equipment in respect of loss of income; and
- (e) Meisei University for cleaning two yachts.

4.3 The Executive Committee decided that claims presented by fish processing factories, if any, should be submitted to the Committee for consideration (document FUND/EXC.36/10, paragraph 3.5.8).

4.4 A claim in respect of clean-up operations was presented by the Maritime Safety Agency for ¥4 552 431 (£27 900). This claim was accepted in full by the Director.

4.5 Claims relating to clean-up operations and preventive measures have been presented by 25 entities, totalling ¥860 million (£5.2 million), including the costs of the participation of the fishery associations in the clean-up operations (¥172 million). These claims are being examined by the IOPC Fund's surveyor.

4.6 The operator of a power station has submitted a claim for ¥3 706 328 (£23 000) in respect of the cost of cleaning water intakes, which had been contaminated. Claims in respect of clean-up costs have been presented by Fukushima Prefecture and by Iwaki Municipality for ¥56 883 744 (£344 750). Claims have also been received in respect of cleaning of oil stained yachts, totalling ¥2 311 860 (£14 160). These claims are being examined by the IOPC Fund.

4.7 Claims for loss of income have been presented by ten fishery co-operative associations on behalf of their members for a total amount of ¥1 000 million (£6.7 million). These claims relate mainly to loss of income allegedly resulting from the suspension of fishing and to future loss of income due to the fact that the oil spill allegedly destroyed a proportion of the abalone, sea urchins and hokkigai shellfish. The claims are being examined by the IOPC Fund's surveyors. Negotiations with the associations will commence in early 1994.

4.8 It is unlikely that there will be any further claims for compensation for clean-up operations and loss of income.

4.9 The limitation amount applicable to the TAIKO MARU is estimated at ¥29 205 120 (£178 900).

5 Action to be Taken by the Executive Committee

The Executive Committee is invited to:

- (a) take note of the information contained in the present document; and
 - (b) give the Director such instructions as it may deem appropriate in respect of the handling of claims arising out of this incident.
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