



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

EXECUTIVE COMMITTEE
39th session
Agenda item 3

FUND/EXC.39/2
19 April 1994

Original: ENGLISH

INCIDENTS INVOLVING THE IOPC FUND

RIO ORINOCO

Note by the Director

1 At its 38th session, the Executive Committee held a session in private to discuss the Report of the Transportation Safety Board of Canada which had carried out an investigation into the cause of the RIO ORINOCO incident. During this closed session only the delegations representing Fund Member States were present.

2 The Committee took note of the fact that on 15 October 1993 the IOPC Fund had taken legal action in the competent Canadian court against the owner of the RIO ORINOCO (Rio Number One Ltd), the company which managed the operations of the vessel (Horizon Management Corp Inc) and the shipowner's P & I insurer (the Swedish Club). It was noted that in the statement filed with the Court, the IOPC Fund had requested that the defendants be ordered to pay, jointly and severally, to the IOPC Fund the sum of Can\$12 831 892 (ie the aggregate of the amounts paid by the Fund to the Canadian Government and the Swedish Club), plus interest thereon. It was also noted that the IOPC Fund had maintained that the incident was due to the fault or privity of the shipowner and had argued that the owner was not entitled to limit his liability.

3 The Executive Committee discussed what measures should be taken by the IOPC Fund, in the light of the findings set out in the Report of the Transportation Safety Board. The Committee instructed the Director to carry out an in-depth examination of the Report, with the assistance of legal and technical experts. In addition, the Committee instructed the Director to continue his investigations into the financial circumstances of the shipowner and the management company, in order to ascertain whether there would be any financial advantage in pursuing the legal action taken against them by the IOPC Fund. The Director was also instructed to consider whether the IOPC Fund should take any other legal action, including recourse action. Finally, the Director was instructed to examine whether or not, in the light of the findings in the Report, the shipowner's insurer should be entitled to indemnification under Article 5 of the Fund Convention.

4 The Executive Committee decided to reconsider the issues set out above at its 39th session.

5 Since the 38th session of the Executive Committee, the Director has, with the assistance of the IOPC Fund's legal and technical experts, been pursuing his study of these matters. He considers, however, that he is not yet in a position to be able to make recommendations to the Committee. For this reason, the Director suggests that further consideration of the issues set out in paragraphs 1-3 above should be deferred to the Executive Committee's 40th session.

6 It is possible that certain measures may have to be taken by the IOPC Fund before the 40th session of the Executive Committee, in order to protect the interests of the Fund concerning the issues set out above. The Committee may therefore wish to consider authorising the Director to take any steps which he considers necessary in order so to do.

Action to be Taken by the Executive Committee

7 The Executive Committee is invited to:

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