



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

EXECUTIVE COMMITTEE  
40th session  
Agenda item 3

FUND/EXC.40/9/Add.1  
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## INCIDENTS INVOLVING THE IOPC FUND

### Report on Incidents with Developments of Lesser Importance

Note by the Director

#### 1 Introduction

Since the issue of document FUND/EXC.40/9, the following developments have taken place in respect of the RYOYO MARU and DAITO MARU N°5 incidents.

#### 2 RYOYO MARU

(Japan, 23 July 1993)

2.1 All claims received in respect of clean-up operations have been settled as set out below.

	<u>Amount Claimed</u>	<u>Amount Agreed</u>
	¥	¥
Japan Maritime Disaster Prevention Centre	743 596	743 596
Sub-contractors	<u>66 821 276</u>	<u>35 795 325</u>
Total	67 564 872 (£445 070)	36 538 921 (£240 700)

2.2 In September 1994, the IOPC Fund paid ¥8 433 001 (£54 512) representing the aggregate amount of the agreed claims minus the shipowner's limitation amount of ¥28 105 920 (£181 680).

2.3 It is unlikely that further claims will be submitted.

**3 DAITO MARU N°5**

(Japan, 11 June 1994)

3.1 The claims for clean-up costs presented by the refinery and the contractors were settled in September 1994 for the amount claimed, ie ¥4 573 864 (£30 130). The IOPC Fund will have to pay ¥2 033 944 (£13 400), representing the aggregate amount of the settled claims minus the shipowner's limitation amount of ¥3 386 560 (£22 310) plus indemnification of the shipowner amounting to ¥846 640 (£5 580).

3.2 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.

3.3 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 these cases, the Executive Committee agreed 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).

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

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

The Executive Committee is invited to:

- (a) take note of the information contained in this document;
  - (b) take a decision on the Director's proposal that the requirement to establish the limitation fund should be waived in respect of the DAITO MARU N°5 incident; and
  - (c) give the Director such instructions as it may deem appropriate in respect of the incidents dealt with in this document.
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