



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

EXECUTIVE COMMITTEE  
49th session  
Agenda item 3

71FUND/EXC.49/10  
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## INCIDENTS INVOLVING THE IOPC FUND

### KUGENUMA MARU

Note by the Director

#### **1 The incident**

1.1 On 6 March 1996, while the Japanese tanker *Kugenuma Maru* was loading heavy fuel oil at an oil terminal in Kawasaki, Kanagawa (Japan), some 120 tonnes of oil overflowed from the cargo tank and spilled into the sea due to the mishandling of the valve used for loading.

1.2 Clean-up operations were carried out immediately and were completed the same day. A claim for the cost of the clean-up operations has been submitted by the oil terminal for ¥2 035 519 (£12 500).

1.3 The limitation amount of the *Kugenuma Maru* is estimated at ¥1 175 055 (£7 200).

#### **2 Establishment of limitation fund**

2.1 The shipowner's P & I insurer (Japan Ship Owner's Mutual Protection and Indemnity Association, JPIA) has requested that the IOPC Fund should in this case waive the requirement to establish the limitation fund.

2.2 The Executive Committee has 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 can be waived only in exceptional cases. In several cases in Japan, the Committee has waived this requirement, however, 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 Committee agreed that the IOPC Fund could, as an exception, pay compensation without the limitation fund having been established (document FUND/EXC.22/5, paragraph 3.2.8).

2.3 The Director supports JPIA's request and proposes that the requirement to establish the limitation fund should be waived in the *Kugenuma Maru* case.

### **3 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 *Kugenuma Maru* incident (paragraph 2.3 above).
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