



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1971

EXECUTIVE COMMITTEE
57th session
Agenda item 3

71FUND/EXC.57/13
20 January 1998

Original: ENGLISH

INCIDENTS INVOLVING THE 1971 FUND

TSUBAME MARU N°31

Note by the Director

1 The incident

1.1 Whilst the Japanese coastal tanker *Tsubame Maru N°31* (89 GRT) was being loaded with heavy fuel oil as cargo in the port of Otaru, Hokkaido (Japan) on 25 January 1997, the crew of that ship failed to close in time the inlet valve of the tank into which the oil was being loaded. As a consequence, some of the cargo oil overflowed from the tank and spilled into the sea.

1.2 Clean-up operations were carried out by private entities mobilising their employees and using boats under the supervision of the Maritime Safety Agency. The 1971 Fund monitored the clean-up operations through its Japanese surveyors.

1.3 Seven claims for clean-up operations, totalling ¥7 827 589 (£36 500), have been submitted. These claims have been assessed by the 1971 Fund's surveyor at ¥7 673 830 (£36 000).

1.4 No further claims are expected.

1.5 The limitation amount applicable to the *Tsubame Maru N°31* is estimated at ¥2 078 000 (£9 700), based on the rate of the Yen vis-à-vis the SDR on 30 December 1997.

2 Establishment of limitation fund

2.1 The shipowner's P & I insurer, the Japan Ship Owners' Mutual Protection & Indemnity Association (JPIA), has requested that the 1971 Fund should in this case waive the requirement to establish the limitation fund.

2.2 The Executive Committee has decided that the 1971 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 the 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 1969 Civil Liability Convention in those cases. The Committee has taken into account that, under the Memorandum of Understanding signed on 25 November 1985 by JPIA and the 1971 Fund, JPIA undertakes to repay in full any amount paid by the 1971 Fund in compensation if it is held by the competent court that the shipowner is not entitled to limit his liability under the 1969 Civil Liability Convention. In these cases, the Committee has agreed that the 1971 Fund could, as an exception, pay compensation without the limitation fund having been established (document FUND/EXC. 49/12, paragraph 3.9.2).

2.3 The Director supports JPIA's request and proposes that the requirement to establish the limitation fund should be waived in the *Tsubame Maru N°31* case.

3 Action to be taken by the Executive Committee

The Executive Committee is invited:

- (a) to take note of the information contained in this document; and
 - (b) to take a decision on the Director's proposal that the requirement to establish the limitation fund should be waived in respect of the *Tsubame Maru N°31* incident.
-