



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

ASSEMBLY
2nd extraordinary session
Agenda item 4

92FUND/A/ES.2/3/Add.1
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ASSESSMENT OF CONTRIBUTIONS

Note by the Director

1 Funds required for the *Nakhodka* incident

1.1 The Director has proposed to the Assembly that payments should, for the time being, be limited to 60% of the damage suffered by each claimant (document 92FUND/A/ES.2/2, paragraph 10.8).

1.2 Claims arising from the *Nakhodka* incident will first be paid by the 1971 Fund, and then by the 1992 Fund. As indicated in paragraph 5.5 of document 92FUND/A/ES.2/3, the Director takes the view that the 1971 Fund should pay 60% of the damage suffered by each claimant, up to a total amount of 60 million SDR (£51 million), before the 1992 Fund commences payments of compensation. The proposals set out below are based on this approach.

1.3 It is believed that claims will be submitted for at least ¥ 20 000 million (£100 million). The claims received so far total ¥2 600 million (£13 million). The Director considers that further substantial claims will be submitted within a relatively short period of time. Bearing in mind that in previous incidents in Japan claims have generally been well documented and have not given rise to questions of principle, the Director is of the opinion that the total payments in respect of agreed claims in the *Nakhodka* case will during the year reach the 1971 Fund's limit of 60 million SDR (£51 million). Although it is difficult to assess at this stage the extent to which the 1992 Fund will be called upon to make payments to claimants during 1997, the Director estimates that an amount of £25 million should be available for this purpose.

2 Deferred levy to be made in respect of the General Fund

2.1 At its 1st extraordinary session, the Assembly decided that part (£4 million) of the General Fund levy should be due for payment by 1 February 1997, and that the balance of this levy (£3 million) should be deferred.

The Director was authorised to decide whether to invoice all or part of the amount of the deferred levy for payment during the second half of 1997 (document 92FUND/A/ES.1/22, paragraph 19.1).

2.2 As indicated in paragraph 5.2 of document 92FUND/A/ES.2/3, compensation by the 1992 Fund for the first 4 million SDR (£3 382 620) in respect of the *Nakhodka* incident has to be paid from the General Fund.

2.3 In order to avoid depleting the working capital entirely, the Director intends to make a deferred levy of £3 million in respect of the General Fund.

3 Levy required for the *Nakhodka* Major Claims Fund

The Director considers that £21 million should be available from the *Nakhodka* Major Claims Fund in the early autumn of 1997 for the payment of claims. He therefore proposes that annual contributions to the *Nakhodka* Major Claims Fund should be levied for this amount.

4 Date of payment

4.1 At its 1st extraordinary session, the Assembly decided that the deferred levy referred to in paragraph 2 above should be invoiced for payment during the second half of 1997.

4.2 Annual contributions to the *Nakhodka* Major Claims Fund will have to be paid by any person who received more than 150 000 tonnes of contributing oil within the territory of a Member State of the 1992 Fund during 1996 (ie in the year preceding that in which the incident occurred), if the State was a Member of the 1992 Fund on 2 January 1997.

4.3 In accordance with Internal Regulation 4.1, the reports on contributing oil received during 1996 should have reached the Director not later than 31 March 1997. The 1971 Fund's experience in previous years indicates that a number of the reports will be received during April and early May 1997. The Director will set out the situation in a separate Addendum.

4.4 When the Secretariat calculates the amount of contributions payable per tonne of contributing oil, it has to make an estimate of the quantities received in those States which have not yet submitted their reports. In order to enable the Director to make a reasonably accurate assessment of the amount payable per tonne to the *Nakhodka* Major Claims Fund, it is important that reports have been submitted in respect of the major part of the total quantity of contributing oil received in 1996. The Director considers that it would not be appropriate to calculate the levy per tonne to the *Nakhodka* Major Claims Fund until, at the very least, half of the expected quantity of contributing oil has been reported. In order to allow more time for States to submit their oil reports, the Director would prefer that the Secretariat should prepare the invoices in May, for payment by 1 September 1997 (rather than for payment by 1 August 1997, as had previously been envisaged).

4.5 The Director therefore proposes that the levy to the *Nakhodka* Major Claims Fund as well as the deferred levy to the General Fund should be due by 1 September 1997.

5 Action to be taken by the Assembly

The Assembly is invited, in accordance with Article 12 of the 1992 Fund Convention,

- (a) to take note of the information contained in this document;

- (b) to decide on an additional assessment of annual contributions in respect of the *Nakhodka* Major Claims Fund (paragraph 3);
 - (c) to decide on the date of payment of the contributions in respect of the *Nakhodka* Major Claims Fund (paragraph 4); and
 - (d) to note the Director's intention to make a deferred levy in respect of the General Fund, as authorised by the Assembly at its 1st extraordinary session (paragraph 2).
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