INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

ASSEMBLY
3rd extraordinary session
Agenda item 16

92FUND/A/ES.3/15
20 April 1998
Original: ENGLISH

INCIDENTS INVOLVING THE 1992 FUND

Note by the Director

Summary:	Reference is made to an incident which occured in Germany in 1996. Developments on the *Nakhodka* and *Osung N°3* incidents are reported. Two new incidents have occurred in the United Kingdom which might involve the 1992 Fund.
Action to be taken:	Give the Director instructions in respect of these incidents and decide on the level of payments in respect of the *Nakhodka* incident.

1 Introduction

There are five incidents involving the 1992 Fund, as set out below.

2 Incident in Germany

(Germany, 20 June 1996)

2.1 On 20 June 1996 crude oil was found to have polluted a number of German islands close to the border with Denmark in the North Sea. According to the German authorities, computer simulations of currents and wind movements indicated that the oil had been discharged between 12 and 18 June approximately 60 - 100 nautical miles north-west of the Isle of Sylt. The German authorities undertook clean-up operations at sea and onshore, and some 2 130 tonnes of oil and sand mixture were removed from the beaches. The cost of these operations has been indicated at some DM2.6 million (£900 000).

2.2 The German Federal Maritime and Hydrographic Agency took samples of the oil that was washed ashore. Chemical analysis indicated that the oil was Libyan crude.

2.3 Investigations by the German authorities revealed that the Russian tanker *Kuzbass* (88 692 GRT) had discharged Libyan crude in the port of Wilhelmshaven on 11 June 1996. Analysis of oil samples taken from the ship matched the results of the analysis of samples taken from the polluted coastline. Comparisons with chemical analytical data on North Sea crude oils showed that the pollution was not caused by crude oil from North Sea platforms.

2.4 The German authorities approached the owner of the *Kuzbass* and requested that he should accept responsibility for the oil pollution. They stated that, failing this, the authorities would take legal action against him.

2.5 The German authorities notified the 1992 Fund of the incident. It appears that the authorities maintain that the ship from which the oil originated was an unladen tanker. The definition of "ship" in Article I.1 of the 1992 Civil Liability Convention covers also unladen tankers, and so, by reference, does the definition of ship in the 1992 Fund Convention. Article I.1 of the 1992 Civil Liability Convention reads:

> "Ship" means any sea-going vessel and seaborne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo, provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard.

2.6 If the German authorities were to pursue a claim against the 1992 Fund, the question arises of whether they have proved that the damage resulted from an incident involving one or more ships. This issue will have to be examined, on the basis of all evidence submitted, in the light of the definition of "ship" contained in the 1992 Civil Liability Convention.

2.7 The limitation amount applicable to the *Kuzbass* under the 1992 Civil Liability Convention is estimated at approximately 38 million SDR (£30 million).

2.8 The German authorities are preparing to take legal action against the owner of the *Kuzbass* and his insurer, the West of England Ship Owners' Mutual Insurance Association (Luxembourg). The German authorities have informed the 1992 Fund that, if their attempts to recover the cost of the clean-up operations were to be unsuccessful, they would claim against the 1992 Fund.

3 *Nakhodka* incident

(Japan, 2 January 1997)

3.1 A document has been presented to the Executive Committee of the 1971 Fund containing a detailed presentation of the various aspects of the *Nakhodka* incident (document 71FUND/EXC.58/7). This document is reproduced at Annex I.

3.2 In the Director's view, the document presented to the 1971 Fund Executive Committee is sufficient to form a basis for the 1992 Fund Assembly's consideration of the incident with the additional point set out below.

Level of 1992 Fund's payments

3.3 It will be recalled that the 1971 Fund Executive Committee and the 1992 Fund Assembly decided to limit the payments to be made by the two Organisations to 60% of the amount of the damage actually suffered by the respective claimants as assessed by the experts employed by the Funds and the shipowner and his insurer at the time when the payment is made (documents 71FUND/EXC.52/11, paragraph 3.7.14 and 92FUND/A/ES.2/6, paragraph 3.1.16).

3.4 The 1971 Fund Executive Committee has been invited to review the level of compensation. The 1992 Fund Assembly is also invited to make such a review. In the light of the uncertainty as to the level of the total amount of the claims arising from the *Nakhodka* incident, the Director is unable to recommend an increase of the 60% limit fixed by the 1971 Fund Executive Committee and the 1992 Fund Assembly (cf document 71FUND/EXC.58/7, paragraph 4).

4 *Osung N°3* incident

(Republic of Korea, 3 April 1997)

4.1 The *Osung N°3* incident has been dealt with in detail in a document presented to the 1971 Fund Executive Committee (document 71FUND/EXC.58/5). This document, which is reproduced at Annex II, should form a sufficient basis for the Assembly's consideration of the incident.

4.2 Attention is drawn in particular to paragraphs 3.5.1 - 3.5.3 of document 71FUND/EXC.58/5, which relates to the decision of the 1992 Fund Assembly to pay, in respect of claims relating to damage in Japan, the balance of the established claims over and above the payments made by the 1971 Fund which are at present limited to 25% of the damage actually suffered by each claimant.

5 Incident in the United Kingdom

(United Kingdom, 28 September 1997)

5.1 On 28 and 29 September 1997, bunker fuel oil landed on sandy beaches in Essex on the east coast of England (United Kingdom). Clean-up operations onshore were carried out by the local authority. The origin of the oil is not known.

5.2 The local authority has submitted a claim for compensation to the 1992 Fund for the cost of the clean-up operations, provisionally indicated at approximately £10 000.

5.3 In order for this spill to fall within the scope of application of the 1992 Fund Convention, the claimant must show that the oil originated from a ship as defined in Article I.1 of the 1992 Civil Liability Convention which by reference is included in the 1992 Fund Convention. This definition is quoted in connection with the incident which took place in Germany on 20 June 1996 (paragraph 2.5 above).

5.4 The 1992 Fund is investigating the origin of the oil. In view of the small quantity of oil which reached the beaches, however, the Director considers it unlikely that it can be established that the oil came from a tanker, whether laden or unladen.

6 *Santa Anna* incident

(United Kingdom, 1 January 1998)

The incident

6.1 The Panamanian tanker *Santa Anna* (17 134 GRT) grounded on a rock off Devon (United Kingdom). The ship was pulled off the rock the same day. As a result of the grounding, several of the ship's bunker tanks were punctured.

6.2 The *Santa Anna* was in ballast, but had some 270 tonnes of heavy fuel oil and 10 tonnes of diesel oil in the bunkers. No oil was spilled as a result of the grounding.

6.3 The *Santa Anna* was entered with the West of England Ship Owner's Mutual Protection and Indemnity Association Ltd (West of England Club).

6.4 The United Kingdom Government notified the IOPC Funds of the incident. In its notification, the Government stated that it appeared that no claim was possible under the 1969 and 1971 Conventions since these Conventions do not cover pre-spill preventive measures. The Government also stated that it did not seem possible to present claims for compensation against the shipowner, since the ship was registered in Panama, which was Party to the 1969 Civil Liability Convention but not to the 1992 Civil Liability Convention.

6.5 It is estimated that the limit of liability of the *Santa Anna* under the 1992 Civil Liability Convention, if applicable, is 10 196 280 SDR (£8.2 million).

Applicability of the 1992 Conventions

6.6 This incident gives rise to two important questions as to the applicability of the 1992 Civil Liability Convention and the 1992 Fund Convention.

6.7 The first question is whether the grounding and subsequent refloating constitute an "incident" as defined in the 1992 Conventions. The definition of this concept in Article I.8 of the 1992 Civil Liability Convention reads:

> "Incident" means any occurrence, or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing such damage.

6.8 In the Director's view, there existed a grave and imminent threat of pollution damage. The 1992 Conventions would therefore apply to the cost of preventive measures, ie measures taken to prevent or minimise pollution damage. In this case, such measures might include pulling the ship off the rock. The usual criteria for admissibility would apply, ie that the measures were reasonable from an objective technical point of view.

6.9 If the *Santa Anna* falls within the definition of "ship", however, the question arises whether the 1992 Civil Liability Convention can be applied to the *Santa Anna* which was registered in a State Party to the 1969 Civil Liability Convention but not to the 1992 Civil Liability Convention. Since the incident occurred before 16 May 1998 (the date when the United Kingdom's denunciation of the 1969 Civil Liability Convention takes effect), the United Kingdom is under a treaty obligation to respect the provisions of the 1969 Civil Liability Convention in respect of ships registered in Panama, and that Convention does not cover pure threat removal measures. It could be maintained however that, since the 1969 Civil Liability Convention only deals with laden tankers, the United Kingdom would be allowed to apply the 1992 Civil Liability Convention also to Panamanian unladen tankers.

6.10 The Director intends to study further the applicability of the 1992 Conventions in this case and to present his opinion to the Assembly at its 3rd ordinary session, to be held in October 1998.

7 Action to be taken by the Assembly

The Assembly is invited:

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

(b) as regards the *Nakhodka* incident, to review the level of the 1992 Fund's payments;

(c) to give the Director such instructions in respect of incidents dealt with in this document and of claims arising therefrom as the Assembly may consider appropriate.

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INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1971

ANNEX I
92FUND/A/ES.3/15

EXECUTIVE COMMITTEE
58th session
Agenda item 3

71FUND/EXC.58/7
20 April 1998

Original: ENGLISH

INCIDENTS INVOLVING THE 1971 FUND

NAKHODKA

Note by the Director

Summary:	Information is given on the developments in respect of the *Nakhodka* incident.
Action to be taken:	Decide on the level of the 1971 Fund's payments.

1 The incident and clean-up operations

The incident and its clean-up operations were described in some detail in document 71FUND/EXC.55/8.

2 Claims for compensation

2.1 Summary of claims situation

2.1.1 As at 15 April 1998, 442 claims totalling ¥32 370 million (£150 million)[1] had been received by the Claims Handling Office in Kobe. The claims situation is summarised in the table reproduced in the Annex.

2.1.2 The total payments made by the 1971 Fund to claimants amounted to ¥4 645 million (£21.5 million) as at 15 April 1998, compared with ¥4 496 (£20.8 million) as at 1 February 1998.

In this document, conversion of amounts in Yen has been made on the basis of the rate of exchange as at 14 April 1998, ie ¥216=£1, except in respect of amounts paid where conversion has been made at the rate on the date of payment.

2.1.3 The shipowner/UK Club has made payments totalling US$867 593 (£525 000).

2.2 Details of claims submitted

2.2.1 Claims from the Japan Marine Disaster Prevention Centre (JMDPC) and 54 contractors engaged in clean-up operations under the JMDPC umbrella (items (a) and (b) in the annexed table) have been submitted for ¥8 144 million (£37.7 million). These claims include costs for the disposal of oily waste. On the basis of preliminary assessments, the Director has made provisional payments totalling ¥2 464 million (£11.5 million), representing 60% of the minimum admissible amount assessed by the experts.

2.2.2 A claim has been received from JMDPC for the participation of members of the National Fishery Federation (who represent nine Prefecture fishery co-operative associations with some 68 000 members) in the clean-up operations (item (c) in the annexed table). The claim totals ¥2 793 million (£12.9 million) and relates to the fishermen's involvement in the clean-up operations for the period up to 5 September 1997. After a preliminary examination of this claim, the Director has made provisional payments totalling ¥676 million (£3.2 million).

2.2.3 JMDPC has claimed compensation for ¥1 126 million (£5.2 million) relating to the cost of constructing a causeway to the grounded bow section (item (k) in the annexed table) and for ¥1 194 million (£5.5 million) relating to the cost of removing oil from the bow section (item (i) in the annexed table).

2.2.4 The Government of Japan has made funds available to JMDPC enabling the latter to pay those who participated in the clean-up operations, pending payments from the shipowner/UK Club and the 1971/1992 Funds.

2.2.5 The Japanese Government has claimed (item (d) in the annexed table) for additional costs incurred by the Maritime Safety Agency (MSA) for aerial surveillance and off-shore clean-up operations, by the Self Defence Force for aerial surveillance, off-shore clean-up operations and assistance in the removal of the oil from the shoreline, and by the Department of Transport for the cost of clean-up operations. These claims total ¥1 555 million (£7.2 million).

2.2.6 Ten prefectures have submitted claims (item (e) in the annexed table) for costs incurred in the clean-up operations which together amount to some ¥6 645 million (£31 million). On the basis of a preliminary examination of these claims, the Director made provisional payments to four prefectures of ¥1 035 million (£4.8 million) in October 1997 and of ¥259 million (£1.2 million) in December 1997. Provisional payments to five other prefectures totalling ¥150 million (£700 000) were made in February 1998.

2.2.7 Seven claims have been received from electricity companies, totalling ¥2 636 million (£12.2 million) (item (f) in the annexed table). These claims relate to the cost of clean-up operations and preventive measures in respect of their power stations.

2.2.8 A claim by a contractor participating in the clean-up operations (item (g) in the annexed table) was settled at ¥15 462 270 (£80 000). Payment of 60% of the settlement amount, ¥9 277 362 (£48 600), has been made by the 1971 Fund. There are claims from three other contractors, totalling ¥155 million (£720 000).

2.2.9 A claim by the East Asia Response Ltd (EARL) in Singapore for the provision of recovery systems (item (h) in the annexed table) was settled at US$542 593 (£337 000). The settlement amount was paid in full by the shipowner.

2.2.10 A claim by the Russian authorities for the cost of the participation in clean-up operations of two of the vessels under contract with the shipowner (item (i) in the annexed table) was settled at US$325 000 (£202 000). The settlement amount was paid in full by the shipowner. A further claim for US$2 959 322 (£1.8 million) relating to further participation of these ships and the participation of one other ship has been submitted to the IOPC Funds.

2.2.11 Claims for loss of income suffered by fishermen have been presented for ¥5 212 million (£24 million) (item (j) in the annexed table).

2.2.12 A claim for ¥6 661 879 (£30 800) has been submitted in respect of the contamination of an aquarium near Mikuni (item (m) in the annexed table). On the basis of a preliminary assessment, a provisional payment of ¥3.8 million (£18 000) was made in respect of this claim in November 1997.

2.2.13 Claims have been received from 342 operators in the tourism sector (item (n) in the annexed table). These claims total ¥2 887 million (£13.4 million).

2.2.14 Further claims are expected. The shipowner is expected to claim for the cost of contracting a salvor to attempt to tow the bow section before it grounded. Claims will also be presented by the shipowner for costs incurred prior to and during the bow lifting operations. Claims may be submitted for costs incurred by the Japanese authorities for the removal of the causeway. Further claims will be presented for loss of income in the fishing and aquaculture industries. There may also be some further claims by businesses in the tourism industry in the area.

3 Level of payments

3.1 Consideration by the 1971 Fund Executive Committee and Assembly

3.1.1 At its 57th session, the Executive Committee noted that the total amount of the claims arising out of the *Nakhodka* incident would exceed the amount available under the 1969 Civil Liability Convention and the 1971 Fund Convention, ie 60 million SDR (approximately ¥10 100 million or £51 million). Since the 1992 Fund Convention also applied in the *Nakhodka* case, the Committee considered that the level of the 1971 Fund's payments should be determined by taking into account the amounts available under both the 1971 and the 1992 Fund Conventions, ie a total of 135 million SDR (approximately ¥22 700 million or £108 million) (document 71FUND/EXC.52/11, paragraphs 3.7.9 and 3.7.10).

3.1.2 In view of the uncertainty as to the level of the total amount of the claims, the Executive Committee decided that the payments to be made by the 1971 Fund should, for the time being, be limited to 60% of the amount of the damage actually suffered by the respective claimants as assessed by the experts engaged by the Funds and the shipowner/UK Club at the time when the payment was made (document 71FUND/EXC.52/11, paragraph 3.7.14). The Committee decided at later sessions, most recently at its 57th session, that the 60% limit should be maintained (document 71FUND/EXC.57/15, paragraph 3.8.3).

3.1.3 At its 3rd extraordinary session, the 1971 Fund Assembly endorsed the Director's view that the 1971 Fund should pay 60% of the damage suffered by each claimant up to a total amount of 60 million SDR, before the 1992 Fund commenced payments of compensation (document 71FUND/A/ES.3/7, paragraph 4.5).

3.2 Consideration by the 1992 Fund Assembly

3.2.1 At its 2nd extraordinary session, the Assembly of the 1992 Fund considered that the level of the 1992 Fund's payments should be determined by taking into account the amounts available under both the 1971 and 1992 Fund Conventions. It was considered that, in order to avoid an over-payment situation arising for either the 1971 Fund or the 1992 Fund (or for both), a co-ordinated approach should be taken in respect of the payments by the two Organisations. The Assembly decided that the payments to be made by the 1992 Fund should, for the time being, be limited to 60% of the amount of the damage actually suffered by the respective claimants as assessed by the experts engaged by the Funds and the shipowner/his insurer at the time when the payment was made (document 92FUND/A/ES.2/6, paragraph 3.1.16). At its 2nd ordinary session, the Assembly decided to maintain the 60% limit (document 92FUND/A.2/29, paragraph 17.2.3).

3.2.2 At its 2nd ordinary session, the Assembly decided that the conversion of 135 million SDR into national currency should be made on the basis of the value of that currency *vis-à-vis* the SDR on the date of the 1992 Fund Assembly's (or the Executive Committee's) adoption of the Record of Decisions of the session at which the Assembly (or the Executive Committee) took the decision which made payments of claims possible. As regards the *Nakhodka* incident, the Record of Decisions was adopted on 17 April 1997. Using the rate of exchange on that date (1 SDR = ¥171.589) would result in 135 million SDR equalling ¥23 164 515 000 (£107 million) (document 92FUND/A.2/29, paragraph 17.2.8). It was further decided that, if the Record of Decisions was not adopted during the session, the date for conversion should be that of the last day of session.

4 Review of the level of payments

In the light of the continuing uncertainty as to the level of the total amount of the claims arising from the *Nakhodka* incident, the Director is unable to recommend an increase of the percentage of 60% fixed by the Executive Committee.

5 Investigation into the cause of the incident

5.1 The Japanese and Russian authorities decided to co-operate in the investigation into the cause of the incident. The Japanese investigation was carried out by a special committee set up for this purpose.

5.2 The Japanese investigation report was published in 1997. An English translation of the Report has been made available to the Director.

5.3 The conclusions of the Japanese investigation can be summarised as follows:

> If the *Nakhodka* had been properly maintained she would have been capable of withstanding the wind and wave conditions prevailing at the time of the incident. Due to the extensive corrosion weakening the internal structure of the ship, the stresses on the hull as a result of the heavy weather caused the ship to break in two. The weather conditions in the Sea of Japan at the time of the incident were among the worst reported. Also, the unusual distribution of the cargo would have increased the stresses in the ship's hull.

5.4 It is understood that the Russian report states that the *Nakhodka* must have broken due to the bow section having hit some half-submerged object, most likely a Russian trawler that sank in the vicinity shortly before the *Nakhodka* incident.

5.5 At the 55th session of the Executive Committee, several delegations noted that the conclusions of the Japanese report suggested that the incident had occurred as a result of the actual fault and privity of the shipowner, and that therefore all steps should be taken to preserve the 1971 Fund's right to take recourse action against the shipowner. It was suggested that a decision on whether the 1971 Fund should challenge the shipowner's right to limit his liability or to take recourse action should be taken by the Executive Committee at an early stage.

5.6 The Executive Committee instructed the Director to examine the reports on the cause of the incident and submit his findings to the Committee as soon as possible, so as to enable it to take a decision on issues relating to limitation of liability and recourse.

5.7 The Director is studying the Japanese and Russian reports, with the assistance of legal and technical experts, and will report his findings to the Committee at the earliest opportunity.

6 Purchase of Japanese Yen

6.1 At its 52nd session, the Executive Committee considered whether, in view of the estimated level of claims arising out of the *Nakhodka* incident, the 1971 Fund should at that stage purchase Japanese Yen to be used for the payment of these claims. It was recalled that Financial Regulation 10.4 allowed the Director to hold assets in the currencies required to meet claims arising out of a specific incident which have been settled or are likely to be settled in the near future.

6.2 Noting that the Pound was at that time very strong in the currency market, whereas the Yen was comparatively weak, the Executive Committee agreed with the Director that it was appropriate for the 1971 Fund to purchase Yen in the following few weeks, in order to protect the 1971 Fund against a strengthening of the Yen *vis-à-vis* the Pound. It was stressed, however, that since the 1971 Fund was neither a financial institution nor an investment bank, Yen should be purchased only to provide funds for the payment of claims in the *Nakhodka* case, and not for general investment purposes. It was recommended that the Director should seek appropriate expert advice on the matter (document 71FUND/EXC.52/11, paragraph 3.7.21).

6.3 After having consulted the 1971 Fund's Investment Advisory Body and the Organisation's bankers, the 1971 Fund purchased Yen as follows:

Purchase date	Cost in £	Rate ¥:£1	Amount in Yen
5 March 1997	10 million	196.27	1 962 700 000
2 April 1997	5 million	203.00	1 015 000 000
1 May 1997	3 million	206.60	61 980 000
22 September 1997	5 million	196.00	980 000 000
29 October 1997	5 million	201.00	1 005 000 000
12 November 1997	5 million	211.00	1 055 000 000
22 December 1997	5 million	215.00	1 075 000 000
Total	£38 million		¥7 712 500 000

6.4 As at 15 April 1998 the 1971 Fund held ¥3 074 552 983 (£14.2 million).

7 Action to be taken by the Executive Committee

The Executive Committee is invited:

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

(b) to review the level of the 1971 Fund's payment of claims; and

(c) to give the Director such instructions in respect of the handling of this incident and of claims arising therefrom as it may deem appropriate.

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Claims situation as at 15 April 1998

Claim				Claims submitted			Claims paid		
				Number	Amount		Number	Amount	
					US$<1>	Yen (million)		US$<1>	Yen (million)
Clean-up costs	(a)	JMDPC	- Operations carried out by JMDPC	1		123	1		<2> 50
	(b)		- Contractors under JMDPC	54		8 021	48		<2> 2 414
	(c)		- Fishery Co-operative Associations	1		2 793	1		<2> 676
	(d)		- Japanese Government Agencies	11		1 555	0		0
	(e)		- Prefectures and Municipalities	10		6 645	9		<2> 1 443
	(f)	Electricity companies		7		2 636	0		0
	(g)	Other entities		4		171	1		9
	(h)	EARL		1	542 593	70	1	542 593	<3> 70
	(i)	Russian authorities		2	3 284 322	425	1	325 000	<3> 42
	Sub-total			91		22 439	62		4 704
Loss of income: fishery	(j)			9		5 212	1		<2> 49
Causeway construction	(k)	JMDPC		1		1 126	0		0
Removal of oil from ship	(l)	JMDPC		3		1 194	0		0
Aquarium	(m)			1		7	1		<2> 4
Tourism	(n)			342		2 887	0		0
TOTAL				447		32 865	64		4 757
						£152 million			£22 million

<1> Amounts in US$ converted into Yen on the basis of the rate of exchange at 14 April 1998
<2> Includes provisional payments
<3> Payments made by the shipowner/UK Club

INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1971

EXECUTIVE COMMITTEE
58th session
Agenda item 6

71FUND/EXC.58/5
20 April 1998

Original: ENGLISH

INCIDENTS INVOLVING THE 1971 FUND

YUIL N°1 and OSUNG N°3

Note by the Director

Summary:	Consideration has been given to removing the oil remaining in the wrecks of the *Yuil N°1* and *Osung N°3*.
Action to be taken:	Decide on the level of payments in respect of these two incidents.

1 Introduction

This document sets out in sections 2 and 3 the situation in respect of the *Yuil N°1* and the *Osung N°3* incidents, respectively. Section 4 deals with issues relating to the removal of the oil from the wrecks of both of these vessels. Finally, section 5 deals with the level of the 1971 Fund's payments in respect of each of these incidents.

2 *Yuil N°1*

(Republic of Korea, 21 September 1995)

2.1 The incident

2.1.1 The Korean coastal tanker *Yuil N°1* (1 591 GRT), carrying approximately 2 870 tonnes of heavy fuel oil, ran aground on the island of Namhyeongjedo off Pusan (Republic of Korea). The tanker was refloated by a tug and a naval vessel some six hours after the grounding. While being towed towards the port of Pusan, the tanker sank in 70 metres of water, ten kilometres from the mainland. Three cargo tanks and the engine room were reported to have been breached as a result of the grounding.

2.1.2 Shorelines on the east and north coast of Koeje island, on the west coast of Kadokto and immediately to the east and west of the mainland at Pusan, as well as a number of smaller islands, were oiled as a result of the initial spill following the grounding and sinking. Some re-oiling of shorelines west of Pusan also occurred following later small releases of oil from the wreck.

2.2 Clean-up operations

As for the clean-up operations, reference is made to document 71FUND/EXC.55/6.

2.3 Level of payments

2.3.1 At its 44th session, in view of the uncertainty concerning the total amount of the claims, the Executive Committee decided that the 1971 Fund's payments should for the time being be limited to 60% of the established damage suffered by each claimant (document FUND/EXC.46/12, paragraph 4.5.6).

2.3.2 At the Executive Committee's 47th session, the delegation of the Republic of Korea requested that the level of compensation payable by the 1971 Fund be increased from 60% to 100%. The delegation stated that, if this request were accepted, the Korean Government was prepared to provide a guarantee to protect the 1971 Fund against overpayment. A number of delegations expressed the view that the 1971 Fund should be very cautious in accepting a guarantee of the type proposed by the Korean delegation. The Executive Committee decided not to accept such a guarantee. The Committee further decided to maintain the limit of the 1971 Fund's payments at 60% of the established damage suffered by each claimant (document FUND/EXC.47/14, paragraph 3.7.10).

2.4 Claims for compensation

2.4.1 Claims relating to clean-up operations were received from various contractors, a fishery co-operative, Pusan Marine Police and Koeje City. Agreement has been reached on the quantum of the claims with most of the contractors and the other entities for a total of Won 12 383 million (£8.5 million)<1>. The shipowner's insurer, the Standard Steamship Owners' Protection & Indemnity Association (Bermuda) Limited (the Standard Club), has paid some of these claims in full, and the 1971 Fund has reimbursed the Club 60% of these payments. The Fund's payments for these claims total Won 7 142 million (£5.6 million).

2.4.2 Claims in the fishery sector were submitted by a co-operative of set net owners, 11 fishery associations, the owner of a laver cultivation farm and the owners of oyster and mussel farms. The claims related to the cost of cleaning nets, contaminated equipment and facilities, and for loss of income. The claims submitted totalled Won 4 524 million (£2.8 million). Agreements were reached for a total of Won 3 235 million (£2.1 million) in respect of these claims. The 1971 Fund paid 60% of the settlement amounts in respect of some of these claims. The Standard Club paid the other agreed amounts in full, and the 1971 Fund reimbursed 60% of each established claim to the Standard Club.

2.4.3 So far, claims have been agreed for a total of Won 15 628 million (£6.6 million), out of which Won 12 393 million (£8.5 million) relates to clean-up operations and Won 3 235 million (£1.4 million) to fishery claims. Payments made total Won 10 417 million (£8.7 million), out of which the 1971 Fund's payments total Won 8 763 million (£7.3 million).

2.4.4 Clean-up claims for a total amount of Won 25 million (£10 600) and fishery related claims for a total amount of Won 60 031 million (£25 million) have not yet been settled.

<1> In this document, conversion of amounts in Won to Pounds Sterling has been made on the basis of the rate of exchange on 14 April 1998, ie Won 2 356 = £1, except in respect of amounts paid where conversion has been made at the rate on the date of payment.

2.4.5 The claims situation as at 15 April 1998 is shown in the tables set out below.

Claims settled out of court			
	Claimed (million Won)	Assessed by the 1971 Fund's experts (million Won)	Agreed (million Won)
Fishery claims	4 524	3 235	3 235
Clean-up claims	12 564	12 393	12 393
Total	17 088 (£7.3 million)	15 628 (£6.6 million)	15 628 (£6.6 million)

Claims pending in court		
	Claimed (million Won)	Assessed by the 1971 Fund's experts (million Won)
Fishery claims	60 031	2 301
Clean-up claims	25	-
Total	60 056 (£25 million)	2 301 (£1 million)

2.5 Limitation proceedings

2.5.1 The shipowner commenced limitation proceedings at the Pusan District Court in April 1996. The limitation amount applicable to the *Yuil N°1* is estimated at Won 250 million (£106 000).

2.5.2 By May 1996, fishery co-operatives had presented claims totalling Won 60 000 million (£26 million) to the Court. The Standard Club and the 1971 Fund presented their subrogated fishery and clean-up claims to the Court for a total amount of Won 10 000 million (£4.2 million). The clean-up contractors and fishery associations, who have so far received only 60% of the agreed amounts, filed claims for the balance, totalling Won 4 700 million (£2.0 million) and Won 29 million (£12 000), respectively.

2.5.3 At the court hearings, the Standard Club and the 1971 Fund filed objections to the fishery claims and the fishermen submitted objections to all the clean-up claims.

2.5.4 At a court hearing held in October 1996, an administrator appointed by the Court presented an opinion to the effect that there was not sufficient evidence to enable him to make an assessment of the fishery claims. However, he stated that since he was required to present an opinion on the assessment to the Court, he proposed that the Court should accept one third of the claimed amounts as reasonable.

2.5.5 In November 1997, the Court rendered its decision adopting the administrator's proposal to accept one third of the fishery claims. The 1971 Fund has lodged an opposition to the Court's decision.

2.6 Investigation into the cause of the incident and recourse action

2.6.1 The Korean Maritime Accident Inquiry Agency (MAIA) carried out an investigation into the cause of the incident. The investigation revealed that the initial grounding was caused by the master of the *Yuil N°1* having chosen to navigate through a narrow and dangerous passage between two islands which resulted in the vessel grounding on a small rocky island.

2.6.2 As regards the refloating and towing operation of the *Yuil N°1*, which followed the initial grounding and subsequently led to the sinking of the *Yuil N°1*, MAIA pointed out in its investigation report that the master of the *Yuil N°1* did not check the damaged plating, the extent of the damage and how much water entered the vessel, nor did he ascertain the situation of the *Yuil N°1* and take emergency measures to minimise the risk of sinking. However, MAIA accepted that the sinking was a force majeure and decided that the action taken by the master after the grounding was inevitable. MAIA also pointed out that the captain of the naval vessel which took part in the refloating and towing operations was reckless because the *Yuil N°1* had sunk up to deck level and that towing by the method envisaged could have resulted in the naval vessel sinking. MAIA concluded that the navigating officer of the tug involved did not undertake the tow on his own initiative, and that therefore he was not to blame for the incident.

2.6.3 The hull insurer of the *Yuil N°1* took legal action in the Republic of Korea against the Korean Government and the owner of the tug in respect of negligence during the refloating and towing operation for the purpose of recovering the amount it had paid for the damage to the hull (Won 1 173 million or £803 000). The Court of first instance rendered its judgement in August 1997, rejecting the hull insurer's action. The hull insurer has appealed against the judgement.

2.6.4 In the light of the results of the investigation into the cause of the incident, the Executive Committee decided, at its 55th session, that there were no grounds on which the 1971 Fund could oppose the shipowner's right to limit his liability. The Executive Committee decided to postpone its decision as to whether the 1971 Fund should take recourse action against third parties until the Court of Appeal had rendered its judgement in respect of the action brought by the hull insurer (document 71FUND/EXC.55/19, paragraphs 3.8.7 and 3.8.8). This judgement has not yet been rendered.

3 *Osung N°3*

(Republic of Korea, 3 April 1997)

3.1 The incident

3.1.1 The tanker *Osung N°3* (786 GRT), registered in the Republic of Korea, ran aground on the island of Tunggado, just south of the island of Kojedo in the Pusan area (Republic of Korea), and sank to a depth of 70 metres. The vessel was carrying about 1 700 tonnes of heavy fuel oil. Oil was spilled immediately, but it has not been possible to assess the quantity spilt or the quantity remaining on board.

3.1.2 The spilt oil spread over about 15km² around the grounding location. The oil in this area was estimated at between 50 and 200 tonnes. Small but diminishing quantities of oil continued to leak from the sunken vessel, and by 9 April 1997 only faint traces of sheen were coming to the surface.

3.1.3 The Korean Marine Police, assisted by local authorities and clean-up contractors appointed by the shipowner, organised and carried out clean-up operations at sea. Some 100 vessels were employed in dispersant spraying, skimming and the manual removal of oil using sorbent pads. The clean-up at sea was terminated on 12 April 1997.

3.1.4 Although the shores of small islands close to the grounding location were oiled, there were no reports of the mainland coast having been polluted.

3.1.5 Oil which may have originated from the *Osung N°3* reached the sea adjacent to Tsushima island in Japan on 7 April 1997. The Japan Maritime Safety Agency deployed about 150 vessels to combat the oil at sea during the period 7 - 21 April. The oil also affected the shorelines of the northwest corner of Tsushima island. The onshore clean-up was carried out by fishermen, members of the Self Defence Force and the fire brigades, municipal officials and volunteers.

3.1.6 Samples of the oil in Japan were taken for comparison with the oil coming from the *Osung N°3*. These samples were sent for chemical analysis. In the view of the 1971 Fund's experts, the results of the analyses were fully consistent with the oil in Japan having been spilled from the *Osung N°3*.

3.2 Impact on fisheries

Republic of Korea

3.2.1 Traditional fishery and intensive aquaculture are carried out throughout the south Korean coast. Important fisheries are the common fishing grounds, coastal set net fisheries and an extensive mariculture industry. It is believed that the oil had only minimal impact on the fishery and mariculture industries.

Japan

3.2.2 Tsushima island supports seaweed harvesting, set net fishing and a boat fishing community. Damage to these fisheries has been alleged, but so far there has been no clear indication of the scale of impact.

3.3 Claims for compensation

3.3.1 As regards the Republic of Korea, claims for compensation have been presented by the Korean Marine Police, some local authorities, the charterer of the *Osung N°3* and a number of contractors for participation in the clean-up operations and the inspection of the sunken vessel, and by two fishery co-operative associations for loss of income. Claims totalling Won 1 200 million (£52 000) have been examined by the 1971 Fund's experts. Further claims totalling Won 140 million (£60 000) are being examined.

3.3.2 It is possible that there will be further claims from the Korean fishery and mariculture sectors.

3.3.3 Claims, totalling ¥659 million (£3.1 million), have been submitted for clean-up operations carried out in Japan. A claim has been presented by a Japanese fishery co-operative association for ¥285 million (£1.3 million) for loss of income caused by the oil spill. These claims are being examined by the 1971 Fund's experts.

3.3.4 A further claim for some ¥60 million (£280 000) by the Japanese Self Defence Force for clean-up operations is expected.

3.4 Level of the 1971 Fund's payments

3.4.1 At its 54th and 55th sessions, the Executive Committee noted that there was only limited information available as to the cost of the clean-up operations in the Republic of Korea, and that claims might be submitted by the Korean fishery and mariculture sectors. It was also noted that it was not possible to make an estimate of the cost of operations which might be undertaken to prevent further release of oil or for wreck removal.

3.4.2 In view of the great uncertainty resulting from the fact that a significant quantity of oil remained in the wreck, representing a serious pollution risk, the Executive Committee shared the Director's view that it was not possible to make any reasonable estimate as to the total amount of the claims arising out of the *Osung N°3* incident. The Committee considered that it was necessary to strike a balance between the need to exercise caution in the payment of claims and the importance of the 1971 Fund's being able to make payments at an early stage, noting that the limitation amount applicable to the *Osung N°3* was very low. The Committee therefore decided that, for the time being, the Director was authorised to make payments of 25% of the damage or loss actually suffered by each claimant, as assessed by the experts of the 1971 Fund at the time the payment was made (document 71FUND/EXC.54/10, paragraph 3.5.7). The Committee decided at its 55th and 57th sessions to maintain the 25% limit of the 1971 Fund's payments (documents 71FUND/EXC.55/19, paragraph 3.13.7 and 71FUND/EXC.57/15, paragraph 3.6.6).

3.5 Applicability of the Conventions

3.5.1 At the time of the *Osung N°3* incident, the Republic of Korea was not Party to the 1992 Civil Liability Convention and the 1992 Fund Convention. The amount available for compensation for damage caused in Korea is therefore to be determined pursuant to the 1969 Civil Liability Convention and the 1971 Fund Convention, ie 60 million SDR (approximately £48 million).

3.5.2 Japan, however, was Party to the 1992 Conventions at the time of the incident. The maximum amount available for damage in Japan is therefore to be determined in accordance with those Conventions, ie 135 million SDR (£108 million), including any payments made to Korean and Japanese claimants under the 1969 Civil Liability Convention and the 1971 Fund Convention. If the total amount of the claims arising out of the incident for damage in Korea and Japan were to exceed 60 million SDR and payment under the 1971 Fund Convention had to be pro rated, the Japanese claimants would be entitled to additional compensation under the 1992 Fund Convention. Since the *Osung N°3* was registered in the Republic of Korea, the limit of the shipowner's liability would be that laid down in the 1969 Civil Liability Convention.

3.5.3 At its 2nd session, held in October 1997, the Assembly of the 1992 Fund considered whether it should pay claimants in Japan the balance of 75%, and then present subrogated claims against the 1971 Fund if and when the 1971 Fund's payments are increased beyond the 25% limit. The Assembly decided that it would be appropriate for the 1992 Fund to intervene at this stage, as a State for which the 1992 Fund Convention had entered into force had thereby ensured that victims of oil pollution damage in that State had the benefit of a higher maximum amount of compensation than that provided by the 1971 Fund Convention. The Assembly therefore authorised the Director to pay the balance of the established claims relating to damage to Japan (document 92FUND/A.2/29, paragraph 17.3.6).

3.6 Limitation proceedings in the Republic of Korea

3.6.1 The *Osung N°3* was not entered in any P & I Club, but had liability insurance up to a limit of US$1 million (£600 000) per incident.

3.6.2 The limitation amount applicable to the vessel under the 1969 Civil Liability Convention is estimated at 104 500 SDR (£84 000).

3.6.3 The shipowner applied to the competent court for the commencement of limitation proceedings, which was granted in October 1997.

3.6.4 In January 1998, the 1971 Fund and the 1992 Fund notified the Court that they would have to pay compensation to claimants who had suffered damage in Japan, and indicated provisionally that those claims would total ¥1 003 million (£460 000).

3.7 Investigation into the cause of the incident

3.7.1 In a judgement rendered on 24 June 1997, the competent Korean Criminal Court held that the master of the *Osung N°3* had navigated the vessel through a prohibited area in order to save time and had failed to exercise due care in the navigation of the ship. The Court therefore sentenced him to one year's imprisonment.

3.7.2 At its 55th session, the Executive Committee decided that, in the light of the findings of the Criminal Court, there were no grounds on which the 1971 Fund could oppose the shipowner's right to limit his liability, nor refuse to pay indemnification under Article 5.1 of the 1971 Fund Convention (document 71FUND/EXC.55/19, paragraph 3.13.9).

4 Issues relating to the wrecks of the *Yuil N°1* and *Osung N°3* and removal of the oil on board

4.1 *Yuil N°1*

4.1.1 In November 1995 the Marine Police ordered the owner of the *Yuil N°1* to remove the oil or the wreck. On the basis of studies carried out by experts employed by the shipowner, the shipowner maintained that it would be unnecessary and unwise to remove the oil or the wreck. The shipowner argued that there was a minimal release of oil and that there was no risk of any significant release of oil if the wreck were left where it was, since it was slowly being covered by mud which would help to prevent further significant releases of oil. The owner also stated that if an oil removal or wreck removal operation were to be carried out, there would be a significant risk that oil would escape causing further pollution.

4.1.2 The Korean delegation stated at the Executive Committee's 47th session that the Korean Government wished to find a solution to the wreck removal issue. The delegation mentioned that an *ad hoc* committee composed of several interested Government authorities had been set up to take anti-pollution measures and that a final decision would be taken after all aspects had been duly considered, including the position taken by the Executive Committee. The delegation stated that the Korean Government would like to have a more detailed discussion with the 1971 Fund after the Government's decision had been taken (document 71FUND/EXC.47/14, paragraph 3.7.11).

4.1.3 In 1997, the Korean Research Institute of Ships and Ocean Engineering presented a report on a survey of the *Yuil N°1*. The report concluded that it was unlikely that the wreck would become buried in the mud or that the oil remaining in the tanks would solidify. It also stated that some tanks still contained oil, that corrosion to damaged shell plating would cause release of oil from the wreck within ten years, and that the removal of the remaining oil should therefore be carried out as soon as possible. The report acknowledged that a variety of factors made removal of the oil and the wreck difficult, but stated that such operations would succeed if they were carried out at the appropriate time and using proper equipment. It was concluded that the removal of the oil should precede the wreck removal, since such a procedure would reduce the risk of oil spillage. It was foreseen that the operation to remove the oil and the wreck would take about four months and would cost about Won 9 000 million (£6.2 million).

4.2 *Osung N°3*

4.2.1 At its 53rd session, the Executive Committee noted that it was likely that a significant quantity of oil remained on board the sunken *Osung N°3*, that if this oil were to be released there would be a risk of the oil affecting a large number of aquaculture facilities located some seven kilometres north of the site of the sunken ship and that such a release could give rise to substantial claims for compensation.

4.2.2 The Executive Committee endorsed the Director's proposed course of action, which was to hold discussions with the Korean authorities concerning the most appropriate way of dealing with the oil remaining in the sunken ship, whilst not involving the 1971 Fund in carrying out such operations. The Director stated that he would make it clear that the 1971 Fund could assist the Korean authorities only with expert advice and could not become involved in the operations to inspect the ship, make repairs to prevent further escape of oil or remove any oil from the ship. He stated further that he would also make it clear that the 1971 Fund could not guarantee to pay the costs of any such operations, but that these costs would have to be presented as a claim for compensation which would be subject to an assessment as to admissibility on the basis of the criteria laid down by the Assembly and Executive Committee (document 71FUND/EXC.53/12, paragraphs 3.8.3 and 3.8.5).

4.2.3 The Committee recalled that, in respect of the *Tanio* incident (France, 1980), the 1971 Fund had been present at the meetings between the French Government and marine engineering companies held to consider the best way of dealing with the sunken fore-section of the tanker. It was also recalled that the 1971 Fund had informed the French Government that, in its view, the proposed pumping of the oil from the wreck seemed to be a reasonable measure to prevent, or at least minimise, further pollution

damage. It was further recalled that the French Government's claim for the cost of the pumping operation had not been accepted in full.

4.2.4 The 1971 Fund employed an expert from a London firm of marine surveyors to monitor operations and to liaise with the Korean authorities which were considering taking measures to inspect the wreck of the *Osung N°3* and to remove the oil from the wreck. The expert visited the Republic of Korea twice in 1997 and held discussions with the Korean Marine Police on these matters.

4.2.5 The Korean authorities carried out inspections of the wreck of the *Osung N°3* in April/May 1997, using a remotely operated vehicle (ROV). The surveys, some of which encountered technical problems, established that the wreck was in an upright position, that there was damage to a number of tanks forward on the port side, and that traces of oil were leaking from one port cargo tank.

4.2.6 The 1971 Fund's expert conveyed to the Korean Marine Police the Director's view that the oil remaining in the wreck of the *Osung N°3* constituted a serious pollution risk and that it was important that appropriate measures were taken to prevent further escape of the oil. The expert indicated that in his view only very limited information could be obtained through inspections by ROV. He stated that he considered it necessary to use experienced salvage divers to determine the condition of the ship. Various methods for recovering the oil were also discussed at the meeting.

4.2.7 The 1971 Fund received requests from the Korean authorities, from the shipowner and from the owner of the cargo that the 1971 Fund should take measures to remove the wreck or the oil or guarantee the payment of such measures. The 1971 Fund also received enquiries from salvage companies about the 1971 Fund's position as regards the payment of the cost of oil removal operations. In reply to these requests, the Director explained the role of the 1971 Fund and the criteria for the admissibility of claims for compensation.

4.2.8 In 1997, the Korean Research Institute of Ships and Ocean Engineering presented a report on a survey of the *Osung N°3*. In the report it was estimated that the wreck of the *Osung N°3* contained about 1 400 tonnes of oil in her tanks, which was not likely to solidify. It was concluded that oil might escape from the wreck because of further deterioration of the damaged ship, or as a result of a ship or fishing gear coming into contact with the submerged wreck, or if the wreck were to be disturbed by a passing typhoon. Given the risk of further spillage and the potential impact on nearby fishing grounds, extensive mariculture facilities and tourist beaches, it was concluded in the report that an oil removal operation should be carried out as soon as possible to reduce the pollution risk, since 60% to 80% of the oil could be recovered. It was further concluded that the wreck itself should also be removed, with a view to eliminating completely the risk of further pollution. Although the best time to carry out wreck and oil removal operations would be between March and May, it was stated that, in view of the urgency of the work, the operations could be carried out between September and November. It was estimated that the oil removal would take four months and cost Won 4 000 million (£2.8 million), whilst the wreck removal would last three months and cost Won 3 000 million (£2.1 million).

4.3 Recent developments in respect of both incidents

4.3.1 At the request of the Korean Government, the expert engaged by the 1971 Fund visited the Republic of Korea several times during the period February - March 1998 for discussions covering the most appropriate method to be used for removing the oil from the *Yuil N°1* and the *Osung N°3*, and these discussions were, in the 1971 Fund's view, very constructive. The Director visited the Republic of Korea in March 1998 and held useful discussions with the Korean authorities on this matter.

4.3.2 The Director has informed the Korean authorities that the 1971 Fund agrees that the oil should be removed from the wrecks of the *Yuil N°1* and the *Osung N°3* as soon as possible, and that this is particularly important as regards the *Osung N°3* which, in the Fund's view, presents the most serious pollution risk. He has also stated that every effort should be made to ensure that the oil removal operations in respect of both wrecks are carried out during the period April - June 1998 when the weather could be expected to be favourable.

4.3.3 Several companies have submitted tenders to carry out the operations, and the 1971 Fund's opinion has been sought on these tenders.

4.3.4 In his discussions with the Korean authorities, the Director has emphasised that the 1971 Fund cannot take part in the decisions as to what method should be used and which contractor should be engaged. He has stated that it is for the Korean authorities alone to take such decisions and to take the responsibility for the terms of the contract with the company or companies engaged to carry out the oil removal, and that the 1971 Fund can only present its views. He has made it clear that no expert engaged by the 1971 Fund has the authority to make any commitment on behalf of the Fund, and that any such experts act therefore solely in an advisory capacity to the 1971 Fund. He has made the point that the 1971 Fund does not act as a guarantor of payment of the cost of any operations or activities. He has also stated that claims for the cost of such operations and activities will be examined in the same manner as any other claim. The Director has drawn attention to the fact that the question as to whether and, if so, to what extent, the cost of any operations to remove the oil from the wreck of the *Yuil N°1* and that of the *Osung N°3* is admissible for compensation will have to be decided on the basis of the criteria laid down in the 1969 Civil Liability Convention and the 1971 Fund Convention and the Korean legislation implementing these Conventions and adopted by the Assembly of the 1971 Fund, ie that the operations are reasonable from an objective technical point of view and that the relationship between the costs and the benefits derived or expected are reasonable.

4.3.5 In April 1998, the Korean authorities held negotiations with a potential contractor for the purpose of entering into a contract for the removal of the oil from the wrecks of both ships. At the request of the Korean authorities, the Director and the 1971 Fund's technical expert provided advice on legal and technical issues during these negotiations. Unfortunately, these negotiations have not resulted in a contract being concluded.

4.3.6 The 1971 Fund understands that the Korean authorities is holding discussions with another potential contractor.

5 Level of the 1971 Fund's payments

5.1 *Yuil N°1* incident

5.1.1 As stated in section 2.3 above, the Executive Committee has decided that the 1971 Fund's payments in respect of the *Yuil N°1* incident should for the time being be limited to 60% of the established claims.

5.1.2 The Director considers that if, in the view of the 1971 Fund's experts, the removal of the oil from the *Yuil N°1* is successfully completed without any significant release of oil, and only a minor quantity of oil remains in the wreck, there would no longer be any risk of the total amount of the claims exceeding 60 million SDR. The Director proposes, therefore, that the Executive Committee should authorise him to increase the payments in respect of the *Yuil N°1* incident to 100%, once these conditions have been fulfilled.

5.2 *Osung N°3* incident

5.2.1 The Executive Committee has decided that the payments in respect of the *Osung N°3* incident should for the time being be limited to 25% of the established claims, as set out in section 3.4 above.

5.2.2 The Director considers that if, in the view of the 1971 Fund's experts, the removal of the oil from the *Osung N°3* is completed successfully without any significant release of oil, and only a minor quantity of oil remains in the wreck, the risk of further pollution would be eliminated and there would no longer by any risk of claims for high amounts. The Director proposes that the Committee should authorise him to increase the limit of the 1971 Fund's payments to 75% of the established claims, once these conditions have been fulfilled.

6 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) review the level of the 1971 Fund's payments in respect of the *Yuil N°1* and *Osung N°3* incidents; and

(c) give the Director such instructions as it may deem appropriate in respect of the *Yuil N°1* and *Osung N°3* incidents.