



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUNDS 1971 AND
1992

EXECUTIVE COMMITTEE
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Agenda item 4

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71FUND/A/ES.6/4

INCIDENTS INVOLVING THE 1971/1992 FUNDS

NAKHODKA

Note by the Director

Summary:

Claims have been received for a total of ¥35 128 million (£233 million). The IOPC Funds have paid ¥13 786 million (£71 million) in compensation. Pursuant to the decisions of the Funds' governing bodies, the Director has decided to increase the level of payments from 70% to 80% of the damage actually suffered by each individual claimant.

Action to be taken:

Information to be noted.

1 Claims for compensation

1.1 Summary of claims situation

1.1.1 As at 23 January 2001, 458 claims totalling ¥35 128 million (£206 million)^{<1>} had been received.

1.1.2 The total payments made to claimants amounted to ¥14 352 million (£75 million) as at 23 January 2001, including the payments made by the shipowner and his insurer, the United Kingdom Mutual Steamship Assurance Association (Bermuda) Ltd (UK Club) totalling ¥65 889 134 (£400 000) plus US\$4.6 million (£3 million).

<1>

In this document, conversion of amounts in Yen has been made on the basis of the rate of exchange as at 29 December 2000, ie £1=¥170.592, except in respect of amounts paid where conversion has been made at the rate on the date of payment.

1.1.3 The claims situation as at 23 January 2001 is shown in the tables set out below.

Settled claims		
Category of claims	Claimed amount (¥ 1 000)	Settled amount (¥ 1 000)
Japan Maritime Disaster Prevention Centre (JMDPC)	12 016 344	10 299 544
Prefectures and municipalities	4 592 938	3 666 910
Shipowner's contractors	259 088	250 170
Fishery	5 013 257	1 769 172
Tourism	2 734 401	1 247 192
Others	15 139	11 428
Total	24 631 167 (£144 million)	17 244 416 (£101 million)

Claims pending in court			
Category of claims	Number of pending claims	Claimed amount (¥ 1 000)	Provisional payments (¥ 1 000)
JMDPC (pending parts)	5 ^{<1>}	3 208 823	0
Government agencies	11	1 519 466	0
Prefectures and municipalities	4	2 549 628	607 423
Tourism	17 ^{<2>}	147 796	0
Shipowner/UK Club	1	381 052	0
Others	7	2 733 252	1 215 600
Total	45	10 540 017 (£62 million)	1 823 023 (£11 million)

Notes: <1> Includes three claims relating to causeway construction and removal.

<2> Includes claimed amounts for 15 claims totalling ¥41 330 assessed by the IOPC Funds as nil.

1.1.4 In section 1.2 information is given on those groups of claims where major developments have taken place since the October 2000 sessions of the IOPC Funds' governing bodies.

1.2 Recent settlements

1.2.1 Fishermen belonging to the Kyoto Fishery Co-operative Association submitted a claim for loss of income for ¥772 million (£4.5 million). This claim was settled at ¥288 million (£1.7 million) in January 2001. The 1992 Fund paid ¥102 million (£590 000), corresponding to 70% of the settlement amount minus a previous provisional payment. As a result all claims in the fishery sector have been settled.

1.2.2 Claims have been received from 347 operators in the tourism sector. The assessment of all 347 claims in this category has been completed. Two hundred and eighty-three claims have been settled at a total of ¥1 247 million (£7.2 million). A total of ¥873 million (£5.3 million) has been paid to claimants. Twenty-nine claims have become time-barred since the claimants did not take legal action within the prescribed period. Thirty-three claims have been assessed by the IOPC Funds as nil. These claimants had taken legal actions. Eighteen of these claims totalling ¥74 million (£430 000) were withdrawn on 19 January 2001. It is expected that the majority of the remaining 15 claims assessed as nil will also be withdrawn.

2 Level of payments

- 2.1 In view of the uncertainty as to the level of the total amount of the claims arising out of the *Nakhodka* incident, the Executive Committee of the 1971 Fund and the Assembly of the 1992 Fund decided in April 1997 that the payments to be made by the two Organisations 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.
- 2.2 In accordance with a decision by the Assembly of the 1992 Fund the total amount available under the 1971 and 1992 Fund Conventions, ie 135 million SDR, equals ¥23 164 515 000 (£154 million).
- 2.3 At their April 2000 sessions the IOPC Funds' governing bodies decided to increase the level of the IOPC Funds' payments from 60% to 70% of the amount of the damage actually suffered by the respective claimants (documents 92FUND/EXC.7/5, paragraph 3.1.12 and 71FUND/AC.1/EXC.63/11, paragraph 3.6.12).
- 2.4 The Director informed the governing bodies of the IOPC Funds at their October 2000 sessions that he estimated the total exposure of the Funds at some ¥28 468 million (£164 million). The governing bodies decided to authorise the Director to increase the level of payments to 80% of the amount of the damage actually suffered by the individual claimants when the total amount of the settled and pending claims fell below ¥27 800 million (documents 92FUND/EXC.9/12, paragraph 3.3.8 and 71FUND/AC.2/A.23/22, paragraph 17.8.8).
- 2.5 As a result of developments since the October 2000 sessions of the governing bodies the Director estimated on 22 January 2001 the total exposure of the Funds at some ¥27 780 million^{<2>}. In the light of these developments the Director decided, as authorised by the governing bodies, to increase the level of payments to 80% of the amount of the damage actually suffered by the individual claimants. It is expected that as a result the 1992 Fund will make additional payments totalling ¥2 000 million (£11.5 million) shortly.

3 Action to be taken by the governing bodies

The governing bodies are invited:

- (a) to take note of the information contained in this document; and
- (b) to give the Director such instructions in respect of this incident as they may deem appropriate.

<2> ¥17 244 416 000 + ¥10 540 017 000 = ¥27 784 433 000, as set out in the tables in paragraph 1.1.3.