



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

EXECUTIVE COMMITTEE
12th session
Agenda item 5

92FUND/EXC.12/4
15 March 2001
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RECORD OF DECISIONS OF THE TWELFTH SESSION OF THE EXECUTIVE COMMITTEE

(held on 15 March 2001)

Chairman: Mr G Sivertsen (Norway)
Vice-Chairman: Captain Luis Díaz-Monclús (Venezuela)

Opening of the session

1 Adoption of the Agenda

The Executive Committee adopted the Agenda as contained in document 92FUND/EXC.12/1.

2 Examination of credentials

2.1 The following members of the Executive Committee were present:

Australia	Japan	Norway
Canada	Latvia	Singapore
France	Marshall Islands	Vanuatu
Germany	Netherlands	Venezuela

2.2 The Executive Committee took note of the information given by the Director that all the above-mentioned members of the Committee had submitted credentials which were in order.

2.3 The following Member States were represented as observers:

Belgium	Liberia	Poland
Cyprus	Malta	Republic of Korea
Denmark	Mauritius	Spain
Finland	Mexico	Sweden
Greece	Panama	United Kingdom
Italy		

The assessment had been rejected by the claimants in respect of 254 claims of which 235 were undergoing reassessment.

A further 1 734 claims, totalling FFr361 million (£34.6 million), were either in the process of being assessed or were awaiting further information from claimants to complete the assessments.

Level of payments

- 3.1.3 It was recalled that the Executive Committee had, at its 8th session, decided that the payments by the 1992 Fund should for the time being be limited to 50% of the amount of the loss or damage actually suffered by the respective claimants, as assessed by the experts engaged by the 1992 Fund and the shipowner's insurer (document 92FUND/EXC.8/8, paragraph 3.38). It was also recalled that the Committee had decided at its 11th session to increase the level of the 1992 Fund's payments from 50% to 60% of the amount of the damage actually suffered by the respective claimants (document 92FUND/EXC.11/6, paragraph 3.58).
- 3.1.4 It was noted that in view of the short period of time which had elapsed since the Committee's 11th session at the end of January 2001, the Director had not been able to obtain any substantial further information in this regard on the likely level of claims arising out of the *Erika* incident.
- 3.1.5 The French delegation stated that it had not been possible to provide more precise information on the likely level of claims. That delegation believed that more detailed information would be available for the Committee's next session, in particular as regards the tourism sector. It was pointed out that so far claims had only been presented for a total of FFr575 million and that this relatively low amount suggested that the total amount of all claims might be lower than previously anticipated, although it was necessary to wait until April or May 2001 to get a significantly clearer picture.
- 3.1.6 Some delegations invited the Director to try to obtain a copy of the report of the study carried out by a French consulting firm specialising in accounting (Mazars et Guérard) of the damage resulting from the *Erika* incident. The Director stated that he had tried to obtain a copy of the report but without success. The French delegation stated that so far only a 20 page summary contained in a press report was available and that this summary did not include any significant data which could assist the 1992 Fund in evaluating the losses. The French delegation stated that if anything more complete became available, that delegation would transmit it to the Director for distribution to delegations.
- 3.1.7 In view of the continuing uncertainty as to the level of claims arising out of the *Erika* incident the Committee decided that the level of payments should be maintained for the time being at 60% of the amount of the damage actually suffered by the respective claimants as assessed by the experts engaged by the 1992 Fund and the shipowner's insurer. It was agreed that the level of payments should be reviewed at the Committee's 13th session.

3.2 *Nakhodka*

- 3.2.1 The Executive Committee took note of developments in respect of this incident contained in document 92FUND/EXC.12/3.

Claims situation

- 3.2.2 The Committee noted that as at 12 March 2001 the total payments made to claimants amounted to ¥16 313 million (£87 million), including the payments made by the shipowner and his P & I insurer totalling ¥66 million (£400 000) plus US\$4.6 million (£3 million).
- 3.2.3 It was recalled that in the light of the developments the Director had decided in January 2001, as authorised by the governing bodies of the 1992 and 1971 Funds, to increase the level of payments from 70% to 80% of the amount of the damage actually suffered by the individual claimants. The

Committee noted that as a result of this decision the 1992 Fund had made additional payments totalling ¥1 961 million (£12 million) in February 2001.

- 3.2.4 The Japanese delegation reiterated its request that the Secretariat should make all efforts to speed up the assessment and payment of claims. Several other delegations endorsed this request.
- 3.2.5 The Director pointed out that in a case of this magnitude and complexity, some delays in the claims handling were inevitable. He stated that the Secretariat, the staff at the Claims Handling Office in Kobe and all experts engaged in the assessment would continue their efforts to settle and pay the relatively few remaining claims as soon as possible.

Legal proceedings

- 3.2.6 The Executive Committee noted the developments in the legal proceedings set out in paragraphs 2.1 - 2.12 of document 92FUND/EXC.12/3.
- 3.2.7 The Japanese delegation expressed the view that it was now the time to pursue vigorously the recourse actions against the shipowner, the P & I insurer, the parent company of the shipowner and the Russian Maritime Register. This view was endorsed by several other delegations.

4 Any other business

Date of next meeting

- 4.1 The Executive Committee decided to hold its 13th session during the week commencing 25 June 2001.
- 4.2 Some delegations asked whether it would be possible to follow the practice of IMO and publish a list of the dates of all Fund meetings in a calendar year to facilitate for States the planning of their participation in these meetings.
- 4.3 Other delegations recognised that this would be difficult in view of the *ad hoc* nature of some meetings and referred to the Funds' website as a way of getting the earliest possible notice of meetings.

Information provided by the Greek delegation

- 4.4 The Greek delegation informed the Committee that Greece had recently passed a law *inter alia* requiring tankers carrying less than 2 000 tonnes of oil in bulk as cargo, Floating Storage Units (FSUs) and Floating Production Storage and Offloading Units (FPSOs) to maintain liability insurance for pollution damage in Greek waters.

5 Adoption of the Record of Decisions

The draft Record of Decisions of the Executive Committee, as contained in document 92FUND/EXC.12/WP.1, was adopted, subject to certain amendments.
