



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

EXECUTIVE COMMITTEE
1st session
Agenda item 4

92FUND/EXC.1/2
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INCIDENTS INVOLVING THE 1992 FUND

Note by the Director

Summary:	A résumé of all incidents and all documents submitted under this agenda item is set out.
Action to be taken:	Information to be noted.

1 Introduction

1.1 The 1992 Fund Resolution N°5, which establishes the Executive Committee, provides that the Committee shall take decisions in place of the Assembly on matters referred to in Article 18.7 of the 1992 Fund Convention, in particular on claims for compensation.

1.2 Six incidents have occurred that have given or may give rise to claims against the 1992 Fund, namely an incident which occurred in Germany, the *Nakhodka* incident, the *Osung N°3* incident, an incident which occurred in the United Kingdom, the *Santa Anna* incident and the *Milad 1* incident.

2 Presentation of documentation

2.1 Each document presented to the 1st session of the Executive Committee for consideration deals with one incident only.

2.2 In the documents detailed below, the conversion of currencies into Pounds Sterling has been made - unless otherwise indicated - on the basis of the rates of exchange on 9 October 1998. However, for amounts representing actual payments by the 1992 Fund or the 1971 Fund, the conversion has been made at the rate of exchange on the date of payment.

3 Summary of incidents

The situation in respect of the incidents involving the 1992 Fund can be summarised as follows:

3.1 Document 92FUND/EXC.1/3

- Incident in Germany (1996): 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. Clean-up operations were undertaken by the German authorities. 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. The German authorities have informed the 1992 Fund that, if their attempts to recover the cost of the clean-up operations from the owner and his insurer were to be unsuccessful, they would claim against the 1992 Fund.

In July 1998, the German authorities brought legal action in the Court of first instance in Flensburg against the shipowner and his insurer. The Director intends to intervene in the legal proceedings to protect the Fund's interests, once the 1992 Fund has been notified of these legal actions.

No action requested

3.2 Document 92FUND/EXC.1/4

- *Nakhodka* (Japan 1997): The *Nakhodka* broke up in heavy seas, spilling some 6 200 tonnes of oil. The stern section sank and the upturned bow section grounded near the shore, causing heavy contamination of the shoreline. Claims totalling £170 million have been received by the Claims Handling Office in Kobe. The total payments made by the 1971 Fund to claimants amount to £21.7 million. The shipowner/UK Club has made payments totalling £525 000. Further claims are expected. Payments are currently restricted to 60% of the damage suffered by each claimant.

Reports by the Japanese and Russian authorities on the cause of the incident have been analysed by the Director with the assistance of legal and technical experts.

Action requested:

- Decision in respect of the level of the 1992 Fund's payment of claims

3.3 Document 92FUND/EXC.1/5

- *Osung N°3* (Republic of Korea, 1997): The *Osung N°3* was carrying 1 700 tonnes of oil when it ran aground and sank, spilling an unknown quantity of the oil. Operations to remove the oil from the wreck have commenced. Claims totalling Won 1 340 million (£586 000) and ¥673 million (£3.3 million) have been received. The 1971 Fund and the 1992 Fund have made a provisional payment of ¥130 million (£566 000) to a claimant in Japan.

The 1992 Fund's involvement in the *Osung N°3* incident is due to the fact that the oil from the ship not only affected the Republic of Korea but also the shoreline of the northwest coast of Tsushima island in Japan. The 1992 Fund Assembly has decided that, in respect of claims relating to damage in Japan, the 1992 Fund should pay 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 suffered by each claimant.

No action requested

3.4 Document 92FUND/EXC.1/6

- Incident in the United Kingdom (1997): In September 1997 bunker fuel oil landed on the east coast of England. Clean-up operations onshore were carried out by the local authority. The origin of the oil is not known. 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. The Director believes that it is unlikely that the claim will be pursued.

No action requested

3.5 Document 92FUND/EXC.1/7

- *Santa Anna* (United Kingdom, 1998): The Panamanian tanker *Santa Anna* (17 134 GRT) dragged her anchor in heavy weather and grounded on rocks on the south-west coast of England. The *Santa Anna* was in ballast, but had some 270 tonnes of heavy fuel oil and 10 tonnes of diesel oil in bunker tanks. No oil was spilled as a result of the grounding and the refloating operation. The Marine Pollution Control Unit (MPCU) of the United Kingdom Maritime and Coastguard Agency (MCA) mobilised oil combatting equipment and surveillance aircraft.

Action requested:

- Decision as to whether the occurrence falls within the definition of 'incident' in Article I.6 of the 1992 Civil Liability Convention
- Decision as to whether the *Santa Anna* falls within the definition of 'ship' in Article I.1 of that Convention
- Decision as to whether the 1992 Civil Liability Convention can be applied in this case, since the *Santa Anna* was registered in a State Party to the 1969 Civil Liability Convention but not to the 1992 Convention

3.6 Document 92FUND/EXC.1/8

- *Milad 1* (Bahrain 1998): The coastal tanker *Milad 1*, which had a crack in the hull, was lightened off Bahrain without any spill of oil. Temporary repairs were carried out to prevent ingress of water. The 1992 Fund has received a claim for compensation for the cost of the repairs to the *Milad 1* for BD 21 168 (£33 000).

Action requested:

- Decision in respect of whether the cost of the temporary repairs falls within the scope of application of the 1992 Fund Convention.

4 Action to be taken by the Executive Committee

The Executive Committee is invited to take note of the information contained in this document.
