



EXECUTIVE COMMITTEE  
22nd session  
Agenda item 3

92FUND/EXC.22/8/Add.1  
22 October 2003  
Original: ENGLISH

## INCIDENTS INVOLVING THE 1992 FUND

### PRESTIGE

#### Note by the Chairman

- 1** The Spanish delegation made a proposal in document 92FUND/EXEC.22/8/1, which was discussed by the Executive Committee on Monday 20 October 2003. It was then decided to postpone any decision on the proposal until Wednesday 22 October 2003 to allow delegations some time for consideration and for informal consultations.
- 2** The Chairman has had consultations with a number of delegations and with the Director. From the views expressed by various delegations the Chairman considers that the proposal set out below might address the concerns expressed by a number of delegations.
- 3** In accordance with normal practice the Director will carry out an interim assessment of the claim submitted by the Spanish Government for costs incurred in respect of sea and shore clean-up operations, compensation payments to fishermen and shellfish harvesters made by the central government, tax relief for businesses affected by the spill, administration costs and costs relating to publicity campaigns for €383.7 million (£272 million). On the basis of that assessment, the Director would be entitled to make an interim payment to Spain of 15% of the amount of the established losses, ie at the level decided by the Executive Committee in May 2003.
- 4** The Executive Committee may wish to instruct the Director to make a payment to the Spanish Government in excess of the level of payments decided in May 2003 subject to the following conditions:
  - 1.** The amount to be paid to the Spanish Government shall not exceed €60 million so as to ensure that sufficient funds remain available should other Member States affected by the incident wish to make a similar request and in order to be able to meet claims from other claimants in Spain as well as claims from claimants in France, Portugal and the United Kingdom.
  - 2.** The Government of Spain should provide a guarantee from a financial institution, not from the Spanish State, which would have the financial standing laid down in the 1992 Fund's Internal Investment Guidelines so as to protect the 1992 Fund against an overpayment situation.

3. The guarantee should cover the difference between the €60 million paid by the Fund and the amount payable in respect of all established claims for pollution damage in Spain on the basis of the level of payments finally determined by the Executive Committee.
  4. The terms and conditions of the bank guarantee should be to the satisfaction of the Director.
-