



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1992

EXECUTIVE COMMITTEE  
2nd session  
Agenda item 3

92FUND/EXC.2/3  
18 January 1999  
Original: ENGLISH

## INCIDENTS INVOLVING THE 1992 FUND

### NAKHODKA

#### Note by the Director

<b>Summary:</b>	The Claims Handling Office has employed additional staff. Some further payments have been made to claimants. A disagreement has arisen between the IOPC Funds and the shipowner/UK Club on the applicability of the 1992 Civil Liability Convention to this incident as regards the shipowner's right to limitation of liability.
<b>Action to be taken:</b>	Decide on the level of the 1992 Fund's payments.

1 The *Nakhodka* incident which occurred on 2 January 1997 in Japan has been dealt with in detail in a document presented to the 1971 Fund Executive Committee (document 71FUND/EXC.60/9). It is submitted that that document should form a sufficient basis for the 1992 Fund Executive Committee's consideration of the *Nakhodka* incident with the additional point set out below.

2 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). The 1971 Fund Executive Committee and the 1992 Fund Assembly decided at later sessions that the 60% limit should be maintained (documents 71FUND/EXC.59/17, paragraph 3.8.5 and 92FUND/EXC.1/9, paragraph 4.3.5).

3 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 (cf document 71FUND/EXC.60/9, paragraph 4.3).

**Action to be taken by the Executive Committee**

4 The Executive Committee is invited:

- (a) to take note of the information contained in this document;
  - (b) to review the level of the 1992 Fund's payment of claims; and
  - (c) to give the Director such instructions as it may deem appropriate in respect of the *Nakhodka* incident.
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