



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

EXECUTIVE COMMITTEE
3rd session
Agenda item 3

92FUND/EXC.3/2
16 April 1999
Original: ENGLISH

INCIDENTS INVOLVING THE 1992 FUND

NAKHODKA

Note by the Director

Summary:	Further claims have been settled for significant amounts.
Action to be taken:	Decide on the level of the 1992 Fund's payments and on the admissibility of a claim for the cost of a marketing campaign in the fishery sector.

1 Introduction

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.61/8). 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 two additional points set out below.

2 Fishermen's claim for publicity campaign

2.1 The 1971 Fund Executive Committee has been asked to consider a claim by the National Federation of Fishery Co-operative Associations (NFFCA) for the costs of a major publicity campaign aimed at preventing and mitigating losses in sales of fish from the area affected by the spill (document 71FUND/EXC.61/8, section 3.4).

2.2 The 1992 Fund Executive Committee is invited to consider the admissibility of this claim.

3 Level of payments

3.1 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 Executive Committee decided at later sessions, most recently at their 60th and 2nd sessions, respectively, that the 60% limit should be maintained (documents 71FUND/EXC.60/17, paragraph 3.8.5 and 92FUND/EXC.2/10, paragraph 3.2.5).

3.2 The 1971 Fund Executive Committee has been invited to review the level of compensation. The 1992 Fund Executive Committee 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.61/8, paragraph 4.3).

4 Action to be taken by the Executive Committee

The Executive Committee is invited:

- (a) to take note of the information contained in this document;
 - (b) to consider the admissibility of the National Federation of Fishery Co-operative Association's claim for the costs of its publicity campaign;
 - (c) to review the level of the 1992 Fund's payment of claims; and
 - (d) to give the Director such instructions as it may deem appropriate in respect of the handling of the claims arising from this incident and on issues relating to limitation of liability and recourse.
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