



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1992

EXECUTIVE COMMITTEE  
8th session  
Agenda item 4

92FUND/EXC.8/3  
30 June 2000  
Original: ENGLISH

## ANY OTHER BUSINESS

### NAKHODKA INCIDENT

#### Note by the Director

<b>Summary:</b>	Claims have been received for a total of ¥35 669 million (£224 million). The IOPC Funds have paid ¥13 106 million (£75 million) in compensation. Out of this amount ¥3 383 million (£20 million) has been paid since the Executive Committee's 7th session. It is expected that most of the remaining claims will have been assessed by the end of 2000 and that the assessment of all remaining claims will have been completed by mid 2001.
-----------------	---

<b>Action to be taken:</b>	Information to be noted.
----------------------------	--------------------------

### 1 Claims for compensation

#### 1.1 Summary of claims situation

- 1.1.1 As at 30 June 2000, 458 claims totalling ¥35 669 million (£224 million)<sup><1></sup> had been received. The claims situation is summarised in the table reproduced in the Annex.
- 1.1.2 The total payments made to claimants amounted to ¥13 645 million (£78 million) as at 30 June 2000, including the payments made by the shipowner/UK Club totalling ¥65 889 134 (£400 000) plus US\$4.6 million (£3 million). Out of this amount, ¥3 383 million (£20 million) was paid by the 1992 Fund after the Executive Committee's 7th session in April 2000.
- 1.1.3 In paragraphs 1.2 - 1.4 information is given on those groups of claims where major developments have taken place since the Executive Committee's 7th session.

<sup><1></sup>

In this document, conversion of amounts in Yen has been made on the basis of the rate of exchange as at 20 June 2000, ie £1=¥159.1, except in respect of amounts paid where conversion has been made at the rate on the date of payment.

## 1.2 Additional payments as a result of the increase in the level of payments

- 1.2.1 At its 7th session the Executive Committee increased the level of the 1992 Fund's payments from 60% to 70% of the amount of the damage actually suffered by the respective claimants (document 92FUND/EXC.7/5, paragraph 3.1.12). The Administrative Council of the 1971 Fund took the corresponding decision on the level of 1971 Fund's payments at its 1st session (document 71FUND/AC.1/EXC.63/11, paragraph 3.6.12).
- 1.2.2 As a result of the decisions to increase the level of payments, the 1992 Fund has paid ¥1 354 million (£8.4 million) to the Japan Marine Disaster Prevention Centre (JMDPC), fishermen, seven Prefectures, six electricity companies, 197 claimants in the tourism sector and some other claimants.

## 1.3 Recent settlements

- 1.3.1 In June 2000, an agreement was reached with JMDPC on the settlement of a claim for ¥932 million (£5.2 million) relating to the cost of transferring oil from the *Nakhodka* to small vessels carried out by a sub-contractor under the JMDPC at ¥827 million (£3.6 million).
- 1.3.2 The Niigata Prefecture submitted a claim totalling ¥689 million (£4.3 million) which related *inter alia* to the cost of collection of oil on shore and disposal of the oil. This claim was settled at ¥599 million (£3.8 million) in May 2000. The 1992 Fund paid ¥255 million (£1.6 million), corresponding to 70% of the settlement amount minus previous provisional payments.
- 1.3.3 The Fukui Prefecture and the Yamagata Prefecture submitted claims for ¥3 751 million (£23.6 million) and ¥81 million (£500 000), respectively, for costs similar to those referred to in paragraph 1.3.2. Those claims were settled in June 2000 at ¥2 947 million (£18.5 million) and ¥66 million (£410 000), respectively. The 1992 Fund paid ¥1 206 million (£7.5 million) and ¥29 million (£180 000), respectively, corresponding to 70% of the settled amounts minus previous provisional payments.
- 1.3.4 Fishermen belonging to the Niigata Fishery Co-operative Associations submitted a claim for their loss of income at ¥42 million (£260 000). This claim was settled at ¥40 million (£250 000) in April 2000 and the 1992 Fund paid ¥28 million (£174 000).
- 1.3.5 Fishermen belonging to the Toyama Fishery Co-operative Associations submitted a claim for their loss of income at ¥68 million (£430 000). This claim was settled at ¥62 million (£390 000) in May 2000 and the 1992 Fund paid ¥44 million (£270 000).

## 1.4 Ongoing assessments

- 1.4.1 Japanese Government Agencies have submitted eleven claims totalling ¥1 519 million (£9.5 million). In February 2000 the Funds offered to make provisional payments of ¥448 million (£2.8 million). So far no reply has been received on the offer.
- 1.4.2 Most of the claims from JMDPC and 54 sub-contractors engaged in clean-up operations under the JMDPC umbrella have been settled. A claim relating to the costs of interest paid by JMDPC on loans from the Japanese Government is under examination.
- 1.4.3 Claims by JMDPC relating to the construction and removal of a causeway and the removal of oil from the bow section of the *Nakhodka* using the causeway are being examined.
- 1.4.4 Claims submitted by the Akita, Shimane, Tottori and Toyama Prefectures for a total of some ¥192 million (£1.2 million) have been assessed. The Claims Handling Office in Kobe is waiting for replies from the claimants on its queries. It is expected that those assessments will be completed in the next few months.

- 1.4.5 The assessments of claims submitted by the Ishikawa, Kyoto and Hyogo Prefectures, totalling some ¥2 430 million (£15.3 million) cannot be completed until the claimants have provided additional background data. It is expected that these assessments will be completed in the first half of 2001.
- 1.4.6 Sakata Kyodo Power Company Ltd submitted a claim of ¥7.0 million (£44 000) for the cost of the deployment of oil fences and purchase of clean-up equipment. This claim has been assessed at ¥5.4 million (£34 000) by the Funds' experts, and the Funds have offered a payment of ¥794 518 (£5 000), representing 70% of the assessed amount minus a previous provisional payment. This offer has not yet been accepted.
- 1.4.7 Claims from the other six electricity companies are under examination.
- 1.4.8 Seven of nine claims in the category of fishermen's loss of income have been settled. The remaining claims are those by fishermen belonging to the Hyogo Fishery Co-operative Associations and the Kyoto Fishery Cooperative Associations of ¥562 million (£3.5 million) and ¥772 million (£4.9 million), respectively. The 1992 Fund made provisional payments of ¥100 million (£600 000) to each of these groups. Final assessments of those claims are being carried out, and it is expected that these assessments will be completed by the end of 2000.
- 1.4.9 Claims have been received from 347 operators in the tourism sector. So far, the IOPC Funds' and the UK Club's experts have presented reports on the assessment of 293 claims in this category. One hundred and ninety-eight claims have been settled at a total of ¥753 million (£4.7 million), and ¥452 million (£2.5 million) has been paid to claimants. Additional payments totalling ¥73 million (£450 000) were made to claimants in this sector as a result of the increase in the level of payments. It is expected that the experts will complete their assessments of the remaining claims in the tourism sector by September 2000.

## **2     Legal actions**

- 2.1 As reported in document 92 FUND/EXC.7/2, the IOPC Funds have brought legal actions in the Fukui District Court against the shipowner, Prisco Traffic Ltd, its parent company Primorsk Shipping Corporation (Primorsk), the shipowner's P & I insurer (the United Kingdom Mutual Steamship Assurance Association (Bermuda) Ltd, UK Club) and the Russian Maritime Register of Shipping.
- 2.2 The Japanese Ministry of Justice acting on behalf of four Governmental Ministries and Agencies and JMDPC took actions in the Tokyo District Court against the shipowner and the UK Club.
- 2.3 The shipowner and the UK Club took legal action in the Fukui District Court against the 1971 and 1992 Funds in respect of payments they had made to contractors.
- 2.4 The shipowner and the UK Club have from the outset been represented by the same lawyer in Japan who signed all settlement agreements with claimants on behalf of both the shipowner and the UK Club. He is also representing both the shipowner and the UK Club in their actions against the 1971 and 1992 Funds.
- 2.5 The legal actions have been served on the UK Club at its Tokyo Office.
- 2.6 The lawyer referred to in paragraph 2.4 above has informed the Fukui District Court that he is not authorised to receive service of writs on behalf of the shipowner. The Director has been informed that service of the shipowner in Nakhodka in the Russian Federation may take some 18 months.
- 2.7 Similar problems relating to the service of writs will arise in respect of Primorsk in Nakhodka and the Russian Maritime Register of Shipping in St Petersburg.
- 2.8 The Fukui District Court has fixed the first hearing to be held on 19 September 2001.

**3     Investigations made by the Funds' experts**

The IOPC Funds' experts have continued their investigation into the cause of the incident in co-operation with the Japanese authorities.

**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; and
- (b) to give the Director such instructions in respect of this incident as it may deem appropriate.

\* \* \*

## ANNEX

### Claims situation as at 30 June 2000

Category of claims			Claims submitted			Claims paid		
			Number	Amount		Number	Amount	
				US\$ <sup>&lt;1&gt;</sup>	Yen (million)		US\$ <sup>&lt;1&gt;</sup>	Yen (million)
Clean-up costs	(a)	JMDPC	56		11 080	56		<sup>&lt;2&gt;</sup> 6 600
	(b)	Japanese Government Agencies	11		1 519	0		0
	(c)	Prefectures and municipalities	10		7 143	9		<sup>&lt;2&gt;</sup> 3 140
	(d)	Electricity companies	7		2 727	6		<sup>&lt;2&gt;</sup> 1 046
	(e)	Other entities	7		192	5		<sup>&lt;2&gt;</sup> <sup>&lt;4&gt;</sup> 137
	(f)	EARL	1	542 593	58	1	542 593	<sup>&lt;3&gt;</sup> 58
	(g)	Russian authorities	2	3 284 322	351	1	325 000	<sup>&lt;3&gt;</sup> 35
		Sub-total	94		23 070	78		11 016
Loss of income: fishery <sup>&lt;5&gt;</sup>	(h)		9		5 061	9		<sup>&lt;2&gt;</sup> 1 116
Causeway construction and removal	(i)	JMDPC	3		2 906	0		0
Removal of oil from ship and removal of bow section	(j)	JMDPC	2		1 184	1		<sup>&lt;2&gt;</sup> 579
			2	3 781 559	405	2	3 781 559	<sup>&lt;3&gt;</sup> <sup>&lt;6&gt;</sup> 405
Aquarium	(k)		1		7	1		<sup>&lt;2&gt;</sup> 4
Tourism	(l)		347		3 036	198		<sup>&lt;2&gt;</sup> 525
TOTAL			458	35 669		289	13 645	
				£224 million			£78 million	

<1> Amounts in US\$ converted into Yen on the basis of the rate of exchange at 20 June 2000

<2> Includes provisional payments

<3> Payments made by the shipowner/UK Club

<4> Includes a payment made by the shipowner/UK Club

<5> This category includes the claim for the cost of a publicity campaign by National Federation of Fishery Co-operative Associations

<6> These payments have not been approved by the Funds