



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1992

EXECUTIVE COMMITTEE  
9th session  
Agenda item 3

92FUND/EXC.9/2  
20 October 1999  
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## INCIDENTS INVOLVING THE 1992 FUND

### Note by the Director

<b>Summary:</b>	A résumé of all incidents and all documents submitted under this agenda item is set out.
<b>Action to be taken:</b>	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 Seven incidents have occurred that have given or may give rise to claims against the 1992 Fund, namely an incident which occurred in Germany and the *Nakhodka*, the *Mary Anne*, the *Dolly*, the *Erika*, the *Natuna Sea* and the *Al Jaziah 1* incidents.

#### 2 **Presentation of documentation**

The 9th session of the 1992 Executive Committee will consider a separate document for each incident.

#### 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.9/3

- Incident in Germany (1996): On 20 June 1996 crude oil was found to have polluted the German coastline and 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 of the *Kuzbass* and his insurer were to be unsuccessful, they would claim against the 1992 Fund.

The German authorities brought legal actions in the Court of first instance in Flensburg against the owner of the *Kuzbass* and his insurer. The 1992 Fund was notified of the legal actions. The 1992 Fund intervened in the proceedings in order to protect its interests.

**No action requested**

3.2 Document 92FUND/EXC.9/4

- *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 ¥35 128 million have been received by the Claims Handling Office in Kobe. Most claims have been settled. The total compensation payments to claimants amount to ¥13 804 million. Payments are currently restricted to 70% of the damage suffered by each claimant.

**Action requested:**

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

3.3 Document 92FUND/EXC.9/5

- *Mary Anne* (Phillippines 1999): The sea-going barge *Mary Anne* sank in the entrance to Manila Bay spilling an unknown quantity of intermediate fuel oil. The shipowner's insurer has settled claims in respect of oil removal and clean-up for £1.1 million. A local salvage and towage company has presented a claim against the shipowner and his insurer for £730 000 which has become the subject of legal proceedings. Claims for pollution damage are unlikely to exceed the shipowner's limit under the 1992 Civil Liability Convention. However, the shipowner's insurer has indicated that there may have been a breach of the insurance policy in respect of the vessel and that the insurer may request the shipowner and the 1992 Fund to reimburse the insurer the amount paid to claimants.

**No action requested**

3.4 Document 92FUND/EXC.9/6

- *Dolly* (Martinique 1999): The *Dolly*, carrying a cargo of bitumen, sank in a port in Martinique. The French authorities are considering what measures should be taken to remove the bitumen from the wreck.

**No action requested**

3.5 Documents 92FUND/EXC.9/7, 92FUND/EXC.9/7/Corr.1, 92FUND/EXC.9/7/Add.1 and 92FUND/EXC.9/7/Add.2

- *Erika* (France 1999): About 19 800 tonnes of heavy fuel oil was spilled from the *Erika* as it sank, after breaking up in severe weather on 12 December 1999. The sunken bow section contained some 6 400 tonnes of cargo and the stern section a further 4 700 tonnes. Operations to pump the remaining oil to the surface

were carried out during the period June - September 2000. Clean-up operations continue in some areas. A total of 1 518 claimants have submitted claims for compensation. The shipowner's P & I insurer has made payments to some 448 claimants totalling FFfr15.9 million (£1.5 million). There is great uncertainty as to the total amount of the admissible claims. In the light of this uncertainty the Executive Committee decided in July 2000 that the payments of the 1992 Fund should for the time being be limited to 50% of the loss or damage actually suffered by the respective claimants. Further information is given on the likely level of claims. An analysis is made of the admissibility of certain claims for pure economic loss on the basis of the criteria laid down by the governing bodies of the IOPC Funds.

- A number of public bodies and private entities have taken legal action in France against Total Fina, the owner of the *Erika*, the *Erika*'s liability insurer and the vessel's management company, and the classification society. The classification society has taken legal action in Italy against *inter alia* the 1992 Fund requesting a declaration that the society was not liable for the incident. The 1992 Fund has taken recourse action in France against the classification society.

**Action requested:**

- Decision in respect of the level of the 1992 Fund's payments of claims.
- Decision on the admissibility for certain claims for pure economic loss.

3.6 Document 92FUND/EXC.9/9

*Natuna Sea* (Indonesia 2000): The grounding of the *Natuna Sea* in the Singapore Strait resulted in a spill of some 7 000 tonnes of crude oil. The oil has affected Singapore, Malaysia and Indonesia. It is not possible to predict the level of claims for compensation at this stage.

3.7 Document 92FUND/EXC.9/11

*Al Jaziah I* (United Arab Emirates 2000): The *Al Jaziah I*, carrying fuel oil, sank off Abu Dhabi (United Arab Emirates), resulting in the loss of 100 - 200 tonnes of oil and the subsequent pollution of coastal areas. Some 430 tonnes of oil remaining on board was removed prior to the vessel being raised and taken into port. The United Arab Emirates is a Party to both the 1971 Fund Convention and the 1992 Fund Convention.

**Action requested:**

- Decision in respect of the distribution of liabilities between the 1992 and 1971 Funds.

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

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

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