



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUNDS 1971
AND 1992

FONDS INTERNATIONAUX
D'INDEMNISATION DE 1971
ET DE 1992 POUR LES
DOMMAGES DUS À LA
POLLUTION PAR LES
HYDROCARBURES

FONDOS INTERNACIONALES
DE INDEMNIZACIÓN DE
DAÑOS DEBIDOS A LA
CONTAMINACIÓN POR
HIDROCARBUROS
DE 1971 Y 1992

The January 2001 sessions of the governing bodies - In brief

7 February 2001

On 29 and 30 January 2001, the International Oil Pollution Compensation Funds 1971 and 1992 (IOPC Funds) held sessions of their governing bodies. The 1992 Fund held an extraordinary session of its Assembly and a meeting of its Executive Committee. The 1971 Fund failed to achieve a quorum for an extraordinary session of its Assembly and therefore held a session of its Administrative Council, which also dealt with Executive Committee matters.

Status of Conventions

The 1992 Fund now has 52 Member States and the number is still rising: an additional 12 States have deposited instruments of accession, which will bring the total to 64 by February 2002.

The membership of the 1971 Fund is decreasing as Member States denounce the 1971 Fund Convention and join the 1992 Fund: the 1971 Fund currently has only 34 Member States and the number will fall to 26 by February 2002. It is expected that the 1971 Fund Convention will cease to be in force during the first half of 2002, as a result of two more denunciations bringing the number of remaining Member States below 25.

Nissos Amorgos

Claims for a total of Bs3 751 million (£3.6 million) plus US\$16 million (£10.7 million) have been approved. A settlement agreement has been concluded with a number of fishermen and shrimp processing companies concerning claims relating to reductions in shrimp catches. As a result of this settlement, a number of court actions relating to claims for compensation have been withdrawn. It is hoped that the Administrative Council will be able to increase the level of payments at its next session.

Nakhodka

As at 25 January 2001, payments made to claimants totalled ¥14 352 million (£75 million). The governing bodies had in October 2000 authorised the Director to increase the level of payments from 70% to 80% when the total amount of the settled and pending claims had fallen below ¥27 800 million. In January 2001 the Director estimated that the IOPC Funds' total exposure fell below that figure and therefore decided to increase the level of payments from 70% to 80%. As a result, it is expected that the 1992 Fund will make additional payments totalling ¥2 000 million (£11.5 million) shortly.

Erika

As at 24 January 2001, 3 543 claims for compensation had been submitted for a total of FFr412 million (£30 million). Some 2 090 of these claims totalling FFr184 million (£18 million) had been assessed at a total of FFr123 million (£12 million).

At its July 2000 session, the Executive Committee had decided that, in view of the uncertainty as to the total level of the claims arising from the *Erika* incident, the 1992 Fund's payments should be limited to 50% of the loss or damage actually suffered by the respective claimants.

The Executive Committee reviewed the level of compensation payments at its January 2001 session.

Claims for the costs of clean-up operations, other than the costs incurred by the French Government and Total Fina, were estimated by the 1992 Fund at FFr150 – 200 million (£14 – 19 million) and claims in the fishery sector at FFr125 million (£12 million). A study carried out within the French Ministry of Economy, Finance and Industry had resulted in an estimate of the total admissible claims in the tourism sector of between FFr1 100 and FFr1 200 million (£106 – 115 million). It was suggested in the report of the study that these estimates would allow the 1992 Fund to increase the level of payments to 75%. However, it was noted by the Executive Committee that there remained some significant uncertainties in the estimates. In the light of the foregoing, the Executive Committee decided to increase the level of payments from 50% to 60% of the amount of the loss or damage actually suffered by the respective claimants.

Dolly

The *Dolly* sank in Robert Bay, Martinique, on 5 November 1999, while carrying some 200 tonnes of bitumen, none of which has so far escaped. The Executive Committee decided that, although the *Dolly* had originally been built as a general cargo vessel, it had been adapted for the carriage of oil in bulk as cargo and that it therefore fell within the definition of 'ship' laid down in the 1992 Civil Liability Convention. It was also decided that in view of the location of the wreck in an environmentally sensitive area, an operation to remove the threat of pollution by bitumen would in principle constitute 'preventive measures' as defined in the 1992 Conventions.

Slops

At a previous session of the Executive Committee, it was decided that the *Slops*, a waste oil reception facility, did not fall within the definition of 'ship' laid down in the 1992 Civil Liability Convention. Lawyers acting for a Greek clean-up contractor had disagreed with the Committee's interpretation of the Conventions and requested that this issue be submitted to binding arbitration. The Committee endorsed the Director's view that it was not appropriate to submit to arbitration the question of whether the Committee's interpretation of the definition was correct. The Committee further agreed that if the contractor did not accept the Committee's position, he should follow the procedures for solving disputes laid down in the 1992 Conventions, namely to take legal action against the shipowner and the 1992 Fund in the competent national court.