



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

FUND/Circ.38  
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**Genoa Court Decision in the HAVEN Case  
Relating to the  
Maximum Amount Payable by the IOPC Fund**

**Introduction**

In April 1991 a major oil pollution incident occurred when the Cypriot tanker HAVEN exploded and sank off Genoa (Italy). This incident caused serious oil pollution in Italy, France and Monaco. More than 1 400 claims for compensation against the shipowner and his insurer and against the International Oil Pollution Compensation Fund (IOPC Fund) have been submitted to the Court of first instance in Genoa. The claims total approximately Lit 1 550 000 million (US\$1 000 million) plus FFr98 million (US\$17 million).

In the legal proceedings, an important legal question has arisen, viz the method to be applied for converting the maximum amount payable by the IOPC Fund into Italian Lire.

**Decision By the Judge in Charge of the Limitation Proceedings**

A judge of the Court of first instance in Genoa, who is in charge of the limitation proceedings, rendered his decision on this issue on 14 March 1992. The judge held that the maximum amount payable by the IOPC Fund should be calculated by the application of the free market value of gold which gives an amount of Lit 771 397 947 400 (US\$500 million) (including the amount paid by the shipowner under the Civil Liability Convention), instead of Lit 102 864 000 000 (US\$82 million), as maintained by the IOPC Fund, calculated on the basis of the Special Drawing Right (SDR) of the International Monetary Fund.

As regards the shipowner's limitation fund, which had been established by means of a bank guarantee, the judge decided that the guarantee should also cover interest for the period up to the distribution of the limitation fund and that interest should accrue to the benefit of victims. The IOPC Fund lodged opposition to this decision.

**Judgement by the Court of First Instance in Genoa**

The opposition was considered by the Court of first instance in Genoa composed of three judges (including the judge who rendered the above-mentioned decision). The Court rendered its judgement on 26 July 1993.

In this judgement, which comprises some 200 pages, the Court upheld the decision of 14 March 1992, namely that the maximum amount payable by the IOPC Fund should be calculated by the application of the free market value of gold. The Court confirmed that the guarantee constituting the shipowner's limitation fund should also cover interest for the period up to the distribution of the limitation fund and that interest should accrue to the benefit of victims.

The IOPC Fund will appeal against the judgement.

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