



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

EXECUTIVE COMMITTEE
7th session
Agenda item 3

92FUND/EXC.7/4/Add.1
31 March 2000
Original: ENGLISH

INCIDENTS INVOLVING THE 1992 FUND

ERIKA

Note by the Director

Summary: Information is given on the developments in respect of clean-up operations and the impact of the spill. Some 750 claims for compensation have been received. The shipowner's P & I insurer has made interim payments for 70 claims for a total of FFr881 000 (£80 000). The document deals with the issue of the extent to which the Director should be authorised to make payments.

Action to be taken: To decide the level of the 1992 Fund's payments.

1 Clean-up operations

Clean-up of some areas in Finistère, Morbihan and Vendée has been completed although monitoring of shorelines for new arrivals of oil continues. Secondary and final cleaning of oiled rocks using low-pressure washing was scaled up towards the end of March in order to complete the work in time for the Easter holidays. The number of volunteers engaged in operations has decreased significantly and some Départements have hired local labour to make up for the shortfall.

2 Impact of the spill

- 2.1 No fishing bans have been imposed in respect of offshore fishing for pelagic fish and crustacea in view of the low levels of contamination of catches. The harvesting and marketing of natural and cultivated shellfish has been banned in a number of areas on the basis of hydrocarbon levels being above limits set by the Ministry of Agriculture and Fisheries. However, since mid-March 2000 a number of bans have been lifted in Vendée as a result of hydrocarbon levels decreasing to acceptable levels. In other areas of Vendée and in other Départements hydrocarbon levels are still increasing in some species.

- 2.2 Efforts are continuing to minimise the impact of the spill on salt pans in Loire Atlantique and Vendée and a number of monitoring and analytical programmes have been developed and are being implemented.

3 Operations to prevent further oil escaping from the wreck

- 3.1 When the deadline for submitting tenders for the oil removal operations expired on 21 March 2000, tenders had been presented by two international consortia: Stolt/Commex/Coflexship and SMIT/Framo/Les Abeilles/DSND.
- 3.2 As specified in the invitations to tender both consortia had included in their tenders operations using the hydrostatic transfer method (cf document 92FUND/EXC.7/4, paragraph 4.10.3) that was the method favoured by Total Fina. However, one consortium has also proposed an alternative method.
- 3.3 Total Fina has informed the 1992 Fund's experts that the tender documents will be made available to them during the week starting 3 April 2000 for examination and comments before the contract is awarded.
- 3.4 Field tests using the hydrostatic transfer method will be carried out by Total Fina on 13 April 2000, and the 1992 Fund's experts will attend these tests.

4 Claims for compensation

- 4.1 As at 30 March 2000 the Claims Handling Office had received 654 first claims and 100 supplementary claims for compensation in the following categories:

	First claims	Supplementary claims
Clean-up operations	19	0
Property damage	105	5
Fishing	115	8
Fish farming and cultivation	211	63
Shellfish gathering	148	20
Fish processors and distributors	6	4
Tourism	34	0
Other losses of income	16	0
Total	654	100

- 4.2 As at the same date, the Steamship Mutual had made interim payments to 70 claimants for a total of FF881 032 (£80 060) as follows:

	FFr
Clean-up operations	
Property damage	117 889
Fishing	405 472
Fish farming and shellfish cultivation	65 500
Shellfish gathering	292 171
Fish processors and distributors	
Tourism	
Other loss of income	
Total	881 032

- 4.3 As at 30 March 2000, the Steamship Mutual had authorised interim payments of a further FF430 191 (£40 000) to 36 claimants, and the payments will be made in the near future.

- 4.4 The 1992 Fund had approved the claims referred to in paragraphs 4.2 and 4.3 for the payment amounts.

5 Publicity campaigns

- 5.1 The French Government through the Ministry of Tourism is carrying out a co-ordinated campaign to counteract the negative impact of the *Erika* incident on tourism in the affected area. The campaign consists mainly of press and television advertising and mail marketing activities directed at travel operators, and is targeted at specific foreign markets. A television advertising campaign for the French domestic market will also be undertaken. In order to avoid internal competition, the campaigns aim at restoring the image of the Atlantic coast as a whole. The purpose of these campaigns is also to provide support for the various regions and Départements which will carry out their own promotion activities targeting the French market.
- 5.2 The experts engaged by the 1992 Fund and the Steamship Mutual are liaising with the various national and regional authorities involved.

6 Level of payments

- 6.1 Since some of the fishing bans referred to in paragraph 3.3 of document 92FUND/EXC.7/4 are still in force it is not yet possible to estimate the losses in the fishery sector. The tourism season has not yet started, and it is therefore not possible to estimate the magnitude of the losses in this sector.
- 6.2 In the light of this situation the French Government and the Director are both of the opinion that it is still not possible to make any meaningful assessment of the total amount of the established claims.
- 6.3 It has been indicated that the total costs incurred by the French authorities and Total Fina are at present provisionally estimated to be in the region of some FFfr1 500 million (£150 million) but these costs could be substantially higher. The claims for recovery of these costs are covered by the undertakings referred to in paragraph 8.2 and 8.3 of document 92FUND/EXC.7/4.
- 6.4 The issue of the level of payments has been discussed between the French Government, the Steamship Mutual and the Director. Steamship Mutual has informed the Director that it is prepared to continue to make funds available for interim payments in appropriate cases.
- 6.5 In the light of the uncertainty as to the total amount of the established claims, the Director proposes that his authority to make payments should for the time being remain limited to provisional payments under Internal Regulation 7.9.
- 6.6 It is expected that the claims situation will become clearer by mid-June 2000, since at that time it will probably be possible to make an evaluation of the impact of the incident on the fishery sector and it may be possible to assess the impact on the tourism sector. After discussion with the French Government, the Director proposes that an Executive Committee session should be held in early July 2000 to reassess the situation.

7 Legal actions against the shipowner/Steamship Mutual and Total Fina

The 1992 Fund intervened in the proceedings referred to in paragraph 9.1 of document 92FUND/EXC.7/4 on 31 March 2000.

8 Limitation proceedings

- 8.1 The Tribunal de Grande Instance in Nantes issued an order on 14 March 2000 opening the limitation proceedings. The Court determined the limitation amount applicable to the *Erika* at

FFr84 247 733 (£8.4 million) and declared that the shipowner had constituted the limitation fund by means of a letter of guarantee issued by the Steamship Mutual.

- 8.2 The liquidator appointed by the Court issued a public notice inviting claimants to present their compensation claims within 30 days from the date of the notice (24 March 2000).

9 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 decide whether to authorise the Director to make payments of claims and to determine the level of such payments.
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