



INCIDENTS INVOLVING THE 1992 FUND

ERIKA

CLAIM SUBMITTED TO THE EXECUTIVE COMMITTEE FOR RECONSIDERATION

Note by the Director

Summary:	In the light of new information the Director has reconsidered the question of the admissibility of a claim by the Morbihan Chamber of Commerce and Industry for a reduction in revenue from airport taxes during 2000 at the airport of Lorient Lann Bihoué, which was considered by the Executive Committee in October 2001. The new data shows that in the summer of 2000 there was a small, but discernable, reduction in the number of passengers using the airport compared to previous years even though the number of passengers using the airport during the rest of the year remained fairly constant. The Director is now of the view that the claim is admissible.
Action to be taken:	To consider whether a claim in respect of the airport of Lorient Lann Bihoué should be accepted.

1 Introduction

- 1.1 In June 2001 the Morbihan Chamber of Commerce and Industry (CCI), which operates the airport of Lorient Lann Bihoué, submitted a claim for FF $\text{r}326\,776$ for reduction in the revenue from airport taxes during 2000. The airport tax was levied at FF $\text{r}42.06$ per passenger, and it was maintained that there was a reduction of 8 007 passengers during 2000 compared to 1999.
- 1.2 At its 14th session, held in October 2001, the Executive Committee considered this claim in the light of the data provided by the claimant. The Committee noted historical records provided by the CCI showed that the number of passengers per flight using the airport varied by more than 5% from one year to another, compared with a decrease of 3% from 1999 to 2000. The Committee also noted that Lorient was primarily a domestic airport for which tourist passengers were of only limited importance. The Committee agreed with the Director's view that it had not been shown that the reduction in passengers from 1999 to 2000 and the ensuing reduction in airport tax revenue were caused by the *Erika* incident, and

decided therefore that the claim should be rejected (document 92FUND/EXC.14/12, paragraph 3.4.67 and 3.4.68).

- 1.3 In November 2001 the Claims Handling Office in Lorient informed the CCI of the Committee's decision.

2 Reconsideration by the Director

- 2.1 In June 2002 the CCI reduced its claim from FFr336 793 to FFr94 130. In December 2002 the CCI took legal action against the 1992 Fund claiming the latter amount.
- 2.2 In December 2003 the CCI submitted further data, including records of the numbers of flights and passengers using the airport in 2001 and 2002.
- 2.3 In the light of the additional data provided by the claimant the Director has reconsidered the original assessment of the claim. The first assessment made by the Fund's experts focused on the number of passengers per flight as opposed to the overall number of passengers. However, the Director is now of the view that the occupancy per flight is not a good indicator of airport users because the number of flights varied considerably from year to year.
- 2.4 The new data indicate that the number of passengers using the airport during the claim period (May to September) in 1999 was exceptionally high in comparison with all other years between 1997 and 2002. For that reason the Fund's experts did not consider that 1999 was an appropriate reference year to use as a basis for determining any impact in 2000. However, 2001 appeared to represent a good reference year in that the number of passengers using the airport outside the claim period (October to April) in that year was almost the same as in 2000. In contrast the number of passengers using the airport during the claim period (May to September) was down in 2000 compared to 2001 by 4.92%. The difference in the number of passengers in the claim period between those two years was likely to have been due to a reduction in tourists as a result of the incident.
- 2.5 In reaching its previous decision to reject the claim the Executive Committee did not question the admissibility of the claim in principle, but based its decision on the data available at the time and the method of assessment followed by the experts. The Director is of view that after taking into account the new data provided by the claimant, and after reassessing the claim on the basis of the number of passengers using the airport as opposed to the occupancy of flights, the claim is admissible.

3 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 consider whether the claim by the Morbihan Chamber of Commerce and Industry is admissible for compensation.
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