



INCIDENTS INVOLVING THE 1992 FUND

PRESTIGE

Note presented by Spain

Summary:	This document contains updated and relevant information on the situation in Spain after the <i>Prestige</i> incident.
Action to be taken:	Information to be noted.

1 **Situation on the coast**

The Spanish administration has continued with its environmental rehabilitation activities to return the coast to its original natural state, pedestrianising roads and restoring particularly sensitive areas.

2 **Removal of oil from the wreck**

The work of removing the fuel from the wreck was carried out between June and September and has resulted in the recovery of 13 600 tonnes, which represents 95% of the total content of the tanks and the quantity recovered has already been transferred to the Repsol refinery in La Coruña. What remains is approximately 1 000 tonnes in the bow section of the wreck and 711 tonnes in the aft section, for which a bioremediation procedure has been applied.

3 **Payment of compensation**

- 3.1 In accordance with the decision of the 8th session of the Assembly of the 1992 Fund and after a general assessment of the total admissible damage in Spain carried out by the Director of the 1992 Fund and the setting up of a financial guarantee by Spain, the 1992 Fund made a payment to the Spanish State of €7 555 000, which sum has been fully used to finance the system of advance payment of compensation for victims.
- 3.2 For advance payment of compensation to those affected by the incident, the Spanish State approved Royal Decree (Real Decreto-Ley) 4/2003, supplemented by Royal Decree 4/2004. Two systems for assessing and paying damages were thereby established.
- 3.3 The first system, using objective estimates and intended for those victims who received direct assistance when the accident occurred - shipowners, crew members, shellfish harvesters, net makers, workers in fish markets and fishermen's associations and wholesalers - of whom more than 90% have been catered for, has practically come to an end. This system has involved the payment of approximately €6 200 000.

- 3.4 The second system, direct assessment, applicable to the rest of the claims, involves an individualised evaluation of the damage suffered, which is being conducted by the Consorcio de Compensación de Seguros (a Spanish state-owned insurance organisation), which works in close cooperation with the Fund for the purpose of applying the criteria of the 1992 Fund to the assessments.
- 3.5 There is a third system that provides for the signing of agreements with public administrations different from the central administration (towns and autonomous regions) for compensation in respect of damage arising from the incident of the *Prestige*. The claims of the towns total €37.6 million and those of the autonomous regions €149.5 million. In both cases, the official auditing body (Intervención General del Estado) is carrying out a study of the documentary material submitted by the aforesaid public administrations which may influence the assessment of the above sums.

4 Claims of the Spanish State

The three claims filed by the Spanish Government are being examined by the Fund Secretariat, with the cooperation of the Spanish Administration. The submission of the fourth claim, which will be for approximately €120 million, is being finalised.

5 Court actions

- 5.1 In the Examining Court (Juzgado de Instrucción) in Corcubión the preliminary proceedings are continuing in case 960/2002, in which the master, the chief engineer and the first officer of the *Prestige* who are still charged, together with the former Director General of the Merchant Marine and the Director of Operations of Universe Maritime, owner of the *Prestige*.
- 5.2 The Spanish administration has been supporting the request of the master of the *Prestige* for a review of the precautionary measures adopted by the Court prohibiting him from leaving Spanish territory. At present, an appeal filed by the master of the *Prestige* and supported by the administration is pending before the Court of Appeal (Audiencia Provincial).
- 5.3 The Spanish administration requested the Corcubión Court to permit use of the CLC fund established by the London P&I Club to pay the victims in accordance with the compensatory mechanisms established by the State, the Spanish State itself guaranteeing the full availability of the fund in favour of the Court. In no case would such advance payment presuppose examination or recognition of any right over the CLC fund. The advance request was rejected by the Court, and the administration appealed against that decision to the Court of Appeal but withdrew the appeal on 4 October 2004 after all the circumstances of the matter had been duly weighed.
- 5.4 In the civil liability proceedings brought before the New York District Court by the Kingdom of Spain against the classification society American Bureau of Shipping, the discovery of evidence is continuing. On 3 August 2004, the Judge dismissed the counterclaim lodged by ABS against the Kingdom of Spain.

6 Contacts among the three countries affected

The Spanish delegation is in regular technical contact with representatives of the French and Portuguese administrations. Such meetings prove very useful for the three States and are to be seen in the context of the cordial international relations existing between Spain, France and Portugal.
