



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

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Agenda item 2

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REVIEW OF THE INTERNATIONAL COMPENSATION REGIME

**FURTHER SUBSTANTIATION OF THE PROPOSAL THAT TANK STORAGE COMPANIES MAY DISCLOSE
THEIR PRINCIPAL THUS AVOIDING PAYMENT OF LEVY**

Submitted by the Federation of European Tank Storage Associations (FETSA)

- 1 FETSA fully understands the concerns expressed by various delegates, which can be summarized by the risk that the financial basis under the Fund may evaporate. However, we experience the burden of the Fund as quite unreasonable because we neither are involved in the trading of these products nor responsible for the operations at sea, yet if something goes wrong at the other end of the world, Tank Storage Companies, among others, are forced to compensate for the damage caused to victims. Tank Storage Companies make proceeds out of a tariff for stocking these kind of products for a certain period of time including transshipments in and out, between virtually all modes of land based transport, which explains why so many of us are located in harbour areas. In this way the entire logistic chain from source to consumer remains in tact. Therefore, we take ourselves as logistic operators, without having an economic interest in the product value per se. Of course, FETSA takes responsibility for the safe and environmental storage of these products and in many countries around the globe has to account for rightfully strict regulations. If something goes wrong, we will not dodge our duties and there is no cap beyond which we could move the bill elsewhere. Thanks to good standards of operations and governmental controls locally, incidents are rare.
- 2 In essence, the earlier mentioned concern can only be addressed by an analysis of data. This would involve the copying and collating of commercial data from the Tank Storage Companies, including competitors, involved. We do not have to explain in this assembly of National Government Representatives that such an effort will soon meet the limits and penalties imposed by National and International Competition law. Thus what can be said here and now is based on the views from a sample of experts. In directing this exercise we have formulated the concern as follows:

The possible loss of volume of contributing cargo, by two factors:
 - (a) A dispersion of the existing volume now accounted for by the Tank Storage Sector to a host of smaller volumes by Principals remaining below the threshold value of 150 000 tonnes per year.

- (b) Principals cannot be identified in a reliable manner, leading to the effect that the bill will be returned to sender.

Both factors only play a role if these Principals are subject to the jurisdiction of a State Party.

- 3 It is necessary to consider the recent history of trade. Until 20 years ago, many smaller international trading companies with a credit line of two or three million US dollars, employing a staff of three, could thrive on the inefficiencies of the international trading system and indeed many of these small enterprises were customers of Tank Storage Companies. During the early 1980s many Oil Companies started concentrated efforts to tie up loose ends in their trading effort. Simultaneously a new phenomenon arrived, the communication by electronic means with the result that before long all players in the market could witness all going market rates real time. This had a devastating effect on the smaller trading houses. Typically the list of those enterprises was sliced by 90 percent between 1985 and 1986. Before those days Tank Storage Companies had many smaller customers but in 2004 there are hardly any small Customer Companies left. This growth of scale has not left Tank Storage untouched and many of these that effortlessly make it to the threshold, have developed global logistic deals with large globally operating Principals. It will be quite obvious that these Principals are well established Companies with proper financial status, and there may be more of these Principals receiving contributing cargo beyond the threshold than now is the case with Tank Storage Companies.
- 4 Then of course, there is transshipment. Here we may need to look ahead for a while, but our members report nowadays already and this may not even be apparent in public statistics, that the ratio of volumes related to destination is shifting very rapidly towards the growing economies in Asia. This means a shift in favour of cargo being received in a State Party. This development will obviously lead to a sustainable situation, given the size of the countries involved.
- 5 We conclude therefore that a rearrangement of funding as proposed by the Netherlands in paper 92 FUND/WGR.3/19/5 will in no way affect the volume of contributing cargo received and thus will leave the robustness of the 1992 Fund unharmed, sustaining the Fund to continue with this all important work.
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