



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

ASSEMBLY  
17th session  
Agenda item 36

FUND/A.17/INF.3  
17 October 1994

Original: ENGLISH

## INFORMATION PAPER ON THE REPORT OF LORD DONALDSON'S INQUIRY

Submitted by the United Kingdom Delegation

### Introduction

1 Following the sinking of the *BRAER*, the UK Government asked Lord Donaldson of Lymington to conduct an Inquiry into ways of protecting the UK from marine pollution from merchant shipping. The Inquiry's wide-ranging and thorough report *Safer Ships, Cleaner Seas* was published in May of this year.

2 The report of the Inquiry contained 103 recommendations. The UK Government has welcomed the broad thrust of the recommendations and is currently considering how best to implement them. Although aimed primarily at the UK coastline, many of the report's recommendations are also relevant to other states. Indeed, Lord Donaldson recognizes and endorses the importance that the UK places on international cooperation, particularly through the IMO. About one third of the Inquiry's recommendations call on the UK to take action through the IMO.

3 All 103 recommendations and an overview of the work of the Inquiry are set out in a separate information paper which can be obtained from the United Kingdom delegation. The recommendations most relevant to the work of the IOPC Fund are examined below.

### Standing Costs

4 In recommendation 80, Lord Donaldson's Inquiry recommended that the UK Government, in concert with other Governments if possible, should seek to agree with the IOPC Fund a formula for the uplift of marginal costs by a fixed percentage so as to reflect a reasonable proportion of fixed costs.

5 The Inquiry points out that standing costs can be high and that a response capability reduces the demands on the Fund, and in that way, acts as a form of insurance for the Fund. Insufficient assistance with standing costs means that there is a disincentive for Governments to prepare adequately for oil spills.

6 This issue was discussed by the Seventh Intersessional Working Group set up to establish clear criteria for the admissibility of claims for compensation, when the UK delegation supported an increase in payments to Governments for the fixed costs of resources to respond to oil spills. The Working Group was unable to reach a decision. The UK would be happy to participate in any future discussions of standing costs.

#### 1989 Salvage Convention and 1992 Protocols

7 In recommendation 81, Lord Donaldson's Inquiry urged the UK Government to complete its ratification of the 1989 Salvage Convention and the 1992 Protocols as soon as possible, and to urge other States to do the same.

8 The UK ratified the 1992 Protocols on 29 September 1994, in a joint ratification ceremony held with France and Germany to celebrate World Maritime Day. The UK also ratified the Salvage Convention on 29 September. The UK delegation hopes that those states which have not yet done so will shortly follow suit, in order to guarantee international entry into force of the instruments in 1996.

#### Salvage Work

9 In recommendation 86(d), Lord Donaldson's Inquiry recommended that the UK Government should encourage shipowners and Masters to make the fullest use of emergency services on terms which are most likely to benefit the environment, and salvors to provide the assistance needed to protect the environment, by pressing the IOPC Fund to change its rules so as not to penalise some types of salvage work which benefit the environment.

10 The UK is considering whether this recommendation would be consistent with the IOPC Fund's remit under the 1971 Convention. A more appropriate mechanism for encouraging salvors could be the 1989 Salvage Convention, which the UK ratified on 29 September 1994.

#### Right of shipowners to limit liability under LLMC 1976 and CLC 1992

11 The report of Lord Donaldson's Inquiry recognized that, in the Convention on Limitation of Liability for Maritime Claims 1976 and the 1992 Protocol to the 1969 Civil Liability Convention, a test which made it easier for shipowners to limit their liability had been conceded in exchange for significant increases in the limits which they could apply. However, in recommendation 82, the Inquiry recommended that the UK Government monitor the operation of the test and take action, with other States signatory to the Conventions, to implement the necessary revisions should it become clear that the revised test provides unreasonable protection for reckless shipowners.

#### Action requested of the Committee

12 The Committee is invited to take note of this information.

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