



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

EXECUTIVE COMMITTEE  
34th session  
Agenda item 3

FUND/EXC.34/3  
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## INCIDENTS INVOLVING THE IOPC FUND

### HAVEN

#### INVESTIGATIONS INTO THE CAUSE OF THE INCIDENT

#### Note by the Director

#### **1 Introduction**

1.1 In April 1991 a major oil pollution incident occurred when the Cypriot tanker HAVEN (109 977 GRT) exploded and sank off Genoa (Italy). This incident caused serious oil pollution in Italy, France and Monaco. More than 1 300 claims for compensation have been submitted to the Court of first instance in Genoa. The claims total approximately Lit 1 550 000 million (£710 million) plus FF97.5 million (£12 million).

1.2 Three separate enquiries into the cause of the incident have been conducted by different Italian authorities: a summary enquiry, a formal enquiry carried out by a Panel of Enquiry and a criminal investigation.

1.3 At its 32nd session, the Executive Committee instructed the Director to study, with the assistance of legal and technical experts, the findings of the Panel of Enquiry as soon as its report is made available. The Committee emphasised that the Director's consideration of this issue should be made for the purpose of advising the Committee as to whether the IOPC Fund should take legal action to break the shipowner's right of limitation and whether it should take legal action against any person (other than the owner) for the purpose of recovering any amount which the IOPC Fund may have to pay in compensation or indemnification (document FUND/EXC.32/8, paragraph 3.3.6).

1.4 The report of the Panel of Enquiry was made available to the IOPC Fund in November 1992. The Director has studied the findings of the Panel of Enquiry with the assistance of the IOPC Fund's Italian lawyer and technical experts employed by the Fund. It was the Director's intention to submit to the Executive Committee at its 34th session a document containing an analysis of these findings. In view of the heavy workload which the AEGEAN SEA (Spain, 3 December 1992) and the BRAER (United Kingdom, 5 January 1993) incidents have imposed on the IOPC Fund Secretariat, it has not

been possible, however, to conclude this analysis. For this reason, the present document only contains a brief summary of the findings of the Panel of Enquiry. It also sets out the results of the other investigations into the cause of the incident carried out by the Italian authorities.

1.5 The Director intends to pursue his examination of the findings of the Panel of Enquiry and present a detailed report on this issue to the 35th session of the Executive Committee.

## **2 Investigation Into the Cause of the Incident**

### **Summary Enquiry**

2.1 A Summary Enquiry into the cause of the incident was conducted by the Genoa Port Authority pursuant to the Code of Navigation. Many persons were heard during this enquiry. The conclusion of the Summary Enquiry was that there had been negligence both on the part of the shipowner and on the part of the crew, but that the negligence of the owner had no link of causation with the incident. The report on the Summary Enquiry has not been published but is included in the report of the Formal Enquiry. The report on the Summary Enquiry has no legal value.

### **Formal Enquiry**

2.2 In each maritime area there is a permanent Panel of Enquiry. The mandate of a Panel of Enquiry is by law to ascertain the cause of a maritime incident in the area and, if possible, identify the person or persons liable. The Panel may investigate any aspect it considers relevant. It can hear witnesses (although not under oath) and require the production of documents. The facts established by the Panel in its report are prima facie evidence, subject to evidence to the contrary in civil proceedings. However, the conclusions of the panel do not have any value as evidence.

2.3 The Panel of Enquiry for the Ligurian area carried out a formal enquiry into the cause of the HAVEN incident. The Chairman of the Panel was the Maritime Director of the area, three members of the Panel were naval officers and three other members had expertise in special fields, viz one officer from the Genoa fire brigade, one expert from the Italian classification society (Register Italiano Navale, RiNa) and a chemical expert.

2.4 The Panel of Enquiry held public hearings from 14 November 1991 to 13 February 1992. Six crew members and 22 other persons were heard by the Panel, and extensive documentation concerning the vessel and concerning the major repairs carried out in Singapore prior to this voyage was examined. The IOPC Fund followed the hearings of the Panel of Enquiry through its Italian lawyers and a technical expert especially engaged for this purpose.

2.5 At the hearings, the shipowner expressed the opinion that the incident may have been caused by human error in over-filling n°1 centre tank, which in its turn resulted in over-pressure and the collapse of the transverse bulkhead dividing n°1 centre cargo tank from n°2 centre permanent ballast tank.

2.6 In its report, the Panel of Enquiry discussed various hypotheses as to the cause of the incident, viz over-pressure in centre tank n°1 causing structural failure, leakage of cargo into centre tank n°2 which was a permanent ballast tank, and explosion in the pump room. The Panel concluded that it could not establish the cause. Nevertheless, the Panel deemed that – irrespective of how the incident occurred – four persons were liable, namely the master, the chief mate, the chief engineer and the shipowner, who had been guilty of negligence or gross negligence in certain regards. The Panel also held that the owner had been guilty of gross negligence for not having ensured the efficiency of certain essential equipment before allowing the ship to return to commercial operation, for not having ordered the ship to stop sailing in view of certain technical problems which had arisen and for not having informed the classification society of the fact that the inert gas generator was out of order.

Criminal Investigation

2.7 The Public Prosecutor is at present examining the report of the Panel of Enquiry. He has notified four persons of their being suspected of criminal offenses, namely two persons involved in the ownership of the HAVEN, a superintendent of the shipyard in Singapore which repaired the HAVEN and a superintendent of the owner.

**3 Action to be Taken by the Executive Committee**

The Executive Committee is invited to take note of the information contained in this document and give the Director such instructions concerning his study of the findings of the Panel of Enquiry as it deems appropriate.

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