



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

EXECUTIVE COMMITTEE
34th session
Agenda item 3

FUND/EXC.34/5/Add.2
10 March 1993

Original: ENGLISH

INCIDENTS INVOLVING THE IOPC FUND

BRAER

Note by the Director

1 Introduction

There have been important developments in respect of claims arising out of the BRAER incident since document FUND/EXC.34/5/Add.1 was issued. In particular, further questions of principle as to the admissibility of claims have arisen. These questions are submitted to the Executive Committee for consideration.

2 Background information on the Shetland Fishing Industry

The organisations representing the various sectors of the fishing industry, viz the Shetland Fish Processors' Association, the Shetland Salmon Farmers' Association and the Shetland Fish Producers' Organisation, have submitted documentation giving general background information on the fishing industry in the Shetland Islands. The information submitted can be summarised as follows.

The fishing industry is of great importance to Shetland's economy. The income produced by this industry is to a great extent retained on Shetland and has a substantial multiplier effect on the local economy. A study undertaken in 1989 indicated that a fall of £12 million in the turnover of the fishing industry would result in a loss of some £33 million to the local economy as a whole.

The fishing industry on Shetland has four sectors, namely fishermen, fish farmers, fish processors and sales and marketing enterprises. The sectors are closely interrelated, and only through the co-operation between them can Shetland fish products be sold worldwide. These four sectors are supported by a number of directly related industries, such as ship repair, ice making, box making, net making and transport of fish products. There is also a considerable overlap and interdependence between the four sectors.

Although the fish products pass through a number of stages often undertaken by different companies, the directors and the owners of these companies are to a large extent the same.

The working population of Shetland is approximately 10 000 persons. In 1991, 1 449 persons were employed in fisheries and a further 1 198 persons in jobs dependent on fisheries.

The three above-mentioned organisations have, together with the Shetland Islands Council, established Shetland Seafood Quality Control Ltd which is an independent control company entrusted with the task of overseeing the proper application of quality standards in order to maintain and enhance the reputation of Shetland fish products for high quality.

3 Claims by Fish Processors

3.1 On 3 March 1993, provisional claims were submitted to the owner of the BRAER, the Skuld Club and the IOPC Fund by the following 14 entities involved in fish processing activities:

Shetland Fish Processors' Association
G & J Hunter
Lerwick Fish Traders Ltd
Pioneer Seafood Ltd
Ronas Fisheries Limited
Saga Seafoods Ltd
Shetland Catch Ltd
Shetland Norse Preserving Company Ltd
Scottish Seafoods Ltd T/A Shetland Seafoods
Shetland Smoke Salmon Ltd
The Shetland Smokehouse Ltd
Whalsay Fish Processors Ltd
L Williamson (Shetland) Ltd
Framgard Ltd

3.2 In the view of the claimants, the losses suffered by the 14 entities listed above as a result of the BRAER incident will total £2.5 million – £5.0 million. The claimants have stated that the extent of their losses will depend on a number of factors, eg the period for which the exclusion zone is maintained, the impact of the media attention, the speed with which hardship payments are made and the decisions taken in respect of the remaining salmon stock.

3.3 The Director has held discussions with representatives of the claimants concerning the handling of the claims. It was agreed that some of these claimants should present more detailed claims for consideration by the Executive Committee. Five claims giving more details were received on 5 March 1993. These claims were considered by the claimants as representing the different types of activities carried out. Further information on a number of points was given to the Director on 9 March 1993 in respect of these five claims. It has been emphasised by the five claimants that their claims are only provisional, based on the information available to them at the present stage.

3.4 The five claims are dealt with below. The presentation is based on the information submitted by the claimants. Due to lack of time, the Director has not been able to verify the accuracy of this information, and nothing in this document should be interpreted as the IOPC Fund's acceptance of the correctness of the information given. A preliminary examination of the provisional claims has, however, been made by the experts employed by the IOPC Fund.

Saga Seafoods Ltd

3.5 Saga Seafoods Ltd's main activity is the grading, processing and packing of salmon as a subcontractor to salmon farmers. The annual turnover for the period 1 November 1991 - 31 October 1992 is estimated at £583 000.

3.6 Saga Seafoods Ltd has stated that three of the salmon farms providing salmon to the company are located within the exclusion zone, and that these farms represent approximately 13% of the annual turnover of the company. The company has maintained that it will suffer loss of income as a result of these salmon farms not being able to deliver salmon from the 1991 intake which will be destroyed, since it cannot obtain salmon from other sources. The company carries out the processing at a charge of £0.20 per kilogram. It is estimated by the company that the three farms would have supplied 270 tonnes of salmon for processing during the period of January - June 1993. The loss for that period has been calculated by the company as follows:

Loss of income, 270 tonnes at £0.20 per kg	£54 000
<u>Less savings</u>	<u>4 000</u>
Estimated loss	£50 000

Scottish Seafoods Ltd T/A Shetland Seafoods

3.7 Scottish Seafoods Ltd, trading as Shetland Seafoods, is engaged in the grading, processing and packing of salmon as a subcontractor to salmon farmers. It also purchases shellfish and whitefish for processing and sale. The annual turnover in respect of Shetland products is approximately £3 million.

3.8 The company receives the major part of its supply of salmon from three farms located within the exclusion zone. The lost supply of salmon from these farms for the period 6 January to 5 February 1993 is estimated by the company at 190.5 tonnes.

3.9 The company also buys shellfish caught around the Shetland Islands. According to the company, a significant part of this shellfish is normally caught in the area which forms the exclusion zone, and there are no alternative sources of supply to compensate for the quantity lost.

3.10 The company estimates its monthly loss as follows:

Salmon processing		£31 500
Shellfish		
Reduced turnover	£62 500	
<u>Less Savings in purchases</u>	<u>£46 850</u>	
Miscellaneous savings	£1 250	£14 400
Whitefish		to be indicated
Increased costs		<u>£1 000</u>
Estimated monthly loss		£46 900

Pioneer Seafoods Ltd

3.11 Pioneer Seafoods Ltd is engaged in the processing of whitefish and shellfish. According to the company, a major part of the fish supply originates normally from the area which is covered by the exclusion zone. The company has stated that the turnover for the period October 1990 - December 1991 (15 months) was £2 440 000, of which some 80% relates to exports.

3.12 Alternative sources of supply of whitefish have been explored, but as yet without success. The supply of shellfish has been interrupted, since there are no alternative suppliers. The company has maintained that the damage to the reputation of Shetland fish products caused by the incident has also resulted in reduced sales, both in the United Kingdom and abroad. According to the company, a customer in Southern England has cancelled an order worth £150 000.

3.13 The company has indicated its loss for the period January – March 1993 as follows:

Lost order	£150 000
<u>Less</u> Savings in purchase	£118 000
Miscellaneous savings	<u>£ 2 000</u>
	£30 000

3.14 In addition, the loss of supply of shellfish will result in a potential total loss in the region of £25 000.

3.15 The company has maintained that there may be further losses unless the goodwill for Shetland producers is restored.

Shetland Catch Ltd

3.16 Shetland Catch Ltd is one of the largest pelagic fish processing plants in the United Kingdom, processing mainly herring and mackerel and, on a smaller scale, silver smolt, blue whiting and sand eels. The annual turnover for 1991 was £5 419 000.

3.17 The company has stated that it has considerable markets in the Far East, including Japan, but that the demand from that region has been affected by the BRAER incident. It has maintained that the turnover for January 1993 (£783 000) was £150 000 lower than for the same month in 1992.

3.18 Shetland Catch Ltd is partially owned by the Shetland Fish Producers Organisation Ltd. The company has stated that it has a contractual obligation to buy and hold excess stocks of mackerel after the incident, which may cause pressure on storage facilities when the herring season starts later in 1993. Extra costs will be incurred if the stock has to be reprocessed to meet the requirements of alternative markets. The effect of the incident on herring sales and stock will be quantified at a later stage.

3.19 The claimant has emphasised that, normally, a processing company would not continue to purchase fish if sales fall, and the fish producers would then suffer losses, but that the situation in Shetland is unique due to the integration between the various branches of the fishing industry.

3.20 The company has calculated its loss for the period January – March 1993 as follows:

Reduction in turnover	£450 000
<u>Less</u> savings	£205 830
Estimated loss	£244 170

3.21 The company has maintained that it will continue to suffer losses until the reputation of Shetland fish products is restored.

The Shetland Smokehouse Ltd

3.22 The Shetland Smokehouse Ltd specialises in the smoking of salmon, primarily for export markets. The annual turnover for 1991 was £517 000.

3.23 Since the suppliers to the Shetland Smokehouse Ltd are not located in the exclusion zone but in other areas around Shetland, the company has been able to maintain its supply of salmon. The

company has stated that a major order from Japan for deliveries from February 1993 has, however, been suspended. The company has indicated that it will incur costs for the reprinting of product labels, at the customer's request, to avoid the name "Shetland" appearing and for re-establishing its business. The company has maintained that it will continue to suffer losses until its customers overcome their uncertainty as to the quality of Shetland salmon.

3.24 The company has estimated its loss for the period January - March 1993 as follows:

Reduced turnover	£100 000
<u>Less</u> Reduced direct costs	58 900
Indirect savings	5 000
<u>Plus</u> Increased costs for repacking etc	5 000
Estimated loss	41 100

3.25 The company has indicated that the losses from April 1993 will be approximately £13 000 - 14 000 per month, as long as the uncertainty as to the quality of Shetland salmon remains.

Director's Considerations

3.26 The losses allegedly suffered by the five companies dealt with above fall within the category of "pure economic loss", as defined in paragraph 3.3 of document FUND/EXC.24/5/Add.1. In view of the restrictive attitude of United Kingdom jurisprudence to claim for compensation for pure economic loss (cf paragraph 3.6 of document FUND/EXC.34/5/Add.1), it is very unlikely in the Director's view that the claims submitted by these companies would be accepted by the United Kingdom courts.

3.27 As mentioned in document FUND/EXC.34/5/Add.1, the IOPC Fund has in previous cases in countries other than the United Kingdom accepted claims for pure economic loss which, in the Director's view, would not have been accepted by the United Kingdom courts. The IOPC Fund has thus accepted claims for pure economic loss suffered by fishermen and by hoteliers and restaurateurs at seaside resorts. Claims by fish processors have not been presented to the IOPC Fund in previous cases. The question is whether the Executive Committee considers that the claims of the fish processors fall within the definition of "pollution damage" laid down in the Civil Liability Convention and the Fund Convention, ie whether they should be considered as loss or damage caused by contamination. It should be noted that acceptance of these claims might have far reaching consequences in other cases involving the IOPC Fund.

3.28 The preparatory works that led to the adoption of the Civil Liability Convention and the Fund Convention do not give any clear guidance on the point under consideration.

3.29 It is clear, in the Director's view, that the losses suffered by the five claimants dealt with above have not been suffered as a direct result of contamination, but as an indirect consequence of the contamination of the waters which led to the exclusion zone being imposed by the United Kingdom Government. The question is whether these losses should, nevertheless, be considered as "loss or damage caused by contamination". If the definition of "pollution damage" were to be interpreted so as to require that the damage should be the direct result of contamination, then these claims should be rejected. It could be argued, however, that the losses suffered by the fish processors, although caused only indirectly by the contamination, were a foreseeable consequence of a major oil spill in the area. It could also be maintained that some claims which have in previous cases been accepted by the IOPC Fund related to damage which was only the indirect result of contamination, such as losses suffered by owners of hotels and restaurants at seaside resorts. After careful consideration of these two approaches, the Director takes the view that the losses suffered by four of the fish processors as a result of them being deprived of a supply of fish from the exclusion zone should be treated on an equal footing with claims for pure economic loss suffered by hotel owners and restaurateurs at seaside resorts. For this reason, the Director proposes that the claims submitted by these four companies should, in principle, be accepted.

3.30 The position of the Shetland Smokehouse Ltd is somewhat different from the other four claimants, since that company does not receive any supplies from the area of the sea which falls within the exclusion zone. It has not had its deliveries of salmon interrupted, but has suffered losses as a result of the cancellation or reduction of orders relating to salmon from outside the exclusion zone. The losses were thus suffered as a result of a loss of confidence on the part of buyers or consumers in the quality of Shetland salmon in general, including salmon farmed outside the exclusion zone. The loss suffered by this company is therefore, in the Director's view, a more indirect result of the contamination of a part of the waters around Shetland. For this reason, from a legal point of view, it appears that the losses suffered by this company could not be considered as "caused by contamination" within the meaning of the definition of "pollution damage" in the Civil Liability Convention. The Executive Committee may wish, however, to consider whether it would be appropriate to adopt a more extensive interpretation of this definition which would cover cases of this kind, taking into account the special geographic and economic situation on Shetland as well as the social and economic consequences of any decision. In view of the fact that this matter has been raised at a very late stage, the Committee may wish to postpone its decision on claims of this kind until its next session.

3.31 If the Executive Committee were to consider some or all of the five claims dealt with above as admissible in principle, each claim thus found acceptable would have to be examined in detail. It would then be necessary to establish, in respect of each item of alleged expense or loss, whether the expense or loss was caused by contamination, whether the amount claimed had been substantiated by sufficient supporting documentation and whether the claimant had taken reasonable steps to minimise the damage.

3.32 Should the Executive Committee consider any of the above-mentioned five claims as admissible in principle, the Committee may wish to instruct the Director to enter into negotiations with the claimants concerned and to authorise him to settle the claim to the extent that he finds that it fulfils the criteria set out in paragraph 3.31 above. The Committee may also wish to instruct the Director to refer the claims back to the Committee for consideration, if new questions of principle were to arise. In addition, the Committee may wish to authorise the Director to make advance payments to mitigate undue financial hardship for the claimants, in respect of those parts of the claims which he considers admissible in principle.

3.33 In the event that the Executive Committee were to accept any of the claims referred to above as admissible in principle, it may wish to consider whether it would be prepared to authorise the Director to settle claims from other fish processors in respect of losses similar to those thus accepted by the Committee.

4 Joint Claim by the Shetland Salmon Farmers' Association, the Shetland Fish Processors' Association and the Shetland Fish Producers' Organisation

4.1 The three above-mentioned organisations have submitted a joint claim for costs relating to activities to be undertaken in order to counteract the negative impact of the BRAER incident on the reputation of Shetland fish products. The documents setting out the proposed action plan were received on 4 March 1993.

4.2 The organisations have stated that they have for many years devoted large resources to promoting Shetland seafood products. Over the last five years, over £3.5 million has been spent by the organisations for that purpose; in 1992, the cost for promotion was about £500 000. In addition, the individual sales companies have spent considerable amounts in promotion costs. The organisations have maintained that the BRAER oil spill destroyed much of the reputation of Shetland seafood for high quality which had been built up and that buyers have reduced purchases of Shetland products.

4.3 The value of Shetland seafood production in 1992 is estimated at £83 million. Of this amount, £33 million relates to salmon, £25 million to other fish and £25 million to processing.

4.4 The organisations have taken measures since the incident to prevent a total collapse of the market by introducing more stringent testing procedures which, in their view, made it possible to persuade most United Kingdom supermarkets to resume purchases, although pre-spill volumes and prices have not been obtained. The organisations have maintained that action is necessary on wider markets to reassure the consumers and the trade buyers of the quality of Shetland fish products. Such a programme will, in the view of these organisations, reduce the losses suffered by the industry, thereby reducing the claims for compensation.

4.5 The cost of the proposed action programme has been estimated by the organisations as follows:

Relaunch of Shetland salmon	£2 213 756
Relaunch of Shetland fish	£ 339 297
Relaunch of Shetland processed fish	£ 422 000
	£2 975 053

4.6 As regards the salmon industry, the proposed action plan would include, inter alia:

Press campaigns in the United Kingdom;
Invitations to journalists, key buyers and top chefs in the United Kingdom to visit Shetland;
Participation at exhibitions;
International press campaign;
Invitations to foreign journalists and key foreign buyers to visit Shetland;
Renewal of videos and literature on Shetland salmon to stress increased quality control;
Co-ordination of campaign by a specialist PR and marketing company.

4.7 With respect to the fish producers (other than the salmon industry), the proposed action plan would include, inter alia:

Production of a video;
Production of a brochure;
Participation in exhibitions;
Advertising;
Invitation to journalists and key buyers from the United Kingdom and abroad to visit Shetland.

4.8 Concerning the fish processing industry, the proposed action plan would include, inter alia:

Trade press advertising;
Participation in exhibitions;
Production of a video.

4.9 Due to the very short time available, the Director has not been able to make any detailed assessment of the proposed action plan, neither as regards its possible effects nor as regards the costs indicated by the organisations. He has only had a preliminary assessment of the plan made by experts engaged for that purpose. For this reason, he is at present only in a position to discuss the question of principle involved, namely whether costs for activities of the kind envisaged by the organisations would fall within the definitions of "pollution damage" or "preventive measures".

4.10 In the Director's view, the costs could not be considered as falling within the definition of "pollution damage", unless they were to be considered as costs of preventive measures. "Preventive measures" are defined as "... any reasonable measures taken by any person after an incident has occurred to prevent or minimise pollution damage".

4.11 When the drafters of the Civil Liability Convention included the definition of "preventive measures" in the Convention, they had in mind measures to prevent contamination of shores, property and environment, eg by using booms, skimmers and dispersants. There are no indications in the preparatory works that activities of the kind proposed by the organisations were discussed.

4.12 The BRAER incident and the ensuing negative publicity have undoubtedly caused damage to the reputation of Shetland fish products. Some reduction in sales has already taken place, and if no action were to be taken it is likely that it would take a long time before the reputation and sales were restored to pre-incident levels. Due to lack of time, the Director has not been able to examine in detail the proposed action plan. He accepts, however, that activities of the kind included in the plan would contribute to re-establishing Shetland fish products in the international and domestic markets by restoring the reputation of these products for high quality. Such activities would therefore result in a reduction in losses suffered by salmon farmers, fishermen and fish processors, thereby reducing the claims against the shipowner, the Skuld Club and the IOPC Fund. Obviously the positive effects of the proposed activities depend on a great number of imponderable factors. The Director also accepts that any activities of this kind should be carried out as soon as possible in order to have maximum impact.

4.13 Recognising the usefulness of the activities envisaged by the organisations, the Director considers that the question of whether the costs of these activities are admissible under the system of compensation established by the Civil Liability Convention and the Fund Convention should be decided by an interpretation of the definition of "preventive measures". In this regard, it is likely that the drafters of the Civil Liability Convention did not foresee that activities of the kind envisaged by the organisations should fall within the definition of "preventive measures". Against that background, an interpretation of the wording of the definition would result in claims of this kind being considered as falling outside the definition.

4.14 The Executive Committee may nevertheless wish to consider whether a more extensive interpretation of this definition would be justified in order to take into account the special geographic and economic situation on Shetland as well as the social and economic consequences of any decision. It goes without saying that the Committee's decision on this issue will have far-reaching consequences. For this reason, and in view of the fact that the matter has been raised only at the opening of the present session of the Committee, the Committee may wish to postpone its decision on this issue to its next session.

4.15 In the event that the Executive Committee were to decide that costs for activities of the kind envisaged by the organisations are, in principle, to be considered as costs of "preventive measures" and thus admissible under the Conventions, the Committee may wish to instruct the Director to examine the action plan in detail, with the assistance of experts in the marketing of fish products, and submit the claims for detailed examination by the Committee at its 35th session. In that event, the Director proposes that he should be authorised to grant advance payments in respect of activities which, in his view, are justified and cannot reasonably be postponed until after that session.

5 Claim from Employee put on Part-Time Work

5.1 A worker who is employed by a fish processor (Shetland Seafoods Ltd) has claimed compensation for loss of income, for an amount of £70 per week from 8 February 1993, due to the fact that her working week has been reduced from 40 hours to 20 hours. As set out above, this company receives the major part of its supply of salmon from three farms located within the exclusion zone. The employer has, in a written notice, stated that the reduction of this employee's work time is a result of the BRAER incident.

5.2 The Director assumes that this claim is the first of a number of claims from employees who may have had their working hours reduced.

5.3 This claim relates to damage which is not a direct result of the contamination caused by the BRAER incident but an indirect result of contamination of the water, which in turn resulted in reduction of supply of fish to the fish processor. Also in respect of this claim it can be questioned whether the loss can be considered as caused by contamination. It would be for the Executive Committee to take a decision as to the interpretation of the definition of "pollution damage" in this respect. Again, any decision on this matter would have far-reaching consequences. For this reason, and in view of the late submission of the present document, the Executive Committee may wish to postpone its decision on this claim until its next session.

6 Claim by a Trading Company in London for Loss of Income

6.1 A company in London, J Bennett (Billingsgate) Ltd, has submitted a claim for advance hardship payment and interim damages.

6.2 The company has stated that it has for many years marketed the salmon produced by Shetland Salmon Producers Ltd (SSP), a company operating within the exclusion zone. In 1992, the claimant allegedly purchased salmon from the latter company for a total amount of £2 055 000, representing 48% of its overall salmon purchases. The claimant has maintained that there exists an arrangement which effectively guarantees its supplies from SSP for resale and that it has therefore been able to sell Shetland salmon in the knowledge that from week to week the deliveries will take place and orders be fulfilled. In the view of the claimant, the BRAER incident had a severe financial impact on the company's business, since from the date of the incident the supply of salmon from SSP ceased, resulting in loss of profit. The claimant has maintained that it has not been possible to sell salmon from other sources, since his customers want Shetland salmon because of its high quality. The claimant has presented estimates of its losses for 1993 which total £203 040, on the assumption that deliveries will not resume during the year.

6.3 Again, in respect of this claimant, the losses allegedly incurred are not a direct result of contamination but an indirect result of the damage by contamination caused to a certain area of water around the Shetlands. The Director considers that the damage allegedly suffered by J Bennett (Billingsgate) Ltd does not fall within the definition of "pollution damage" laid down in the Civil Liability Convention. For this reason, he proposes that this claim should be rejected.

7 Salmon Farms

7.1 In document FUND/EXC.34/5/Add.1 reference was made to the problem relating to the 1992 intake of salmon. In their discussions with the salmon farmers, the owner, the Skuld Club and the IOPC Fund stated that the question of what action to be taken, if any, in respect of the 1992 intake of salmon would have to be addressed at a later stage, in the light of developments (paragraph 4.4.7).

7.2 In view of the fact that the exclusion zone may be maintained for some considerable time, it may be necessary to take a decision in respect of the 1992 intake within the next few months. The Executive Committee may wish to consider whether to authorise the Director, in consultation with its experts, to take the necessary decision in this regard. It should be noted that the total value of the 1992 intake in the exclusion zone at market price at normal harvest time would be in the region of £11-14 million.

8 BRAER Legal Group

8.1 As set out in paragraph 5.2.1 of document FUND/EXC.34/5/Add.1, the BRAER Legal Group has requested that the IOPC Fund and the Skuld Club should make funds available to finance the work of the Group. Following a rejection by the Director and the Skuld Club, the Group has asked the Director to submit the request to the Executive Committee for consideration.

8.2 In a document presented on 4 March 1993, the BRAER Legal Group set out the reasons for its request for financial assistance. The Group has been formed by 13 firms of solicitors in Scotland. Its work is co-ordinated by a Steering Committee composed of solicitors from six firms. The Group has argued that it could have a role to play in relation to adjusting standard documentation, settling points of law and adjusting claims forms. The Group has also stated that it could dispose of difficult questions of law by obtaining opinions which could be shared by all the solicitors within the Group. In the view of the Group, it might be possible to reach agreement between representatives of the Group, on the one side, and the shipowner, the Skuld Club and the IOPC Fund, on the other side, on formulae for the computation of more difficult types of claims and on issues of remoteness. The Group has stated that it could, if given sufficient resources, have a valuable co-ordinating, facilitating

and expediting role. The Group has mentioned that similar funding had been provided to groups of lawyers in connection with other major accidents and that the insurers had then agreed to meet the reasonable costs of running such groups. It has been argued by the Group that it would be cost-effective from the IOPC Fund's point of view to give financial support to the Group, since the Group could contribute to reducing the time during which the BRAER Claims Office would have to be maintained. It has been suggested that, if the Skuld Club or the IOPC Fund were to provide funding, the costs should be met on a time basis, calculated on the basis of an acceptable hourly rate plus costs.

8.3 Having considered the arguments put forward by the BRAER Legal Group, the Director takes the view that it would not be appropriate for the IOPC Fund to provide financial assistance to the Group or the solicitors who are members of the Group. The situation in the BRAER case, in the Director's opinion, is very different from that in other cases not involving the IOPC Fund in respect of which financial assistance was given to groups of solicitors, since in those cases there were a great number of persons killed or injured. In his view, the solicitors concerned would have to charge their clients for the work carried out. He also considers that the question of whether and to what extent the legal costs should be reimbursed by the owner, the Skuld Club and the IOPC Fund would have to be decided on the basis of the merits of the individual claims.

8.4 It should be noted that in a public notice published in the Shetland Times, the BRAER Legal Group recommended that no claims should be registered or claims forms completed without previously consulting a solicitor. In addition, members of the Group have warned claimants not to use any claims form issued by the Claims Office containing reference to the Civil Liability Convention and the Fund Convention or to the United Kingdom legislation implementing the Conventions.

8.5 The BRAER Legal Group has in press statements insisted on the fact that the Skuld Club and the IOPC Fund would pay any solicitor's fee. In this respect, the Director has stated, both to the Legal Group and to the press, that in his view the question of whether and to what extent legal fees would be recoverable would have to be assessed on the basis of the merits of the individual claims.

9 Present Situation in respect of Claims

As at 10 March 1993, 154 claims had been received. Out of these, 87 had been approved, 3 had been rejected and 64 were being examined. The situation can be summarised as follows:

Type of Claims	Received	Approved	Rejected	Pending	Amounts Approved £
Property (houses etc)	63	23	2	38	15 849
Farming (damage to fences)	2	2	-	-	828
Farming services	5	4	-	1	7 623
Farming transport	8	5	-	3	1 005
Farming emergency feed (200 crofters & farmers)	17	12	-	5	179 896
Advance hardship payments, fishing (loss of income)	33	29	-	4	114 492
Advance hardship payments, salmon farms	10	7	-	3	299 476
Advance hardship payments, farming (labour, etc)	8	5	-	3	10 148
Voluntary Groups	8	-	1	7	0
	154	87	3	64	£629 317

10 Action to be Taken by the Executive Committee

The Executive Committee is invited to:

- (a) take note of the information contained in this document;

- (b) give the Director such instructions as it may deem appropriate in respect of the claims submitted by:
- (i) Saga Seafoods Ltd (paragraphs 3.5-3.6);
 - (ii) Scottish Seafoods Ltd (paragraphs 3.7-3.10);
 - (iii) Pioneer Seafoods Ltd (paragraphs 3.11-3.15);
 - (iv) Shetland Catch Ltd (paragraphs 3.16-3.21);
 - (v) The Shetland Smokehouse Ltd (paragraphs 3.22-3.25);
 - (vi) Other fish processors (paragraph 3.33);
 - (vii) The joint claim of the Shetland Salmon Farmers' Association, the Shetland Fish Processors' Association and the Shetland Fish Producers' Organisation (paragraph 4);
 - (viii) Employee put on part-time work (paragraph 5); and
 - (ix) Trading company in London (paragraph 6);
- (c) give the Director such instructions as it considers appropriate in respect of the 1992 intake of salmon (paragraph 7); and
- (d) give the Director such instructions as it may consider appropriate in respect of the request by the BRAER Legal Group for financial assistance (paragraph 8).
-