



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

EXECUTIVE COMMITTEE
45th session
Agenda item 4

FUND/EXC.45/2
18 October 1995

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INCIDENTS INVOLVING THE IOPC FUND

AEGEAN SEA

Note by the Director

1 Claim for alleged loss as a result of forced sale of fishing boats

1.1 A claim has been presented by Mar de Galilea SA, which at the time of the Aegean Sea incident operated four sizeable fishing boats (36, 47, 28 and 47 tonnes, respectively). The claimant has alleged that, as a result of the pollution, the consequent fishing ban and the reduction in catches which occurred when the fishing was resumed, the company's financial situation had deteriorated to the point where it could not meet interest and maintenance payments and for this reason had to sell three of the boats. One of these sales took place in December 1993, the other two at a later undisclosed date.

1.2 The claim relates to loss of profit from the three sold boats for the period up to 1999. It also includes an amount of Pts 64 million (£333 000) for loss allegedly suffered as a result of the boats having been sold at less than their real market value due to the forced nature of these sales. Although the amount claimed for losses up to 1999 is not clearly identifiable, it is believed that it would be in the region of at least Pts 300 million (£1.6 million). So far no evidence has been presented to show that the sales were caused by the Aegean Sea incident.

1.3 The Director takes the view that the losses allegedly suffered could not be considered as damage caused by contamination but was a result of the claimant's decision to sell the boats. For this reason, he considers that this claim is not admissible in principle.

2 Mortality of Imported shellfish

2.1 The operator of a depuration plant has claimed compensation for losses allegedly incurred as a result of the death of 61 tonnes of shellfish (mainly clams) with a value of approximately Pts 122.5 million (£638 000).

2.2 The claimant has stated that the depuration plant was closed by the Spanish authorities on 12 December 1995, and that at that date the stock in the plant was only 1.65 tonnes. The remaining part of the shellfish which died (nearly 60 tonnes) was delivered to the plant after it had been closed by 14 suppliers (nine in Spain, three in the United Kingdom, one in France and one in Turkey). The deliveries took place on five dates between 22 December 1992 and 27 January 1994. The claimant has alleged that all the shellfish was ordered before the *Aegean Sea* incident occurred, that the suppliers refused to cancel the contracts and that he was not able to sell or store the shellfish either within or outside La Coruña area. According to the claimant, the shellfish died because the restrictions which had been imposed by the authorities prohibited the circulation of the water through the plant. The mortality occurred each time a delivery of shellfish took place.

2.3 The Director takes the view that this claim is admissible in principle, provided that the claimant can show that he took all reasonable measures to minimize the loss by avoiding to take delivery of the shellfish.

Action to be taken by the Executive Committee

The Executive Committee is invited to:

- (a) take note of the information contained in the present document; and
 - (b) give the Director such instructions as it may deem appropriate in respect of the claims relating to
 - (i) alleged losses as a result of forced sale of fishing boats; and
 - (ii) mortality of imported shellfish.
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