



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

EXECUTIVE COMMITTEE  
45th session  
Agenda item 7

FUND/EXC.45/3  
20 October 1995

Original: ENGLISH

## RECORD OF DECISIONS OF THE FORTY-FIFTH SESSION OF THE EXECUTIVE COMMITTEE

(held on 20 October 1995)

Chairman: Mr W J G Oosterveen (Netherlands)  
Vice-Chairman: Miss A N Ogo (Nigeria)

### Opening of the session

The 45th session of the Executive Committee was opened by the Director, in accordance with Rule (v) of the Committee's Rules of Procedure, as neither the delegation of the former Chairman nor that of the former Vice-Chairman was a member of the newly elected Executive Committee.

### 1 Adoption of the Agenda

The Executive Committee adopted the Agenda as contained in document FUND/EXC.45/1.

### 2 Election of the Chairman and Vice-Chairman

2.1 The Executive Committee elected the following delegates to hold office until the next regular session of the Assembly:

Chairman: Mr W J G Oosterveen (Netherlands)  
Vice-Chairman: Miss A N Ogo (Nigeria)

2.2 The Chairman and the Vice-Chairman thanked the Executive Committee for the confidence shown in them.

### **3 Examination of credentials**

3.1 The following members of the Executive Committee were present:

Algeria	Japan	Nigeria
Australia	Liberia	Norway
Canada	Mexico	Russian Federation
Finland	Netherlands	United Arab Emirates
Germany		

The Executive Committee agreed that the credentials submitted by these delegations to the 18th session of the Assembly should be understood as also covering the 45th session of the Executive Committee.

The Executive Committee was informed that all members participating had submitted credentials and that these were in order.

3.2 The following Contracting States were represented as observers:

Côte d'Ivoire	Ghana	Sweden
Cyprus	Greece	Tunisia
Denmark	Italy	United Kingdom
France	Republic of Korea	Venezuela

3.3 The following non-Contracting States were represented as observers:

China	Peru	United States
Latvia	Saudi Arabia	

3.4 The following inter-governmental organisation and international non-governmental organisations were represented as observers:

International Maritime Organization (IMO)  
 International Union for the Conservation of Nature and Natural Resources  
 (IUCN)  
 Oil Companies International Marine Forum (OCIMF)

### **4 Incidents involving the IOPC Fund**

#### Aegean Sea Incident

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

4.1.1 The Executive Committee considered a claim presented by a company which, at the time of the *Aegean Sea* incident, operated four fishing boats. The Committee noted that the claimant had 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 such an extent that it had had to sell three of the boats. It was noted that the company's claim related to loss of profit from the three sold boats for the period up to 1999, and included an amount 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. It was further noted that no evidence had been presented to show that the sales were caused by the *Aegean Sea* incident.

4.1.2 The Executive Committee took the view that the losses allegedly suffered could not be considered as damage caused by contamination but were a result of the claimant's decision to sell the boats. For this reason, the Committee decided that this claim was not admissible in principle and rejected the claim.

#### 4.2 *Mortality of imported shellfish*

4.2.1 The Executive Committee considered a claim submitted by an operator of a depuration plant for losses allegedly incurred as a result of the death of 61 tonnes of shellfish. It was noted that the depuration plant had been closed by the Spanish authorities on 12 December 1992, and that at that date the stock in the plant was only 1.65 tonnes. The Committee noted that remaining part of the shellfish which had died (nearly 60 tonnes) had been delivered to the plant on five dates between 22 December 1992 and 27 January 1993 by 14 suppliers from a number of countries. It was also noted that, according to the claimant, all the shellfish had been ordered before the *Aegean Sea* incident had occurred, that the suppliers had refused to cancel the contracts and that he had not been able to sell or store the shellfish elsewhere. The Committee noted that, according to the claimant, the shellfish had died because the restrictions imposed by the authorities prohibited the circulation of water through the plant and the mortalities occurred each time a delivery of shellfish took place.

4.2.2 The Committee took the view that the claim was admissible in principle. The Director was instructed to examine the evidence presented by the claimant so as to ensure that binding contracts had been concluded before the date of the *Aegean Sea* incident, that the claimant had taken all reasonable steps to cancel the contracts, and that he had taken all reasonable measures to mitigate his losses.

### 5 Date of next session

5.1 The Executive Committee decided to hold its 46th session on 11 and 12 December 1995.

5.2 The Committee also decided to hold a two-day session during the week of 26 February 1996.

5.3 It was decided that the Committee would hold its normal autumn session during the week of 21 to 25 October 1996.

### 6 Any other business

No matters were raised under this agenda item.

### 7 Adoption of the Report to the Assembly

The Executive Committee decided to authorise the Director to prepare, in consultation with the Chairman, the final report of the present session.

---