



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

EXECUTIVE COMMITTEE
47th session
Agenda item 3

FUND/EXC.47/4
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INCIDENTS INVOLVING THE IOPC FUND

BRAER

Note by the Director

1 Introduction

1.1 The present document deals with the developments which have taken place as regards the *Braer* incident since the Executive Committee's 46th session, in particular in respect of the legal actions taken against the IOPC Fund in the Court of Session in Edinburgh.

2 Legal action in the Court of Session in Edinburgh

2.1 Claims against the IOPC Fund became time-barred on or shortly after 5 January 1996, ie at the expiry of a period of three years from the date when the damage occurred. At the expiry of the three year period, some 250 claimants had taken legal action against the shipowner and the Skuld Club and notified the IOPC Fund of the action, or in some cases taken action also against the IOPC Fund. The total amount claimed is approximately £80 million.

2.2 The summonses submitted in the court give, with a few exceptions, very little information as to the details of the alleged losses or how the amount claimed has been calculated.

2.3 A summary of the claims presented in the court is set out in tabular form in the annexe to this document. The table indicates, in respect of each claim or each group of claims, the amount claimed, the position previously taken by the Fund, any decisions by the Executive Committee and any on-going discussion with claimants.

2.4 It should be noted that a large number of these claims have previously been rejected by the Executive Committee as inadmissible in principle. In addition, it is the Director's view that the amounts claimed are in most cases highly inflated.

2.5 Defences have been prepared or are being prepared on behalf of the IOPC Fund in respect of each claim, on the basis of the relevant decision of the Executive Committee and the general policy of the IOPC Fund as regards the admissibility of claims, taking into account that the claims are brought under the United Kingdom legislation implementing the Civil Liability Convention and the Fund Convention (Merchant Shipping Acts 1971 and 1974).

2.6 A number of claims appear to be admissible in principle. Subject to any instruction which the Executive Committee may wish to give him, the Director intends to pursue negotiations with these claimants for the purpose of reaching an agreement on the admissible quantum.

3 Suspension of payments

3.1 At its 44th session, the Executive Committee took note of the total amount of the claims presented so far and noted that a number of claimants intended to bring legal actions against the shipowner, the Skuld Club and the IOPC Fund. The Committee instructed the Director to suspend any further payments of compensation until the Committee had re-examined at its 46th session the question of whether the total amount of the established claims would exceed the maximum amount available under the Civil Liability Convention and the Fund Convention, viz 60 million Special Drawing Rights (SDR). The Committee instructed the Director to continue negotiations concerning the outstanding claims, for the purpose of arriving at agreements on the quantum of the losses sustained (document FUND/EXC.44/17, paragraph 3.4.45).

3.2 In December 1995, at its 46th session, the Executive Committee decided, in view of the remaining uncertainty as regards the outstanding claims, that the suspension of payments should be maintained until the matter had been re-examined at its 47th session in February 1996 (document FUND/EXC.46/12, paragraph 3.3.23).

3.3 In view of the remaining uncertainty as regards the outstanding claims, the Director takes the view that the suspension of payments should be maintained until the matter has been examined by the Executive Committee at its 48th session.

3.4 The Director would like to draw the Committee's attention to the fact that for a number of individuals, in particular some fishermen, whose claims are admissible in principle, the suspension of payments is causing severe financial hardship.

4 Shipowner's right of limitation and possible recourse action

Consideration at the Executive Committee's 46th session

4.1 At its 46th session, the Executive Committee considered whether the IOPC Fund should challenge the right of the owner of the *Braer* to limit his liability and whether the Fund should take legal action against the shipowner or any other person in order to recover the amounts paid by it in compensation. The Committee's consideration of the issues was based on a document presented by the Director (document FUND/EXC.46/2).

4.2 The Executive Committee noted the arguments put forward by the owner of the *Braer* and by the shipowner's P & I insurer (Assuranceföreningen Skuld, "the Skuld Club") in document FUND/EXC.46/2/2.

4.3 The observer delegation of the International Group of P & I Clubs made a statement reproduced in paragraph 3.1.3 of document FUND/EXC.46/12.

4.4 The Executive Committee noted that on 10 October 1995 the owner of the *Braer* had presented a summons to the Court of Session in Edinburgh requesting an order that he should be entitled to limit his liability, and that the shipowner had agreed not to pursue this action until after the Committee's 46th session.

4.5 The Committee noted that the IOPC Fund's technical experts had stated that the cause of the casualty was the main engine failure and the loss of all main power through sea water contamination of the diesel oil. It was also noted that pipes, which had been stowed on deck broke loose in heavy weather and caused damage to some air pipes, which allowed sea water to enter the diesel storage tank. It was further noted that, in the experts' view, the deficiencies in the steam generating plant and the lack of sufficient diesel oil on board to complete a safe passage to Quebec in the event of complete steam plant failure caused the ship to be unseaworthy and that the shipowner was aware of these conditions.

4.6 It was noted that in their document the owner of the *Braer* and the Skuld Club had stated that the conclusions of the IOPC Fund's experts relied unduly on conjecture and speculation in the absence of hard evidence to support their theories, and that in such circumstances their theories should be given less weight than the findings of the enquiries carried out by the competent authorities in Liberia and the United Kingdom. The Committee took note of the fact that the shipowner and the Skuld Club had stressed that the United Kingdom investigation report had concluded that there was no evidence of unseaworthiness. It was further noted that the shipowner and the Skuld Club had stated that, on the basis of the findings of the official enquiries, it was impossible to maintain that the incident had resulted in any way from the actual fault or privity of the shipowner.

4.7 The Executive Committee noted the opinion of the IOPC Fund's legal advisers that, on the basis of the technical assessment made by the Fund's experts, the Fund had "a reasonably stateable case with at least some prospect of success" to challenge the right of the shipowner, the Braer Corporation, to limit its liability under the Merchant Shipping (Oil Pollution) Act 1971.

4.8 A number of delegations took the view that the IOPC Fund's case to challenge the shipowner's right of limitation was weak.

4.9 Some delegations were not so convinced of the weakness of the IOPC Fund's case and took the view that more time should be given for consideration of these very important and difficult issues.

4.10 It was noted that the Braer Corporation had been dissolved in March 1994 and that it was unlikely that there were any assets against which a judgement against the shipowner could be enforced.

4.11 After careful consideration and in view of the fact that a successful recovery by the Fund of any significant amounts was unlikely, the Executive Committee decided that the IOPC Fund should not challenge the shipowner's right of limitation or take legal action against him to recover the amounts paid by the IOPC Fund in compensation. However, the Committee also decided that, if new information became available showing that the IOPC Fund had greater prospects of success, the Director - after consultation with the Chairman - should take action to challenge the shipowner's right of limitation and take actions for recovery, if such actions were still possible (document FUND/EXC.46/12, paragraph 3.1.14).

4.12 The delegations referred to in paragraph 4.9 above reserved their position in respect of the Committee's decision.

4.13 The Canadian delegation stated that it did not agree with the Committee's decision not to challenge the shipowner's claim to limit his liability. That delegation maintained that there was sufficient evidence of the owner's fault or privity to challenge the owner's claim (document FUND/EXC.46/12, paragraph 3.1.16).

4.14 The Executive Committee decided not to take action in the United Kingdom against the company managing the *Braer* since the United Kingdom legislation (Merchant Shipping (Oil Pollution) Act 1971) effectively barred any such action. It also decided that the IOPC Fund should not take action in the United States against the management company or any other company within the same group, nor against any individual directors of these companies (document FUND/EXC.46/12, paragraphs 3.1.17 and 3.1.18).

4.15 The Committee also considered whether the IOPC Fund should take legal action in the United Kingdom against the Skuld Club to recover the amounts paid by the Fund in compensation. It was noted that the Skuld Club Rules contained a "pay to be paid" clause (ie that the Club was under an obligation to indemnify the shipowner only for compensation actually paid by him to the injured party), which had been

upheld by the United Kingdom courts in recent cases. The Executive Committee therefore decided that the IOPC Fund should not take legal action against the Skuld Club in the United Kingdom (document FUND/EXC.46/12, paragraph 3.1.19).

4.16 As for the possibility of taking legal action against the Skuld Club in Norway, the Executive Committee noted the legal opinion that the Norwegian courts would not have jurisdiction to hear a recourse action brought by the IOPC Fund against the Skuld Club to recover the amounts which the Fund had paid in compensation for pollution damage in connection with the *Braer* incident. The Committee therefore decided that the IOPC Fund should not take legal action against the Skuld Club in Norway (document FUND/EXC.46/12, paragraph 3.1.20).

Request for reconsideration

4.17 Since the Committee's 46th session, one delegation contacted the Director and requested that the Committee should be given the possibility to reconsider whether the IOPC Fund should challenge the shipowner's right to limit his liability. The main reason given for this request is that the total amount of the claims against the IOPC Fund presented in the Court of Session in Edinburgh were much higher than what was estimated when the matter was considered by the Committee in December 1995.

4.18 In view of this request, and after consultation with the Chairman, the Director refers this issue to the Committee for renewed consideration.

4.19 The shipowner has not called the action in which he has requested an order that the shipowner should be entitled to limit his liability. Once the action has been called, any party who wishes to challenge the right of limitation should do so within seven days. The Director has been informed that the action will not be called until after the Executive Committee's 47th session.

4.20 No new information has become available since the Executive Committee's 46th session showing that the IOPC Fund's prospects of a successful recovery of significant amounts is greater than assumed at the Committee's 46th session. It is recognised that the total amount of the pending claims is considerably higher than what was assumed at the Committee's 46th session. The Director does not believe that this in itself would change the situation as regards the advisability for the IOPC Fund to take action to break the shipowner's right of limitation or to take recourse action against the shipowner and the Skuld Club.

5 Indemnification of the shipowner

5.1 At its 46th session, the Executive Committee considered also the question of whether and, if so, to what extent the IOPC Fund was exonerated from its obligation to indemnify the shipowner and his insurer under Article 5.1 of the Fund Convention. The Committee's consideration was based on a note by the Director (document FUND/EXC.46/2, paragraph 10.1 - 10.8). The Committee decided to postpone its decision on this issue to its 47th session. It was noted that if legal action were to be taken against the IOPC Fund by the shipowner or the Skuld Club requesting indemnification, the Director would take the necessary steps to protect the Fund's position, pending a decision by the Executive Committee. The Director was invited to discuss the indemnification issue with the shipowner and the Skuld Club and to suggest that they should consider not pressing for indemnification (document FUND/EXC.46/12, paragraphs 3.2.2-3.2.4).

5.2 The issue of indemnification is being discussed between the Skuld Club and the Director.

5.3 The Director proposes that the consideration of this issue be postponed to the Committee's 48th session.

6 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;
- (b) note the situation in respect of the legal actions taken against the IOPC Fund;
- (c) give the Director such instructions in respect of the Fund's position in the legal proceedings as it may deem appropriate (paragraph 2 above);
- (d) decide whether the IOPC Fund should maintain the suspension of payments (paragraph 3 above);
- (e) consider the requests made by some delegations that the Committee should reconsider whether the IOPC Fund should challenge the shipowner's right to limit his liability (paragraph 4 above); and
- (f) consider whether, and if so, to what extent the IOPC Fund is exonerated from its obligation to pay indemnification to the shipowner and his insurer (paragraph 5 above).

* * *

Number of Claims		Sub Total £	Total £
1	United Kingdom Government (Dept of Transport and Scottish Office)		3 571 181
1	<p>Shetland Islands Council (SIC)</p> <p>This claim is for all of the costs and expenses incurred by the Shetland Islands Council following the incident.</p> <p>Meetings took place between the SIC and IOPC Fund during 1994 and 1995 in an effort to identify those items of the claim which were admissible. Detailed correspondence has been exchanged in order to clarify certain items of the claim.</p> <p>It is hoped that the process of clarification of all items of the SIC claim will be completed before the claim is called in court.</p> <p>In any event defences will be prepared in accordance with the decisions of the Executive Committee in respect of various items of claim, in particular those items rejected by the Executive Committee at its 46th session (cf FUND/EXC.46/12 paras 3.3.15 – 3.3.19) – ie environmental impact assessment studies, costs associated with handling the media and VIPs, certain legal fees.</p>		1 508 317
1	<p>P & O Scottish Ferries Ltd</p> <p>This claim was considered by the Executive Committee at its 44th session (cf FUND/EXC.44/17 paras 3.4.21 – 3.4.25). The claim was rejected as there was not sufficient proximity between the claimants' activity and the contamination. It was also considered that the claimants' business did not form an integral part of the economic activity of Shetland.</p> <p>This claim has not yet been called in the court. Defences will be prepared in accordance with the decision of the Executive Committee.</p>		902 561

Number of Claims		Sub Total £	Total £
5	<p>Personal Injury</p> <p>Of the five summonses for personal injury only, four have already been called in court.</p> <p>Twelve other claims for personal injury have been included in summons in respect of damage to asbestos cement roofs. None of these claims have been quantified. All twelve claimants are farmers, and the claimants have alleged that their injuries were caused either as a result of working outside during the time of the incident, or as a result of extra work on their farms following the incident.</p> <p>As regards the IOPC Fund's position in respect of personal injury claims, reference is made to the consideration of this issue at the Executive Committee's 44th session (FUND/EXC.44/17, paras 4.2.27 - 4.2.28). The Committee took the view that the Civil Liability Convention in principle covered personal injury caused by contamination whereas personal injury resulting from other causes was not admissible. The Committee also stated that exposure to health risks and anxiety would not fall within the definition of pollution damage and would therefore not be accepted.</p> <p>Skuld Club, with its experience of handling personal injury claims, will take the lead in preparing the defences in respect of all personal injury claims.</p>		500 000
	Salmon Farms		21 863 523
38	<p>Price damage claims (some of these claims include other items eg net cleaning)</p> <p>Compensation for price damage has been paid to salmon farmers for the period January to June 1993. The claims which are the subject of these proceedings are for a period from July 1993 to June 1995. The experts of the IOPC Fund have considered that the evidence produced by the claimants does not demonstrate a link of causation between any price fall in autumn 1993 and the contamination resulting from the <i>Braer</i> incident. Defences will be lodged to this effect (cf FUND/EXC.44/17 paras 3.4.2 - 3.4.3).</p>	10 324 386	

Number of Claims		Sub Total £	Total £
1	<p>Wadbister Salmon Ltd/Wadbister Offshore Ltd</p> <p>These claims relate to price damage and loss of income due to delayed expansion in 1993.</p> <p>Two identical summonses have been served on behalf of Wadbister Salmon Ltd and Wadbister Offshore Ltd for £1 980 978.</p> <p>The claims previously submitted relate to salmon price damage in the amount of £616 018 for the period from June 1993 – June 1995 and for loss of profit following the decision not to expand the companies' salmon farming business during 1993, in the amount of £1 332 000.</p> <p>The loss of profit claim was considered by the Executive Committee at its 40th session. The Committee decided that the claim should be rejected as the alleged losses could not be considered as damage caused by contamination but were a result of the claimants' decision not to order the equipment as planned (cf FUND/EXC.40/10 paras 3.5.18 – 3.5.19).</p> <p>Defences will be submitted in line with the decisions of the Executive Committee.</p>	1 980 978 claimed twice	
1	<p>Shetland Salmon Producers Ltd Weisdale Salmon Ltd</p> <p>These claims include items relating to the destruction of the 1991 and 1992 year salmon. It is expected that a settlement will be reached in respect of these items in the near future.</p> <p>In addition, these claims include an item relating to price damage for £1 million, which would be withdrawn once the settlement of the other heads of claim has been finalized.</p>	2 204 035	

Number of Claims		Sub Total £	Total £
1	<p>Shetland Salmon Producers Ltd - insurance claim</p> <p>This claim has been submitted on behalf of the insurers of a fishfarm which paid a claim for the loss of a number of the 1992 year salmon at that farm which escaped after the farmer's cages were damaged in a storm on 22 January 1994.</p> <p>The insurers have maintained that as the exclusion zone was in force at the time the fish were lost in the storm, they could not be sold, and if they had not escaped they would have been destroyed and would then have been the subject of a claim for compensation. This claim is being examined.</p>	284 512	
1	<p>Shetland Sea Farms Ltd</p> <p>This claim relates to non-introduction of smolt and other items relating to the destruction of 1991 and 1992 year salmon and damage to fish farm property. The fisheries experts of the IOPC Fund have been involved in discussions with representatives of this company recently. Settlement of this claim may be possible in the near future.</p>		2 547 712
5	<p>Costs of preventive measures and fees</p> <p>These claims are for costs incurred by owners of salmon in the exclusion zone following the incident, including surveyors and veterinary fees together with costs for having fish analysed by a University in Scotland. These claims may well be for the costs incurred by the fish farm insurers rather than the fish farmers. Defences will be lodged rejecting these costs as being unreasonable. In some cases the costs are in respect of activities carried out that duplicated efforts made by the individual salmon farmers, for which compensation has already been paid.</p>		79 575
1	<p>Shetland Atlantic Salmon Ltd</p> <p>Claim re destruction 1991 and 1992 year salmon and claim in respect of losses associated with cash flow problems allegedly due to delay in compensation payments. Analysis of the limited information available indicates that the cash flow problems existed in any event, and the timing of purchases the farmer alleges he could not make did not coincide with times when, in the claimant's view, compensation should have been payable.</p>		500 000

Number of Claims		Sub Total £	Total £
1	Landcatch Smolt producers on the Scottish mainland – claim rejected (cf FUND/EXC.40/10 para 3.5.11).		1 961 347
1	Westside Fishermen Ltd – Fishing Agent Claim relates to loss of commission and loss of income due to reduced sales of fuel, chandlery, fish boxes etc. Claim first submitted in October 1995. Little evidence has been provided to demonstrate how the alleged losses can be attributed to the <i>Braer</i> incident.		130 217
	Fishing		30 212 908
	Fishing claims – general In respect of most claims the summonses are very vague, with most listing all heads of claim that a Shetland fisherman could possibly have, and only one or two providing any details of how the amount claimed has been calculated. For this reason it has not been possible to provide a more detailed breakdown of these claims. The IOPC Fund has contacted all claimants inviting them to provide an explanation of the amount claimed, with supporting documents, so as to facilitate negotiations with claimants. Information provided verbally indicates that some claims have been calculated on the basis of the fishermen's gross annual income multiplied by five, seven or in a few cases ten years.		
42	Fishing All types of fishing mentioned	22 457 678	

Number of Claims		Sub Total £	Total £
	<p>Prawn fishing</p> <p>Information on the sediment types of the seabed around South Shetland recently made available has enabled the IOPC Fund's experts to make an assessment of the areas where prawns would be expected to be found and the productivity of the area of the exclusion zone. This assessment indicates that the claims of the prawn fishermen far exceed the realistic productivity of the prawn fishing grounds.</p> <p>Fishing Quota</p> <p>Many summonses include references to losses associated with the reduction in quota allocation that will result from fishermen being unable to fish for prawns in the exclusion zone.</p> <p>The Executive Committee considered this type of claim at its 46th session (cf FUND/EXC.46/12 paras 3.3.1 - 3.3.9) and decided that such claims should be rejected as the alleged losses could not be considered as damage by contamination.</p> <p>Defences to this head of claim have been prepared in accordance with the decision of the Executive Committee.</p>		

Number of Claims		Sub Total £	Total £
9	<p>Herring and Mackerel</p> <p><u>Herring</u></p> <p>Claims relate to alleged losses due to a reduction in the sales of roe-in herring in 1993.</p> <p>Oil in the sediments of the habitual spawning grounds of herring around the south of Shetland was found not to be <i>Braer</i> cargo oil. The claimants have suggested that the oil may be bunkers from <i>Braer</i>. Efforts to obtain a sample of <i>Braer</i> bunkers have failed.</p> <p>No explanation has been found for the failure of the roe-in herring fishery in 1993, although herring are known to be particularly unpredictable in their behaviour.</p> <p><u>Mackerel</u></p> <p>The alleged losses associated with price reduction of mackerel has been assessed overall by the IOPC Fund's fisheries experts. The claimants have, however, so far failed to produce any evidence to demonstrate which individuals may have suffered any loss.</p>	1 534 865	
1	<p>Mussel farmer</p> <p>This mussel farmer is unable to harvest and sell produce as the ban is still in force for mussels. The farmer has claimed that the ban may last for a further five years.</p> <p>No details of the claim calculation have been provided.</p>	294 000	

Number of Claims		Sub Total £	Total £
1	<p>I Walterson</p> <p>This claim relates to loss of income from fishing and loss on sale of boat £700 000.</p> <p>This fisherman has claimed for loss of income as a result of not being able to fish within the exclusion zone and then due to reduced catches after the fishing ban was lifted until he sold his boat on 20 May 1995. He has maintained that due to a reduced quota allocation and poor track record (due to being unable to fish in the exclusion zone) he sold his boat at a price reduced by £700 000.</p>	1 293 555	
4	<p>Scallop fishing</p> <p>These fishermen have been unable to fish in the exclusion zone during the fishing ban for shellfish, and have alleged that since the ban was lifted catches have been lower than expected. It has been alleged that there is long term damage to the shellfish stocks and that fishing outside the exclusion zone has caused other areas to be over exploited.</p>	205 384	
4	<p>Scallop divers</p> <p>The claims of the divers are similar to those of the scallop fishermen.</p>	913 797	
3	<p>Lobster fishermen</p> <p>These fishermen were prevented from fishing for lobsters in the exclusion zone, and it is alleged that when the ban was lifted catches were much lower than expected. It is also alleged that there is long term damage to lobster stocks in the area traditionally fished by these fishermen around the wreck.</p>	672 937	

Number of Claims		Sub Total £	Total £
4	<p>Burra Haaf</p> <p>The Executive Committee has, at its 44th session, considered the claims of four fishermen whose boats are only suitable for fishing in an area in the exclusion zone known as the Burra Haaf.</p> <p>Oil in the sediments of the Burra Haaf has been acknowledged to have adversely affected the fishery activity in this area. The fishermen still report very poor catches, and continue to suffer financial hardship as a result of the incident and the suspension of payments of compensation.</p> <p>Final settlement of the claims may take some years due to acknowledged continuing losses being experienced. The Executive Committee decided not to pay compensation for ongoing losses by way of a lump sum settlement (cf FUND/EXC.44/17 paras 3.4.7 – 3.4.12).</p>	2 840 692	
10	<p>Fish Processors</p> <p>Summonses have been served by 10 fish processing companies. Their claims include many items, such as loss of income due to reduced supplies of raw materials, reduced demand for processed fish, and increased costs associated with finding alternate sources of supply.</p> <p>Many claims do not provide detailed information as to how the amounts have been calculated. Some claims include items that have previously been rejected. In respect of other claims the IOPC Fund's experts believe that the claimants have already received full compensation for their losses.</p>		10 505 245

Number of Claims		Sub Total £	Total £
1	<p>Shetland Fish Processors Association</p> <p>The claim is for interest and fees on behalf of various members.</p> <p>In respect of some fish processors claims a full and final settlement was reached and a receipt and release was signed by the claimant in exchange for a letter from the IOPC Fund confirming that the question of interest and fees was still outstanding.</p> <p>This claim has been presented on behalf of seven fish processing companies, only four of which obtained a letter in respect of interest and fees, and one company has not yet accepted a full and final settlement of its claim. The other two companies have not received such a letter, and their claims will be rejected.</p>		229 489
1	<p>Shetland Fish Producers Organisation</p> <p>The claim is for fees on behalf of various members.</p> <p>This claim has been submitted on behalf of a group of fishermen who were paid compensation including interest for price damage of white fish.</p> <p>All claimants who have received compensation for this type of loss have signed a full and final receipt and release. No undertaking was given by the IOPC Fund in respect of fees which are now the subject of this claim. This claim will be rejected.</p>		36 108
1	<p>Tourism – Trustees of Lerwick Harbour, owners of the Shetland Hotel</p> <p>This claim is for loss of income due to alleged drop in tourism in 1993 and 1994. The claim for 1993 was rejected by the IOPC Fund as income during that year was 10.4% higher than in 1992, and the claim for 1994 has been rejected as the IOPC Fund's tourism experts considered that the <i>Braer</i> incident did not have any adverse effect on the Shetland tourist industry in 1994.</p>		149 000

Number of Claims		Sub Total £	Total £
2	<p>Tourism & Property Damage</p> <p><u>Barclay</u></p> <p>This claim for loss of income and property damage to felt roofs and windows was first submitted to the IOPC Fund in mid December 1995, and is in respect of two hotels, one of which is no longer owned by the claimant.</p> <p>The new owner of the second hotel has already been paid compensation for property damage.</p> <p>The claim relating to loss of income claim has been reviewed by the IOPC Fund's experts, and further detailed information has been requested from the claimants.</p> <p><u>Johnston</u></p> <p>The claims for loss of income from tourism and property damage which are the subject of this summons have previously been rejected by the IOPC Fund, as no loss or damage had been demonstrated that could be attributed to the incident.</p>		150 000
	Property Damage		8 031 650
1	<p>Felt roofs</p> <p>This claim has been approved by the Director in November 1995 but has not been paid because of the suspension of payments.</p> <p>The claimant appreciates that he need not have commenced legal proceedings and does not intend to pursue his claim in court.</p>	40 650	

Number of Claims		Sub Total £	Total £
	Asbestos cement roofs – many summonses include other items of claim		
38	Asbestos cement roof only	1 806 000	
4	Asbestos cement roof + personal injury	455 000	
14	Asbestos cement roof + other property damage	730 000	
3	Asbestos cement roof + farming	335 000	
13	Asbestos cement roof + other property + farming	2 550 000	
2	Asbestos cement roof + personal injury + farming	105 000	
4	Asbestos cement roof + other property + personal injury	850 000	
6	Asbestos cement roof + other property + personal injury + farming	1 160 000	

Number of Claims		Sub Total £	Total £
	<p>Asbestos cement roof claims</p> <p>All claims for damage to asbestos cement roofs which have become the subject of legal proceedings have previously been rejected by the Director. This decision was endorsed by the Executive Committee at its 46th session (cf FUND/EXC.46/12 paras 3.3.10 – 3.3.12).</p> <p>Defences to these claims have been based on the results of the investigation carried out by consulting civil engineers appointed by the IOPC Fund. The consulting engineers concluded that the analysis of the physical characteristics of the materials revealed nothing which was inconsistent with the age of the roofs, their degree of exposure and the standard of workmanship and maintenance. They also stated that the physical and microstructural analysis had revealed no evidence that oil from the <i>Braer</i> had contributed to the deterioration of the materials examined and that the chemical analysis and petrographic examinations had revealed no evidence that petroleum hydrocarbons had penetrated the materials or that the materials had suffered any kind of deterioration as a result of contamination by hydrocarbons.</p> <p>Some claims for damage to asbestos cement roofs include other items, in respect of which very little information has been provided.</p>		

Number of Claims		Sub Total £	Total £
	<p>Such items include -</p> <ul style="list-style-type: none"> - other property damage <ul style="list-style-type: none"> - damage to double glazed windows - damage to galvanized metal materials - farming losses <ul style="list-style-type: none"> - unexpected deaths of newborn lambs due to vitamin E deficiency - disruption of the reproductive cycle of cattle - personal injury <ul style="list-style-type: none"> - breathing difficulties after working outside - physical injuries following extra hard labour - stress - eye nose and throat problems - pain generally - ulcers <p>No details have been provided of how these items of claims will be substantiated.</p>		
	<p>Loss of Income - Magnus Smith - Wholesale Butcher</p> <p>This claim relates to loss of income resulting from a cancelled contract to supply lambs to the Faroe Islands for four years.</p> <p>This individual has already received compensation for his loss of income during 1993, and at that time signed a receipt and release in full and final settlement and discharge of his claim for compensation for loss of profit on the sale of slaughtered lambs to Shelti (the Faeroese company) due to oil pollution damage arising out of the <i>Braer</i> incident. This claim has not yet been called in court, but when it does defences will be lodged and the court informed that compensation has been paid in full.</p>		650 000
	Shipowner's LOF 90 (special compensation) claim		1 678 126

Number of Claims		Sub Total £	Total £
	Grand Total (including one probable duplication for £1 980 978)		<u>80 368 325</u>