



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

EXECUTIVE COMMITTEE
48th session
Agenda item 3

FUND/EXC.48/2/Add.1
16 April 1996

Original: ENGLISH

SEA EMPRESS INCIDENT

Note by the Director

1 Clean-up operations

1.1 Shoreline clean-up work continues at various locations, mainly where amenity considerations indicate that a high standard of cleaning is required. Although the size of the work force is greatly reduced, the Joint Response Centre has remained in operation to provide co-ordination of work at widely dispersed sites and to provide continuity during a re-structuring of the local government administration.

1.2 On 1 April 1996 the responsibility for shoreline clean-up was transferred to the new Pembrokeshire County Council and Carmarthenshire County Council.

2 Payments made by the Skuld Club

2.1 As at 15 April 1996, 74 claimants had requested hardship payments. Payments totalling £240 336 had been made or authorised to 41 claimants. Three of these payments related to small businesses and one to an oyster farm located within the area affected by the fishing ban imposed by the United Kingdom authorities. The remaining 37 payments were made to fishermen who have been prevented from fishing as a result of the fishing ban. Most of the 33 outstanding requests were received only a few days ago.

2.2 As at 14 April 1996, claims had been received from 17 owners of pleasure craft and fishing boats for cleaning their craft. Payments totalling £5 269 had been made to ten claimants in this category.

2.3 The payments referred to in paragraphs 2.1 and 2.2 have been made by the Skuld Club after consultation with the Director.

3 Payments by the IOPC Fund

3.1 At its 47th session the Executive Committee expressed its concern that the total amount of the claims arising out of this incident might exceed the total amount of compensation available under the Civil Liability Convention and the Fund Convention, viz 60 million SDR (£57 million).

3.2 The Director has made an attempt to assess the level of potential claims, in order to enable him to make a proposal to the Executive Committee of the extent to which the IOPC Fund should make payments at this stage. He has taken note of the information set out in the document presented by the United Kingdom delegation (document FUND/EXC.48/2/1).

3.3 The total cost of the clean-up operations in the United Kingdom can be estimated at £11-£16 million, out of which £8-£11 million would fall on the United Kingdom Government and £3-£5 million on the local authorities. It is understood that these amounts would include the cost of waste disposal.

3.4 The cost of the clean-up operations in Ireland is at such a low level that it does not have any significance for the assessment of the total amount of the admissible claims.

3.5 The Milford Haven Harbour authority is expected to present a claim for clean-up costs not exceeding £500 000.

3.6 Texaco (the owner of the refinery in Milford Haven) is expected to submit a claim for the cost of clean-up operations in the region of £500 000.

3.7 The claims in respect of contamination of pleasure craft, fishing boats, moorings and buoys are estimated to total £100 000. There are also some claims for relatively small amounts for cleaning contaminated buildings and sea walls, and for repairing property damaged during clean-up operations.

3.8 Voluntary groups which have been involved in bird cleaning may submit claims.

3.9 There may be a claim by the salvors who may argue that part of the salvage operations and related operations should be considered as preventive measures. The Director is not able to make any reliable estimate of the likely level of such a claim, if any. In the United Kingdom delegation's document, allowance has been made for a figure of £3-£7 million.

3.10 As stated in document FUND/EXC.48/2, the total value of annual landings for inshore fishery and shellfish gathering in south west Wales has been estimated at £6 million, of which about two thirds derives from the area covered by the fishing ban. Since the whelk fishery is expanding, these estimates could be on the low side. The total amount of the losses in this industry will depend mainly on how long the fishing ban imposed by the United Kingdom Government is maintained.

3.11 There may also be some claims from fish processors in Milford Haven.

3.12 The offshore fishing industry should not be affected by the *Sea Empress* oil spill.

3.13 Claims will be submitted by owners of river fishing rights, angling interests and various businesses affected by the fishing ban covering the rivers and streams referred to in paragraph 3.3 of document FUND/EXC.48/2. It is not possible at this stage to make any estimate of the level of these claims.

3.14 In the document submitted by the United Kingdom delegation the level of admissible claims from the fishing industry has been estimated at about £10 million, with possible small variations dependent on the length of time the fishing bans apply.

3.15 The tourism industry in Pembrokeshire (the county in which Milford Haven is located) is estimated to have a total annual turnover in the region of £150-£200 million (cf documents FUND/EXC.48/2/1, paragraph 5 and FUND/EXC.48/2/Add.2, paragraph 3). The main tourist season runs from April to October, with an initial small peak over Easter and the major peak in July and August. In the United Kingdom delegation's document the reduction in business has been assessed at between £10 million and £15 million for 1996, with little likely effect in future years. The Director believes, however, that it is not possible at this stage to make any accurate estimate of the losses qualifying for compensation which will be suffered by businesses in the tourism and related industries.

3.16 The Director feels unable at this stage to make any accurate estimate of the total amount of the admissible claims arising out of this incident. The United Kingdom Government has as its best estimate indicated a total of likely claims between £34 and £48 million. In view of the uncertainty in respect of the level of admissible claims in the tourism sector and, to a lesser extent, of those in the fishing sector, the Director cannot at this stage be certain, however, that the total amount of the established claims will not exceed the maximum amount available, viz 60 million SDR. The Executive Committee has recently in several cases taken the view that the IOPC Fund should exercise caution in the payment of claims, if the total amount of the admissible claims might exceed 60 million SDR (cf *Aegean Sea*, *Keumdong N°5*, *Sea Prince*, *Yeo Myung*, *Yuil N°1* and *Honam Sapphire* incidents). It is, however, necessary, in the Director's view, to strike a balance between the need to prevent an overpayment situation and the importance of the Fund paying compensation as promptly as possible to victims of oil pollution damage. He feels it is also important that the Fund should not be over cautious, in the interest of the efficient functioning of the system of compensation under the Civil Liability Convention and the Fund Convention. In the light of the foregoing, the Director proposes that he should be authorised, at this stage, to make payments for 75% of the damage suffered by the respective claimants on the basis of the advice of the IOPC Fund's experts at the time when a payment is made.

3.17 The Director proposes that the Executive Committee should reassess the situation at its 49th session, to be held in June 1996.

4 Action to be taken by the Executive Committee

The Executive Committee is invited to:

- (a) take note of the information contained in this document; and
 - (b) give the Director such instructions in respect of the payments of claims as it may deem appropriate.
-