



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1971

EXECUTIVE COMMITTEE  
51st session  
Agenda item 4

71FUND/EXC.51/2  
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## ANY OTHER BUSINESS

### USE OF EXPERTS BY THE 1971 FUND

#### Note by the Spanish delegation

#### 1 Introduction

In the light of developments over recent years and particularly procedures involved in the *Aegean Sea* case, the Spanish delegation proposed, at the Executive Committee's 49th session, that the Executive Committee consider the question of the 1971 Fund's use of experts. This paper discusses possible ways to improve the criteria upon which experts are selected as well as a method of assessing the work carried out by such experts.

#### 2 The context

2.1 Good principles have been established by the 7th Intersessional Working Group and endorsed at the 17th Assembly of the 1971 Fund as set out by the Director in document 71FUND/EXC.50/15. These principles ensure the early presence of the best possible expertise at the site of an oil spill in order that the operations may be followed, that the damage may be assessed and preventive measures to be taken (if any) discussed with the national authorities of the State involved.

2.2 Following the *Braer*, the *Aegean Sea* and *Sea Empress* incidents, local claims handling offices were set up in the affected areas by the 1971 Fund and the P & I Club involved. The Spanish Government was a party to the agreement to establish the Joint Claims Office in La Coruña (Spain) following the *Aegean Sea* incident. The purpose of these offices is to provide information and assistance to victims of an oil spill, and to explain clearly to claimants the need to provide evidence to substantiate losses. Some Fund experts have played a role in the operations of the claims handling offices.

2.3 As a result of its experience during the *Aegean Sea* incident the Spanish Government believes that a study of possible ways to improve current policy would be valuable. Such a study could look at ways of ensuring a better balance between national and international experts. Ways of combining

consideration and understanding of local situations whilst still guaranteeing objective and impartial advice should also be investigated.

2.4 Special attention should be paid to the use of experts in situations of financial hardship.

2.5 The Spanish Government would not propose any measures contrary to the 1969 Civil Liability Convention, 1971 Fund Convention or the key principles of the 1971 Fund's current policy on engaging and using experts. The Spanish Government's intention is to promote an examination by the Fund and International Group of P & I Clubs of this matter.

2.6 Article 29.2 of the 1971 Fund Convention provides that the role of the Director shall be:

"to the extent necessary to deal with claims against the fund and carry out the other functions of the Fund, employ the services of legal, financial and other experts".

This Article specifies that one of the functions of the Director is to take decisions concerning the use of legal, financial and other experts.

2.7 The Fund Convention also provides that one of the functions of the Executive Committee is to approve settlement of claims and to take all other necessary steps relating to the settlement of claims against the Fund as well as to give the Director instructions such as it deems appropriate concerning the administration of the Fund (Article 26.1(b)). A further function of the Executive Committee is to supervise the proper execution by the Director of the Conventions, the decisions of the Assembly and of its own decisions.

### **3 Proposals**

The Spanish Government proposes that the 1971 Fund, in consultation with the International Group of P & I Clubs, should explore the following issues:

- use of national and international experts:
  - (a) from the outset of an incident (not only for the preparation of the Fund's position in Court)
  - (b) to ensure that they speak the language of the country involved
  - (c) to ensure that they have knowledge of the compensation system as well as of national law and international practices
- use of a larger pool of experts in Fund affairs
- the Director should be given instructions to study:
  - (a) ways of establishing criteria to assess work done by the experts; and
  - (b) standard methods to be used by the experts in the assessment of claims.

### **4 Conclusion**

The Spanish delegation recommends that the Executive Committee instruct that the Director to study the proposals put forward in this document and report his findings to the 52nd session of the Executive Committee.

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