



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1971

EXECUTIVE COMMITTEE
52nd session
Agenda item 3

71FUND/EXC.52/3
31 January 1997

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INCIDENTS INVOLVING THE 1971 FUND

AEGEAN SEA

Note by the Director

1 Introduction

At its 50th session the Executive Committee considered notes by the Director (documents 71FUND/EXC.50/4 and 71FUND/EXC.50/4/Add.1) on the developments in the Aegean Sea case (Spain, 3 December 1992) and in particular on the judgement rendered by the Criminal Court in La Coruña on 30 April 1996, the 1971 Fund's appeal against the judgement, the appeals lodged by the other parties and the Fund's response to these appeals. This document reports on the developments which have taken place since that session.

2 Situation in the criminal proceedings

2.1 The 1971 Fund has not yet been notified of the responses submitted by the other parties to the Fund's appeal. The criminal file, including the judgement, the appeals and the responses to the appeals have been sent by the Criminal Court to the Court of Appeal. Under Spanish procedural law, it is for the Court of Appeal to decide whether a hearing should be held.

2.2 It is likely that the Court of Appeal will render its judgment in the first half of 1997.

3 Negotiations with claimants

3.1 In December 1996 a meeting was held between representatives of a group of shellfish harvesters and the Director. During that meeting the claimant's representative confirmed that this group had records of catches which would prove their losses and that those records were available for inspection by the experts engaged by the UK Club and the 1971 Fund. It was agreed that a follow up meeting would take place.

3.2 Another meeting with representatives of these claimants took place in La Coruña on 30 January 1997. Further meetings are planned in the near future to inspect the records which will be made available for inspection.

3.3 On 30 January 1997 a meeting was held with representatives of the Spanish Government to discuss its claim for the costs of replacing sand on several beaches (document 71FUND/EXC.50/4, paragraph 8.1.3). It was agreed at that meeting that further documentation would be supplied by the claimant. It is anticipated that another meeting will take place once those documents have been made available and reviewed.

3.4 Additional information has been requested from a number of other claimants whose claims are not time-barred. Discussions with these claimants are continuing.

4 Criticism against the 1971 Fund by a representative of a group of claimants

4.1 In an issue of a Galician newspaper, published in November 1996, the Secretary of the Association of Shellfish harvesters (Cofradías) was reported to have made serious allegations against the 1971 Fund. He was reported to have qualified the responsible persons of the 1971 Fund as international criminals because they had played at their will with the most peremptory need of 3 000 families.

4.2 Recognising that the Spanish Government was not in any way responsible for the statement of the above-mentioned secretary, the Director has nevertheless thought it appropriate to convey to the Director General of the Merchant Marine his concern in respect of the allegations.

4.3 In his letter to the Director General, the Director stated that the 1971 Fund had full understanding of the difficulties encountered by the claimants as a result of the slow payment of compensation in the Aegean Sea case. He made the point, however, that the delay in payments was due mainly to two factors, namely the high total amount of the claims which greatly exceeded the total amount of compensation available under the applicable international Conventions, and the lack of evidence presented by the claimants. He stated that the 1971 Fund was willing to make further efforts to reach out-of-court settlements provided that claimants were prepared to submit the necessary evidence, but that the Fund was not prepared to deal with the secretary of the Cofradías in view of the seriousness of the allegations which could only be understood as referring not only to the Director but also to representatives of the Governments of Fund Member States who determine the policy of the 1971 Fund concerning the handling of claims and the criteria for the admissibility of claims.

5 Contacts between the Director and the Spanish Government

A meeting was held in January 1997 between the Director and the Director General of the Merchant Marine and other representatives of the Spanish Government for the purpose of finding ways to make progress towards out-of-court settlements. It is envisaged that further discussions will be held to this effect.

6 Action to be taken by the Executive Committee

The Executive Committee is invited:

- (a) to take note of the information contained in this document;
- (b) to give the Director such instructions as it may deem appropriate in respect of the handling of the claims arising out of this incident.