



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1971

EXECUTIVE COMMITTEE
62nd session
Agenda item 3

71FUND/EXC.62/11/Add.1
17 October 1999

Original: ENGLISH

INCIDENTS INVOLVING THE 1971 FUND

PONTOON 300

Note by the Director

Summary:	Although a recourse claim by the 1971 Fund against the owner of tug <i>Falcon 1</i> in tort has a three year time bar, claims for liability arising out of a towing operation become time-barred after two years.
Action to be taken:	Decide whether the 1971 Fund should, as a precaution, commence recourse action against the owner of the <i>Falcon 1</i> before the two-year anniversary of the incident.

1 Legal action against the owners of the tug *Falcon 1*

1.1 As reported in document 71FUND/EXC.62/11, the Director has instructed the 1971 Fund's lawyers in the United Arab Emirates to investigate the cause of the incident and the possibilities of taking recourse action.

1.2 The 1971 Fund's lawyers are trying to obtain evidence, in the form of crew statements, collected by the Sharjah police in the course of their investigations into the cause of the incident. The 1971 Fund is seeking the assistance of the Ministry of Interior and the Federal Environment Agency. Without such evidence there would in the lawyer's view be little chance of success in any recourse action.

1.3 A claim against the owner of the tug in tort would under the Law of the United Arab Emirates be time-barred when three years have lapsed from the date when the person who suffered the damage became aware of the act which caused the damage. However, it might be argued that the pollution damage in this case arose out of a towage operation, and the time bar period would then be two years from the date of termination of the operation.

1.4 It should be recalled that the Executive Committee has taken the view that the policy of the 1971 Fund is to take recourse action whenever appropriate and that the Fund should in each case consider whether it would be possible to recover any amounts paid by it to victims from the shipowner or from other parties on the basis of the applicable national law. The Director is of the view that the 1971 Fund should, as a precaution, commence legal action against the owner of the *Falcon 1* within the two year time bar period (6 January 2000).

2 Action to be taken by the Executive Committee

The Executive Committee is invited:

- (a) to take note of the information contained in this document; and
 - (b) to decide whether the Director should continue to pursue recovery of the compensation amounts paid by the 1971 Fund and, if necessary, commence legal action.
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