



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

SEVENTH INTERSESSIONAL
WORKING GROUP
Agenda item 2

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CRITERIA FOR THE ADMISSIBILITY OF CLAIMS FOR COMPENSATION

Note by the Polish Delegation

1 The Polish delegation is of the opinion that there is a need to define criteria which can reconcile fair compensation for victims of pollution within the legal framework of the 1969 Civil Liability Convention and the 1971 Fund Convention.

2 Modern law of transboundary harm is based on the philosophy of costs which must be reflected in the conclusions reached by the Working Group to study certain issues raised in the Executive Committee. A priority should be given to all categories of claims (public and private) for recovery of costs of preventive measures and reinstatement undertaken or to be undertaken on behalf of the environment by a person authorised by the administration. So-called "abstract" preventive measures which are not linked to physical pollution, but rather to the economic consequences of pollution should not be cast aside on the basis of an interpretation of the definition of damage by contamination laid down in the 1969 Civil Liability Convention.

3 In respect of damage to property two different concepts were adopted by legislators. For pragmatic reasons it is necessary to use strict interpretation of those rules of tort which are in favour of a wide scope of public property (eg Italian law of tort) and wide interpretation of those rules of tort which still follow the ancient Roman concept of damage to property (eg tort law in Scotland).

4 The recoverability of financial losses that are not connected with personal injury or physical pollution protects tourism or fishing industry, but not the environment. It may even restrict environmental protection in case of competition between "economic" claims and "environmental" claims. So-called "pure economic loss" which can be indemnified without any doubts (according to the law of tort in Sweden, for example) should not therefore be accepted in the practice of the IOPC Fund.
