



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

EXECUTIVE COMMITTEE
11th session
Agenda item 4

92FUND/EXC.11/4
22 January 2001
Original: ENGLISH

ANY OTHER BUSINESS

DOLLY INCIDENT

Note by the Director

Summary:	Technical details of the <i>Dolly</i> are given as well as information on the proposed options for removing the bitumen cargo from the wreck.
Action to be taken:	a) Decide whether the <i>Dolly</i> falls within the definition of ship in the 1992 Conventions; b) Decide whether operations to prevent pollution by the bitumen fall within the concept of preventive measures in these Conventions.

1 The incident

- 1.1 The *Dolly* (289 GT), registered in Dominica, was carrying some 200 tonnes of bitumen (a very persistent hydrocarbon product) when it sank on 5 November 1999 in 20 metres depth in Robert Bay, Martinique. So far no cargo has escaped.
- 1.2 There is a national park, a coral reef and mariculture near the grounding site, and artisanal fishing is carried out in the area. There are fears that fishing and mariculture would be affected if bitumen were to escape.
- 1.3 The *Dolly* was originally a general cargo vessel, but special tanks for carrying bitumen had been fitted, together with a cargo heating system. The ship did not have any liability insurance. The owner is a company in St Lucia.
- 1.4 The shipowner was ordered by the authorities to remove the wreck by 7 December 1999 but he did not comply with the order, probably due to lack of financial resources.

2 The definition of 'ship'

- 2.1 The Director informed the French Government that the 1992 Fund reserved its position as to whether the *Dolly* fell within the definition of 'ship' laid down in the 1992 Civil Liability Convention and the 1992 Fund Convention and whether therefore the 1992 Fund Convention applied to the incident. In the Director's view, more details of the ship were required in order to enable the 1992 Fund to take a position on this issue.
- 2.2 At the Executive Committee's 9th session, the French delegation stated that it understood the Director's reservations as to whether the *Dolly* fell within the definition of 'ship'. That delegation stated that whilst it was trying to obtain further details about the ship, it should be noted that the *Dolly* was carrying a cargo of bitumen, a persistent oil, and also had on board a heating system to keep the oil in such a state that it would be fluid enough for pumping.
- 2.3 The French authorities have recently provided the 1992 Fund with more information on the ship, including the original drawings and a sketch showing modifications that were subsequently made to the vessel. The documentation has been examined by the 1992 Fund's technical experts.
- 2.4 The *Dolly* was built in 1951 as a general cargo vessel and was listed in Lloyds Register (1998-99) as such. However, at some later date, three tanks were installed in the hold and the opening of the original hatch was closed with steel plates. The sketches available to the 1992 Fund show that the tanks were not part of the ship's structure but were secured within the ship's hold with chains and surrounded with insulation material.
- 2.5 The 1992 Fund's experts have expressed the opinion that the *Dolly* had been adapted for the carriage of oil in bulk as cargo and that it therefore fell within the definition of 'ship' laid down in the 1992 Civil Liability Convention and integrated in the 1992 Fund Convention. The Director shares this view.

3 Measures to prevent pollution

- 3.1 Since the shipowner did not take any measures to prevent pollution, the French authorities arranged for the removal of 3.5 tonnes of bunker oil. The French authorities requested three salvage companies to submit proposals on how to eliminate the threat of pollution by bitumen. These companies undertook diving inspections of the wreck in October and November 2000. The French authorities have provided the 1992 Fund with copies of the salvors' proposals.
- 3.2 Two of the companies have proposed removing the bitumen tanks intact while leaving the wreck in its current position. Both companies estimated the cost to be in the region of US\$ 1.5 million (£990 000).
- 3.3 The third company has proposed righting the wreck and refloating it with its cargo on board. The cargo would then be removed before scuttling the wreck in deep water. The cost of this operation has been estimated at US\$950 000 (£638 000). The French authorities have studied a variation of this method, in which the wreck would be broken up onshore after removal of the bitumen.
- 3.4 The Director considers that, in view of the location of the wreck in an environmentally sensitive area, an operation to remove the threat of pollution by the bitumen would in principle constitute 'preventive measures' as defined in the 1992 Conventions.
- 3.5 The 1992 Fund experts are examining the proposed methods and will discuss the problems involved with the French authorities.

4 **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 decide whether the *Dolly* falls within the definition of 'ship' laid down in the 1992 Conventions, and
 - c) to give the Director such instructions in respect of the handling of this incident as it may deem appropriate.
-