



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1992

EXECUTIVE COMMITTEE  
14th session  
Agenda item 3

92FUND/EXC.14/11  
10 October 2001  
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## INCIDENTS INVOLVING THE 1992 FUND

### DOLLY

#### Note by the Director

<b>Summary:</b>	The <i>Dolly</i> sank in 20 metres of water with a cargo of some 200 tonnes of bitumen on board. The 1992 Fund's experts examined the proposals made by three salvage companies on how to eliminate the threat of pollution by bitumen. The proposal favoured by the Fund's expert would involve refloating the wreck, removing the cargo and scuttling the ship in deep water. The French authorities also favour refloating prior to removal of the cargo, but propose to cut up the wreck on shore instead of scuttling at sea.
<b>Action to be taken:</b>	Note the information contained in the document.

### 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, held in October 2000, 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     At its 11th session, held in January 2001 the Executive Committee considered the question of whether the *Dolly* fell within the definition of 'ship' in the light of information which the French authorities had provided the 1992 Fund, including the original drawings and a sketch showing modifications that were subsequently made to the vessel.
- 2.4     The Committee noted that the *Dolly* had been built in 1951 as a general cargo vessel and had been listed as such in Lloyds Register (1998-99). It was further noted that at some later date three tanks were installed in the hold and the opening of the original hatch was closed with steel plates. The Committee also noted that the sketches available to the 1992 Fund had shown 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 Committee also took note of the 1992 Fund's experts having expressed the opinion, and the Director having concurred, 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.
- 2.6     The Committee endorsed the Director's view that the *Dolly* fell within the definition of 'ship' as laid down in the 1992 Civil Liability Convention (document 92FUND/EXC.11/6, paragraph 4.2.5).

## **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 and requested three international salvage companies to investigate what measures could be taken to eliminate the threat of pollution by bitumen. These companies submitted their proposals on the basis of diving inspections of the wreck carried out in October and November 2000. The French authorities provided the 1992 Fund with copies of the proposals.
- 3.2     Two of the companies proposed removing the bitumen tanks intact while leaving the wreck in its current position. Both companies estimated the cost of such an operation to be in the region of US\$1.5 million (£990 000).
- 3.3     The third company proposed righting the wreck and refloating it with its cargo on board, following which the bitumen would then be removed and the wreck scuttled in deep water. The cost of this method was estimated at US\$950 000 (£638 000).
- 3.4     At its 11th session, held in January 2001, one delegation drew attention to the nature of bitumen, which required heating to high temperatures in order to flow. That delegation considered that the product would remain solid at ambient sea temperatures and questioned therefore whether the bitumen in the tanks represented a pollution risk.

- 3.5 The Head of the Claims Department stated that, in view of the shallow depth in which the wreck was located, rapid corrosion of the tanks was likely, which could lead to the escape of bitumen. He indicated that even if in a solid or highly viscous form the product could roll on the seabed and cause pollution of nearby coral.
- 3.6 The Committee concurred with the Director's opinion 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 (document 92FUND/EXC.11/6, paragraph 4.2.11).
- 3.7 One delegation stated that, whilst the early involvement of the 1992 Fund in any proposals for preventive measures was to be welcomed, it was important for the sake of consistency that the Fund did not take decisions as to what method should be used and which contractor should be engaged. It was also important in that delegation's view that the 1992 Fund did not guarantee to pay the costs of any such operations, but that these costs were presented as a claim for compensation, which would be subject to an assessment as to admissibility on the basis of the criteria laid down by the Assembly and Executive Committee.
- 3.8 The Committee instructed the Director to examine with the 1992 Fund's experts and the French authorities the proposed measures to remove the bitumen.
- 3.9 The Committee also instructed the Director to investigate the financial position of the shipowner.
- 3.10 The 1992 Fund's experts examined the proposed methods and expressed the view that the proposal set out in paragraph 3.3 is preferable on both technical and cost grounds. The French authorities have indicated that they also favour refloating the wreck prior to removing the cargo, but propose to cut up the wreck on shore rather than scuttle it.
- 3.11 In July 2001 the Director informed the French Government of the Fund's expert's opinion. The Director also stressed that any claims presented by the French authorities in respect of operations on the wreck of the *Dolly* would be examined against the Fund's admissibility criteria and that the Fund would not approve the costs of the operation in advance of the work being carried out.

#### **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 give the Director such instructions in respect of the handling of this incident as it may deem appropriate.
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