



INCIDENTS INVOLVING THE 1992 FUND

INCIDENTS IN SPAIN, GUADELOUPE AND THE UNITED KINGDOM

Note by the Director

Summary:	The 1992 Fund has been notified of three pollution incidents, in Spain, Guadeloupe (French Caribbean), and the United Kingdom, which may give rise to claims against the 1992 Fund for compensation for pollution damage. Investigations by the Spanish authorities have led to the conclusion that the pollution in Spain was caused by the Maltese tanker <i>Concordia I</i> . Investigations as to the source of the pollution in Guadeloupe are being carried out. Investigations by the authorities in the United Kingdom have indicated that the oil was most likely a heavy Middle East crude oil, but they have failed to identify any vessel associated with the pollution.
Action to be taken:	To authorise the Director to make final settlements on behalf of the 1992 Fund of claims arising from these incidents if the claimants are unable to obtain compensation under the 1992 Civil Liability Convention.

1 Incident in Spain

(Spain, 5 September 2000)

The incident

- 1.1 Between 5 and 15 September 2000 persistent oil landed on several beaches in Lugo and La Coruña, in Galicia (Spain).
- 1.2 Shoreline clean-up operations were carried out by the local fire brigades of the municipalities of Cervo and Xobe, in the north of Galicia.
- 1.3 Investigations by the Spanish authorities indicated that the oil could have been discharged on 3 September 2000 within the Spanish Exclusive Economic Zone to the north of Galicia, possibly from the Maltese tanker *Concordia I* (159 147 GT), which had passed the area at the assumed time of the oil spill on a ballast voyage from Rotterdam (Netherlands) to Sidi Kerir (Egypt).

- 1.4 The Spanish authorities boarded the *Concordia I* in Algeciras (Spain) on 7 September 2000 and took samples of oil from various tanks.
- 1.5 The *Concordia I* was entered in the Standard Steamship Owners' Protection and Indemnity Association (Bermuda) Ltd (Standard Club).
- 1.6 The shipowner has maintained that the oil did not originate from the *Concordia I*.

Claims for compensation

- 1.7 The municipalities of Cervo and Xobe have submitted claims totalling Ptas 1 006 500 (€ 049 or £3 835) to the Standard Club and to the 1992 Fund in respect of the costs of shoreline clean-up operations.

Applicability of the Conventions

- 1.8 The limitation amount applicable to the *Concordia I* under the 1992 Civil Liability Convention is 59.7 million SDR (£50 million).
- 1.9 The Spanish authorities have made available to the 1992 Fund the data obtained from the analyses of the samples of oil taken from the *Concordia I* and the samples of oil collected from the shorelines.
- 1.10 The Director has examined the data provided by the Spanish authorities and concurs with their conclusion that the oil from the *Concordia I* matches the polluting oil from the affected shorelines. The Director has informed the Spanish authorities and the Standard Club of his conclusions and has provided copies of the analytical data to the Club for their examination.
- 1.11 The Executive Committee may wish to consider whether it is prepared to authorise the Director to make final settlements on behalf of the 1992 Fund of all claims arising out of this incident to the extent that the claims do not give rise to questions of principle which have not previously been decided by the governing bodies of the 1992 Fund in the event that the claimants are unsuccessful in pursuing their claims against the shipowner.

2 Incident in Guadeloupe

(Guadeloupe, 30 June 2002)

The incident

- 2.1 On 23 July 2002 the Mayor of Petit-Bourg (Guadeloupe, Caribbean) informed the 1992 Fund of a pollution incident that affected the coast of the town on 30 June 2002.
- 2.2 On 1 July 2002 the Mayor issued a ban on sea bathing at Petit-Bourg until clean-up operations had been completed. On 5 July a fishing ban was imposed prohibiting foot-fishing pending the results of analyses carried out by the Department of Sanitation and Health.

Claims for compensation

- 2.3 The Mayor has estimated the costs of the clean-up operations at approximately €340 000 (£220 000). He has stated that the Department of Guadeloupe intends to submit claims for compensation to the 1992 Fund.

Applicability of the Conventions

- 2.4 Guadeloupe is a Department of France, which is Party to the 1992 Civil Liability Convention and the 1992 Fund Convention.
- 2.5 The Mayor of Petit-Bourg has stated that the pollution resulted from an illegal discharge at sea and that the authorities are trying to identify the ship responsible. Samples of the oil have been sent to a laboratory in France for analysis. The Director has requested that the 1992 Fund be kept informed of the results of the analysis.
- 2.6 The Executive Committee may wish to consider whether it is prepared to authorise the Director to make final settlements on behalf of the 1992 Fund of all claims arising out of this incident to the extent that the claims do not give rise to questions of principle which have not previously been decided by the governing bodies of the 1992 Fund in the event that the claimants are unable to pursue their claim against a shipowner in accordance with the 1992 Civil Liability Convention, but are able to establish that the pollution was caused by persistent oil originating from a ship as defined in the 1992 Civil Liability Convention.

3 Incident in the United Kingdom

(United Kingdom, September 2002)

The incident

- 3.1 On 29 September 2002 an unknown quantity of emulsified oil stranded on a 3 km stretch of shoreline near Hythe, Kent (United Kingdom).
- 3.2 Clean-up of the shorelines was undertaken by contractors appointed by the Shepway District Council with the assistance of Kent County Council. A total of 24 tonnes of oily waste material was collected and taken to a disposal facility in Kent.
- 3.3 The costs of clean-up have been provisionally estimated at around £7 000.

Applicability of the Conventions

- 3.4 The local authorities requested the Maritime and Coastguard Agency (MCA) to carry out analyses of the pollution samples, the results of which have been sent to the 1992 Fund.
- 3.5 The analytical report produced for MCA by a laboratory in Scotland concluded that the oil residues collected from the shoreline were most likely to have originated from a spillage of heavy Middle Eastern crude oil. The Director concurs with this conclusion.
- 3.6 There are no refineries or crude oil pipelines in the vicinity of Hythe. The Director is therefore of the view that the oil most probably originated from an oil tanker, ie a 'ship' as defined in the 1992 Civil Liability Convention.
- 3.7 The Committee may wish to consider whether to authorise the Director to make final settlements on behalf of the 1992 Fund of all claims arising out of this incident to the extent that the claims do not give rise to questions of principle which have not previously been decided by the governing bodies of the 1992 Fund in the likely event that the authorities are unable to identify a specific ship that caused the pollution.

4 **Action to be taken by the Executive Committee**

The Executive Committee is invited to:

- (a) take note of the information contained in this document;
 - (b) consider whether to authorise the Director to make final settlements of claims arising from these incidents; and
 - (c) give the Director such instructions in respect of these incidents as it may deem appropriate.
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