



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

EXECUTIVE COMMITTEE
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Agenda item 3

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INCIDENTS INVOLVING THE 1992 FUND

INCIDENT IN SWEDEN

Note by the Director

Summary:

Several Swedish islands in the Baltic Sea were polluted in September 2000. Subsequent investigations by the Swedish authorities indicated that the oil could have been discharged from the tanker *Alambra* during a ballast voyage to Tallinn, Estonia. The owner of the *Alambra* and his insurer maintain that the oil did not originate from that ship.

The Swedish authorities have indicated that they intend to try and recover their clean-up costs from the owner of the *Alambra*, but if they were to be unsuccessful in this regard, they may claim against the 1992 Fund.

The 1992 Fund is examining the results of analysis of oil samples carried out by the Swedish authorities.

Action to be taken:

Information to be noted.

1 The incident

- 1.1 Between 23 September and 9 October 2000 persistent oil landed on the shores of Fårö and Gotska sandön, two islands to the north of Gotland in the Baltic Sea, and on several islands in the Stockholm archipelago.
- 1.2 The Swedish Coastguard, the Swedish Rescue Service Agency and local authorities undertook clean-up operations, which resulted in the collection of some 20 m³ of oil from the sea and from shore.
- 1.3 Investigations by the Swedish authorities indicated that the oil could have been discharged on 3 September 2000 within the Swedish Exclusive Economic Zone to the east of Gotland, possibly from the Maltese tanker *Alambra*, which had passed the area at the assumed time of the oil spill on a ballast voyage to Tallinn (Estonia). According to the Coastguard, analyses of oil samples from the polluted islands match those of samples taken from the *Alambra*.
- 1.4 The *Alambra* is registered in Malta and was entered in the London Steam-Ship Owners' Mutual Insurance Association Ltd (London Club).

- 1.5 The shipowner and his insurer maintain that the oil did not originate from the *Alambra*.

2 Limitation of liability

- 2.1 Sweden is Party to the 1992 Civil Liability Convention and the 1992 Fund Convention.
- 2.2 The limitation amount applicable to the *Alambra* under the 1992 Civil Liability Convention is 32 684 760 SDR (£28 million).

3 Claims for compensation

- 3.1 The Coastguard incurred costs in respect of clean-up operations totalling SEK 1.1 million (£75 000). The Rescue Service Agency, together with local authorities, incurred clean-up costs totalling SEK 4.1 million (£280 000). The aggregate amount of the claims would therefore fall well below the limitation amount applicable to the *Alambra*.
- 3.2 The Swedish authorities have informed the Director that they intend to submit their claims for compensation to the owner in the autumn of 2002. The authorities have further indicated that in the event that they were to be unsuccessful in receiving compensation from the shipowner, they will consider claiming against the 1992 Fund. However, in order to be able to obtain compensation from the 1992 Fund, the authorities would have to prove that the damage resulted from an incident involving a ship as defined in the 1992 Civil Liability Convention.
- 3.3 The Swedish authorities have made available to the 1992 Fund the results of an analysis of samples of oil carried on board the *Alambra* and of samples of oil found on several Swedish islands. The documents provided by the Swedish authorities are being examined by the 1992 Fund.

4 Legal proceedings

- 4.1 The Swedish Coastguard imposed a water pollution fine of SEK 439 000 (£30 000) on the owner of the *Alambra* under the 1980 Act on Measures Against Pollution from Ships.
- 4.2 The shipowner appealed against this decision to the Stockholm District Court. The owner requested that the District Court should annul the Coastguard's decision on the grounds that the Swedish authorities did not have jurisdiction to impose a water fine in this case, since the alleged discharge was made by a foreign vessel and took place in the Swedish Economic Zone and the fine was imposed after the *Alambra* had left that zone. The owner requested subsidiarily that the case should be dismissed since there had been no discharge of oil from the *Alambra*.
- 4.3 In a decision rendered on 31 July 2002 the District Court considered the first ground invoked by the shipowner, namely that the case should be dismissed on the grounds that the Swedish authorities did not have jurisdiction to impose a water fine in respect of the discharge in question. The District Court rejected the shipowner's request for dismissal on this ground.
- 4.4 The shipowner has lodged appeal against the District Court's decision in the Stockholm Court of Appeal.

5 Action to be taken by the Executive Committee

The Executive Committee is invited to take note of the information contained in this document.
