



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

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INCIDENTS INVOLVING THE 1992 FUND

PRESTIGE

Submitted by Spain

Summary:	This document contains up-dated information on the impact of the pollution, clean-up operations, neutralization of the wreck, economic consequences, legal actions, international actions and the Royal Decree adopted by Spain.
Action to be taken:	Information to be noted.

1 Impact of the Pollution

1.1 *Affected Coast*

1.1.1 Out of a total of 1 064 beaches on the Spanish coast between the border with Portugal and the border with France, 743 beaches were affected to one degree or another.

1.1.2 Currently, the effects of the oil spill are concentrated at one beach with structural problems, Playa do Rostro in Galicia, where the sand is heavily polluted and where clean-up can take place only on days of spring tides (five days per month), and on cleaning up small amounts of very fragmented fuel oil as it arrives on several beaches, mainly on the Cantabric coast.

1.2 *Fishing, Aquaculture and Shellfish*

1.2.1 This catastrophe had made it necessary to limit fishing and shellfish-harvesting activities because of health considerations. As a result of the progression of oil slicks and in light of searches and studies made, among others, by the Spanish Oceanographic Institute (Instituto Español de Oceanografía), the Spanish Agency for Food Security (Agencia Española de Seguridad Alimentaria) and several autonomous administrations, various bans on fishing and the gathering of shellfish were declared.

1.2.2 Fishing has, however, become completely normal since 1 July 2003.

1.2.3 The bans on the harvesting of shellfish were completely lifted on 8 October 2003, except in the Basque Provinces where the ban continues for several species, affecting about 20 shellfish gathers exclusively.

1.3 *Tourism*

Once the summer tourist season is over, but still without adequate processing of available data, it appears that the effect on tourism has been moderate.

2 Clean-up Operations

2.1 *Clean-up at Sea*

- 2.1.1 At the present time, the work of surveillance and clean-up continue using the following air and sea means:

Aircraft used for surveillance and monitoring include two airplanes of the Ministry of Defence and six helicopters, of which two belong to the autonomous government of Galicia, one to the government of Cantabria, one to the government of the Basque Provinces and another two to the Spanish central government.

A total of more than 42 ships are available. Out of these ships, 9 belong to the autonomous government of Galicia, 5 to the Principality of Asturias, 12 to the Spanish Red Cross and the others to the Spanish central government (Ministry for Development, the Civil Guard and the Customs Surveillance Service).

- 2.1.2 A total of 785 metres of anti-pollution booms have been placed, with 45 029 additional metres available in the event they are needed.

- 2.1.3 As of 15 October, the total quantity of oily waste collected at sea along the Spanish coast is some 52 240 cubic metres.

2.2 *Clean-up on Land*

- 2.2.1 From June to September, efforts were concentrated on beaches in Cantabria, because north-northeast winds brought scattered oil particles ashore. This situation at the height of the tourist season required an extraordinary operational effort.

- 2.2.2 Approximately 1 500 000 square metres of rocks were affected, of which approximately 1 250 000 square metres have been cleaned up. The remaining area will require efforts later because they are inaccessible or important for shellfish and will require re-evaluation after the winter.

- 2.2.3 From October to December, clean-up operations have been adapted to the current needs for surveillance, environmental conservation and collection of waste that might continue to arrive.

- 2.2.4 Up until now, more than one million workdays have been spent in clean-up operations.

- 2.2.5 Some 6 800 samples have been taken on more than 600 beaches in order to analyse the possible presence of fuel in deep layers. Of the total number of beaches, remains of oil were found in 50, although in 31 of those beaches the affected area was no greater in any single case than 6 per cent of the total area. All these beaches have now been cleaned. This notwithstanding, winter storms will deposit exposed oil slicks on some beaches, which will be removed immediately.

- 2.2.6 The total amount of waste gathered on the coast up until now amounts to some 84 100 tonnes.

3 Neutralization of the wreck

- 3.1 Since May, very important advances in finding a definitive solution for the wreck have been made. These advances required unprecedented technological breakthroughs and will,

undoubtedly, mark the way forward in the event that similar catastrophes might occur in the future.

- 3.2 First of all, the remotely operated submersible vehicles (ROVs) have been adapted for working at a depth of 4,000 metres, which has allowed not only almost the entire sealing of the wreck (at this time it is estimated that losses are less than 20 litres a day), but also to carry out other work, including measurement of the remaining oil in the wreck through a procedure using thermal neutrons. These measurements show that 700 tonnes remain in the stern and 13,100 tonnes in the bow, with a percentage of error of less than 10 per cent.
- 3.3 In addition, a “hot-tapping” system has been installed in the wreck, after several tests on the surface and at 100 metres, 1,000 metres and 3,800 metres in depth.
- 3.4 Currently, a pilot test with shuttle bags is being carried out.

4 Economic Consequences

- 4.1 On 2 October 2003, the Government of Spain submitted a claim for damages to the IOPC Fund Claims Office at La Coruña in the amount of €355 668 288.05 for additional costs and €28 064 648.02 for fixed costs. This claim, which is made up of 3,691 pages of documentation, describes most of the prejudice caused to the Government of Spain up until 1 August 2003. Other claims will, of course, be added later for damages not included in this report but produced before 1 August 2003 together with any that have been produced after that date.
- 4.2 Based on this information and information provided by the autonomous communities and local governments and estimates of future costs, quantification of total damages has been made and is contained in the table below.
- 4.3 There are also estimated damages to private parties in that report of approximately €100 million, which we feel is sufficient to cover also the damages caused to tourism at this time and once the summer season is over.
- 4.4 With regard to the figures provided to the most recent meeting of the Executive Committee, important increases have occurred, especially regarding clean-up of the coasts and at sea, as a result primarily of reinforcement of clean-up operations during the tourist season and the enormous effort carried out in using pressure-cleaning of rocks.
- 4.5 However, there is also a moderate decrease in expenses corresponding to assistance to the fishing and shellfish sector because normalization occurred in that sector in May 2003, earlier than expected.
- 4.6 Finally, the uncertainties existing in May about the costs of neutralizing the wreck have been cleared up.

4.7

Economic Consequences in Spain (millions of euros)

Compensation to public administrations	Clean-up at sea	183.6
	Clean-up on land and environmental conservation	314.7
	Neutralization of the wreck	60.0
	Assistance	128.8
	Miscellaneous	8.4
Compensation to private parties		100.0
Total		795.5

5 Legal Steps

- 5.1 In the court of first instance at Corcubión, preliminary proceedings no. 960/02 continue to be processed for a possible crime of disobedience and a crime against natural resources. The captain of the tanker *Prestige*, the chief engineer and the first officer are still charged in this case. By decision of 9 September 2003 of the provincial court at La Coruña, it was decided to lift accusations against the representative of the national government in Galicia and the port captain of La Coruña. Thus, they are not included in this trial. For the time being, the accusation against the director general of the Merchant Marine is maintained.
- 5.2 The master of the *Prestige* remains at liberty under a bond of three million euros and is at the disposition of the court at the domicile which he chooses as his elected residence in the city of Barcelona.
- 5.3 On 16 May 2003, the Kingdom of Spain lodged a claim for civil liability against the American Bureau of Shipping, the classification society for the *Prestige*, before the District Court of New York (United States of America). That claim is being processed.
- 5.4 Based on new information that has been obtained, the introduction of additional lawsuits is being considered regarding other parties that may have created liabilities.

6. International Actions

- 6.1 The *Prestige* incident has made evident that international coordination is both very essential and convenient. Efforts by the Government of Spain to achieve international cooperation have continued on three fronts.
- First, bilaterally, with permanent close contact with the other two countries affected: France and Portugal. Also, and in accordance with the commitment made at the most recent meeting of the Executive Committee, the Spanish government has several times proposed dates, not accepted by the authorities of the Bahamas, for having access to all the documents and depositions requested. The authorities of the Bahamas propose 12 November 2003 as the earliest possible date. Likewise there no effort has been spared to intensify discussions with several countries, among which, as a last resort and to mention only a few, are Denmark, Cyprus and Estonia.
 - Second, within the framework of the European Union, efforts have been made to encourage the putting into practice of the measures contained in packages I and II of the *Erika* case, even strengthening compensation to certain sectors, as is well known.

- Third, multilaterally, uniting our efforts with those of the other members of IMO, sponsoring many concrete initiatives in a total of 27 documents before various organs of IMO and the IOPC Funds. Among these initiatives, several have already been adopted and should be mentioned, such as the establishment of a new traffic separation mechanism off Cape Fisterra, a new area of obligatory notification by tankers and adoption of a new Protocol to the Convention of the 1992 Fund, with limits of compensation of 750 million special drawing rights (SDR), already ratified by Spain.
- 6.2 Furthermore, the Government of Spain has responded favourably to the request of the United Nations Environment Programme (UNEP) to cooperate in repairing the effects of the accident of the tanker *Tasman Spirit*.
7. **Royal Decree (Real Decreto-Ley)**
- 7.1 The serious consequences caused by the accident of the tanker *Prestige* and the large number of public and private individuals and legal entities that were affected have given rise to adoption of a series of economic measures by the Government of Spain in expectation of the need to pay compensation to injured parties, avoiding long legal proceedings to establish those compensations. In this sense, Royal Decree 4/2003 of 20 June 2003 was adopted, concerning measures for payment of compensation in relation to the damage caused by the accident of the tanker *Prestige*. For its part, the Government of Spain is offering the parties injured by the accident the possibility of signing an agreement for receiving the total amount of compensation, subrogating to the Spanish Central Government any rights whatsoever or recourse that could correspond to whoever accepts that agreement.
- 7.2 Through this special measure, the Government of Spain guarantees full compensation to the affected parties for damages to which it will contribute full payment of the funds that it receives from the IOPC Fund.
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