



**INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1992**

EXECUTIVE COMM  
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Agenda item 3

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## ERIKA INCIDENT

### **Note by the Director**

<b>Summary:</b>	Further information is given on the impact of the spill and the claims situation. Estimates are made of the likely level of the claims for compensation. The 1992 Fund has taken recourse action in France against the classification society.
<b>Action to be taken:</b>	Decide on the level of the 1992 Fund's payments.

### **1 Clean-up operations**

The clean-up continues, but the operations will not be completed in a number of areas before the main tourist season, July and August. In some cases the municipalities have employed teams of locally available manpower to continue clean-up operations throughout the summer. The main focus is on the key tourist beaches.

### **2 Impact of the spill**

- 2.1 Levels of hydrocarbons in seawater and marine products are continuing to decrease in almost all areas, although in some places in Loire Atlantique levels remain high, particularly in mussels and other shellfish. Fishing bans are therefore still in place. In Morbihan fishing bans on goose barnacles remain in place due to widely varying levels of contamination over a small area.
- 2.2 The great majority of the salt producers in Guérande and Bassin du Mes have decided not to proceed with salt production in 2000. This decision appears to have been based on commercial rather than scientific considerations, and without taking into account improvements in water quality.

- 2.3 As for the impact on the tourism industry, a study has been carried out by L & R Consultants (L & R), who are providing the 1992 Fund with expert advice on tourism claims in the *Erika* case and who have previously advised the Funds in the *Braer*, *Sea Empress* and *Nakhodka* cases.
- 2.4 A study has also been carried out within the French Ministry of Economy, Finance and Industry. The report of this study has been summarised by the Director in Annex I.
- 2.5 The comments by L & R on the report referred to in paragraph 2.4 are summarised in Annex II.

### **3 Operations to prevent further oil escaping from the wreck**

Work on site commenced on 4 June 2000. Some small leaks in the wreck were sealed. Preparations for the oil removal operations have been completed. The oil recovery from the bow section commenced on 3 July.

### **4 Claims handling**

A special structure has been set up for the handling of claims relating to clean-up operations. These claims will be examined in Brest by surveyors who were on site during the operations, and their reports will be sent to the 1992 Fund and the Steamship Mutual for consideration.

### **5 Claims for compensation**

- 5.1 As at 30 June 2000 the Claims Handling Office had received 1 158 first claims and 492 supplementary claims for compensation in the following categories:

	First claims	Supplementary claims	Amounts claimed (FFr)
Clean-up operations	38	10	14 495 029
Property damage	226	0	20 149 820
Fishing	182	83	13 825 467
Fish farming and cultivation	417	179	42 826 339
Shellfish gathering	179	179	24 806 237
Fish processors and distributors	12	0	2 800 613
Tourism	57	32	15 417 632
Other losses of income	47	9	6 407 655
<b>Total</b>	<b>1 158</b>	<b>492</b>	<b>140 728 792</b>

- 5.2 As at the same date, the Steamship Mutual had made interim payments to 415 claimants for a total of FFr10 473 923 (£1 million) as follows:

	FFr
Clean-up operations	0
Property damage	891 629
Fishing	2 098 883
Fish farming and shellfish cultivation	2 544 564
Shellfish gathering	1 456 829
Fish processors and distributors	2 186
Tourism	3 448 449
Other loss of income	31 383
<b>Total</b>	<b>10 473 923</b>

- 5.3 As at 30 June 2000 the Steamship Mutual had authorised interim payments of a further FFr1 311 034 (£130 000) to 262 claimants. These payments will be made in the near future.

- 5.4 Up to 31 May 2000 the payments made by Steamship Mutual were made on an interim basis in appropriate cases. By the end of May a large number of claims had been approved by Steamship Mutual and the 1992 Fund, but since these claimants were not facing particular financial difficulties, however, no interim payments had been made. In order to ensure that all claimants received compensation, Steamship Mutual decided to pay all claimants 50% of the approved amounts of their respective claims. As a result payments were made during June 2000 to 93 claimants.
- 5.5 The 1992 Fund had approved the claims referred to in paragraphs 5.2 - 5.4 for the amounts forming the basis of the payments.
- 5.6 Steamship Mutual has confirmed that it is prepared to continue to pay 50% of the approved amounts of any claims until the total payments approach the limitation amount of some FFr84 million.
- 5.7 As shown in the table in paragraph 5.2 only relatively modest amounts have been paid to claimants by Steamship Mutual so far. This is due to the fact that most claims received, except those relating to clean-up operations, are for relatively small amounts.
- 5.8 As for the clean-up operations, claims have been presented by 38 communes for a total amount of FFr14 495 029 (£1.5 million). These claims, which relate mainly to fixed costs, are being examined. It is understood that most of these communes will also present claims under the French Government's oil spill contingency plan, Plan Polmar, for their additional costs.

## **6 Level of payments**

- 6.1 The Director has continued his efforts to collect information on the likely level of the claims. This has proved very difficult, and the figures given below are very uncertain, especially as regards the tourism sector.
- 6.2 For the purpose of the Executive Committee's consideration of the level of the 1992 Fund's payments, the claims by Total Fina and the French Government referred to in paragraphs 8.1.2 and 8.1.3 of document 92FUND/EXC.8/2 can be disregarded, since these claims will be pursued only if and to extent that all other claims have been paid in full.
- 6.3 As mentioned in paragraph 5.8 above, claims for clean-up operations have been received from a number of communes, relating mainly to fixed costs. It is expected that further claims of this type will be presented. It is possible that some communes will present claims against the shipowner/Steamship Mutual and the 1992 Fund also in respect of additional costs, rather than presenting their claims for such costs under Plan Polmar. It is difficult to estimate the total amount of the claims for clean-up which may be presented directly to the 1992 Fund and Steamship Mutual, but these claims could be for a total of some FFr200 - 300 million (£20 - 30 million).
- 6.4 With respect to the fishery and mariculture sector, it is estimated by the 1992 Fund's experts that the total claims for economic losses might be in the region of FFr200 million (£20 million). To this should be added claims for publicity campaigns to counteract the negative effects of the incident.
- 6.5 Concerning the tourism sector, there is even greater uncertainty. In the study carried out within the French Ministry of Economy, Finance and Industry it is estimated that the total amount of the admissible claims in the tourism sector will fall within the range of FFr800-1 500 million (£80-150 million) (cf Annex I). However, the report emphasises the extreme difficulty in predicting with precision the likely performance of the tourism sector during the summer season of 2000. It is mentioned that this uncertainty is reinforced by the media attention, the condition of the beaches as well as the risk associated with the operation to recover the remaining oil from

the *Erika*. It is also stated in the report that great caution must be applied with regard to these estimates.

- 6.6 The experts engaged by the 1992 Fund, L & R, broadly agree with the conclusions in the Ministry report and in particular with the overall estimate of the total of the admissible claims (cf Annex II). However, the experts draw attention to a number of assumptions on which the report is based which may result in an underestimation of the total amount of the claims.
- 6.7 The Director, as well as L & R, is impressed by the depth of the analysis carried out within the French Ministry of Economy, Finance and Industry. Exhaustive research has been carried out at both the macro economic and micro economic levels, on the basis of *inter alia* detailed statistics relating to the tourism industry. In the Director's view it would hardly have been possible to pursue such a study any further. The report emphasises, however, that it is extremely difficult to predict the outcome of the 2000 tourism season and mentions a number of factors which cause this uncertainty (cf paragraph 6.5 above). The L & R experts also underline this uncertainty (cf paragraph 6.6 above).
- 6.8 The Director considers that the conclusions in the Ministry report provide the best estimate which could be obtained at this stage of the total amount of the potential admissible claims. However, he shares the concerns expressed in the report and by L & R as to the uncertainty of the estimates. In particular, the Director has noted that the estimates in the report are based on the IOPC Funds' policy and criteria as regards the admissibility of claims for pure economic loss. However, the Director has been advised that the French Courts might take a more extensive approach in their interpretation of the notion of pollution damage.
- 6.9 As mentioned in paragraph 8.1.4 of document 92FUND/EXC.8/2, the Assembly has taken the view that - like the 1971 Fund - the 1992 Fund should exercise caution in the payment of claims if there is a risk that the total amount of the claims arising out of a particular incident might exceed the total amount of compensation available under the 1992 Civil Liability Convention and the 1992 Fund Convention, since under Article 4.5 of the 1992 Fund Convention all claimants have to be given equal treatment. The Assembly has expressed the view that it is necessary to strike a balance between the importance of the 1992 Fund's paying compensation as promptly as possible to victims of oil pollution damage and the need to avoid an over-payment situation (document 92FUND/A.ES/2/6, paragraph 3.1.14).
- 6.10 For the Executive Committee's consideration of how to strike this balance the following elements may be of assistance. The estimated figures for the clean-up operation claims, the claims in the fishery and mariculture sector and the tourism sector (higher figure) as set out in paragraphs 6.3, 6.4 and 6.6 above total some FFr2 000 million (£200 million), plus the costs of publicity campaigns in the fishery and tourism sectors to counteract the negative impact of the incident. If this figure is correct, it would be possible to fix the level of the 1992 Fund's payments at 50% of the proven loss or damage suffered by the individual claimants. However, as has been pointed out above, there are a number of significant uncertainties in these estimates, in particular as regards the claims in the tourism sector, the risk of further pollution as a result of an escape of oil during the pumping operation and the approach taken by the French Courts to the criteria for the admissibility of claims.

## **7 Other sources of funds**

- 7.1 As mentioned in paragraph 8.1.3 of document 92FUND/EXC.8/2, the French Government has established a procedure under which claimants whose claims have been assessed by the technical experts of the 1992 Fund and Steamship Mutual and have been approved by the Fund could obtain advance payments from the Banque du développement des petites et moyennes entreprises (Small and Medium Enterprise Development Bank). These advances would represent a certain percentage (at present set provisionally at 50%) of the amounts approved for the individual claims by the 1992 Fund and Steamship Mutual, after deduction of any amount received from Steamship

Mutual and the 1992 Fund. The maximum advance would be FFr30 000 (£3 000) for industry, commerce and service businesses, and FFr200 000 (£20 000) in the fishery and mariculture sector. The amounts paid as advances would carry interest at 1.5% per annum. So far the Bank has not made any advances. It appears that as long as Steamship Mutual pays 50% of the approved amount of the individual claims, it is unlikely that this procedure for advances will be used.

- 7.2 The French Government has also introduced a scheme to provide emergency payments in the fishery sector. This scheme is administered by OFIMER (Office national interprofessionnel des produits de la mer et de l'aquaculture), a government agency attached to the French Ministry of Agriculture and Fisheries. OFIMER may make payments to claimants of up to FFr200 000 (£20 000) on the basis of its own assessment of the losses, without consultation with the Steamship Mutual and the 1992 Fund. OFIMER has stated that it bases its assessments on the criteria laid down in the 1992 Fund's Claims Manual.
- 7.3 The Director has been informed that as at 28 June 2000 OFIMER had paid FFr11 million (£1.1 million) to 458 claimants in the fishery sector, representing 50% of the amounts assessed by OFIMER.

## **8 Legal actions against the shipowner/Steamship Mutual and Total Fina**

- 8.1 In addition to the actions referred to in paragraphs 14.1.1 and 14.3.1 of document 92FUND/EXC.8/2, the following actions have been brought in France.
- 8.2 On 22 May 2000 the Conseil Général du Morbihan, eight communes in Morbihan, the Union of Ports (Union des Ports et Bases Nautiques) of Morbihan and the Committee of Tourism in Morbihan brought legal action in the Tribunal de Commerce in Vannes against the parties referred to in paragraph 14.1.1 of document 92FUND/EXC.8/2. The actions were based on the same grounds as those set out in paragraph 14.1.3 of that document.
- 8.3 On 22 May 2000 nine communes in Morbihan brought legal action in the Tribunal de Commerce in Lorient against the parties referred to in paragraph 14.1.1 of document 92FUND/EXC.8/2. These actions were based on the same grounds as those set out in paragraph 14.1.3 of that document.

## **9 Action by and against RINA SpA and Registro Italiano Navale**

- 9.1 The 1992 Fund's policy in respect of recourse actions can be summarised as follows. The 1992 Fund should take recourse action whenever appropriate and in each case consider whether it would be possible to recover any amounts paid by it to victims from the shipowner or from other parties on the basis of the applicable national law. Any decision by the 1992 Fund as to whether or not to take such action should be made on a case-by-case basis in the light of the prospect of success within the legal system in question.
- 9.2 In accordance with the practice adopted by the 1971 Fund, the Director takes the view that the 1992 Fund should consider whether to take recourse action against any particular defendant only when the investigations into the cause of the incident have been completed. He had therefore decided that it was premature to consider any recourse action in the *Erika* case at this stage. The same applied in his view to the issue of whether the 1992 Fund should challenge the shipowner's right to limit his liability.
- 9.3 As mentioned in paragraph 14.2.1 of document 92FUND/EXC.8/2, RINA SpA and Registro Italiano Navale have brought legal actions against, *inter alia*, the 1992 Fund in the Court of Syracuse (Augusta section) (Italy), requesting that the Court should declare that they were not liable for the sinking of the *Erika* and for the pollution of the French coast, or for any other consequence of the incident whatsoever.

- 9.4 As is also mentioned in document 92FUND/EXC.8/2 (paragraphs 14.1.1 and 14.3.1) actions have been brought in France (Tribunal de Commerce in Nantes and Tribunal de Commerce in La Roche sur Yon) against *inter alia* RINA SpA and Registro Italiano Navale. Actions against these defendants have also been brought in the Tribunal de Commerce in Vannes and the Tribunal de Commerce in Lorient (cf paragraph 8.2 and 8.3 above).
- 9.5 The Director is studying the issues relating to the position of RINA SpA and Registro Italiano Navale and in particular the question of the competence of the Italian Courts.
- 9.6 The Director considers that it would in any event be more natural if any action relating to the eventual liability of RINA SpA and Registro Italiano Navale were heard in the French Courts. In order to protect the 1992 Fund's position, the Director has therefore filed legal actions against RINA SpA and Registro Italiano Navale in the Tribunal de Commerce in Vannes, the Tribunal de Commerce in La Roche sur Yon and the Tribunal de Commerce in Lorient, requesting the Courts to join the 1992 Fund in the proceedings commenced by the Conseil Général de Morbihan and others. The 1992 Fund has requested that the Courts should suspend the proceedings until the results of the various investigations into the cause of the incident have been completed. The Director has emphasised that the 1992 Fund's actions are of a conservatory nature and that the Fund reserves its right to present at a later stage claims against the two defendants for reimbursement of any amounts which the Fund may have paid under the 1992 Conventions to victims of oil pollution damage. The Fund has also reserved its right to take similar actions against any other party who may be liable in the light of the results of the investigations into the cause of the incident.
- 9.7 The actions taken by the Conseil Général du Morbihan and others will be dealt with at a first procedural hearing held on 5 September 2000. In order to be admissible in these proceedings, the 1992 Fund's action had to be brought by 22 June 2000.

## **10 Criticism of the 1992 Fund**

- 10.1 In connection with the *Erika* incident the 1992 Fund and the international compensation regime have been the subject of severe criticism in France, both in the media and elsewhere. It has been stated that the total amount of compensation of 135 million SDR (FFr1 200 million) fixed in the 1992 Conventions is unacceptably low and that the Fund should take steps to ensure that more money is available. It has been maintained that it is unacceptable that early claimants have their payments pro-rated and that the problem of equal treatment of early and late claimants is for the 1992 Fund to solve. The Fund's policy of requiring claimants to substantiate their losses by supporting documents or other evidence has also been criticised.
- 10.2 In his contacts with the media and representatives of the public and private sectors the Director has explained the main features of the international regime based on the 1992 Conventions. He has stated that the 1992 Conventions have been agreed between a number of States, including France, that the Conventions have been approved by the Assemblée Nationale and the Senate and that they form part of French domestic law. He has made the point that the maximum amount available was decided by Governments when the Conventions were adopted and that the 1992 Fund has no legal possibility of increasing this amount for the *Erika* incident. He has pointed out that the 1992 Fund has a legal obligation to ensure that, to the extent possible, all claimants are treated equally and that, if the total amount of all established claims exceeds the total amount available for compensation, all claimants will have to receive the same percentage of the approved amounts of their respective claims. The Director has referred to the fact that pro-rating had been made in a number of previous cases in various incidents by the 1971 Fund and, most recently, by the 1992 Fund in the *Nakhodka* case. He has emphasised that the policy of the 1992 Fund has been laid down by the representatives of the Governments of Member States. The Director has also explained that the criteria for the admissibility of claims has been determined by the representatives of the Governments of Member States, including the requirement that claimants should substantiate their losses by the production of supporting documents and other evidence.

- 10.3 It should be mentioned that an ad-hoc Committee ('Mission d'information') set up by the French Senate has recently published a report which is very positive in respect of the international compensation regime based on the 1992 Conventions, but which makes proposals for certain amendments to improve the regime.

**11 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 and of claims arising therefrom as it may deem appropriate;
- (c) to decide whether to authorise the Director to make payments of claims and to determine the level of such payments (paragraph 6.10); and
- (d) to give the Director such instructions in respect of the court proceedings referred to in section 14 of document 92FUND/EXC.8/2 and section 9 of document 92FUND/EXC.8/2/Add.1 as it may deem appropriate.

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## ANNEX I

### Summary of the report of the June 2000 study carried out within the French Ministry of Economy, Finance and Industry

#### Summary prepared by the Director

- 1 The study concentrated on four areas.
  - research by different methods to make an approximate estimate of the scale of the economic activity linked to tourism which could be affected by the oil pollution;
  - an analysis of the rules and practices of the IOPC Funds in compensating claimants for damage and in particular the admissibility criteria applied;
  - definition and critical analysis of a series of indicators to allow hypotheses to be formulated on the likely outcome of the year 2000 tourist season in the areas affected by oil spill;
  - qualitative research based on meetings in five departments and twelve coastal resorts with tourism professionals and representatives of the French State and local bodies responsible for tourism matters.
- 2 In view of the uncertainty as to the geographical area affected, simple criteria have been used to make varying estimates dependent on the local situation:
  - the investigation concentrated on the five departments which had actually been affected by the oil (Finistère, Morbihan, Loire-Atlantique, Vendée and Charente Maritime);
  - a distinction was made between tourism in the coastal areas and inland tourism which is further away from the pollution and therefore less likely to be affected.
- 3 Two methods were used to estimate the scale of the tourism economy:
  - the demand method: a macro economic analysis based on an analysis of tourism consumption statistics by market segment and the results of relevant research on average tourist spending. It is pointed out that this approach tends to overestimate the scale of the tourism economy by the use of approximate, global figures and by including non-declared revenue;
  - the supply method: a micro economic approach based on an estimation of the turnover of tourism businesses obtained by a detailed analysis of declarations for taxation purposes from businesses of all types in the tourism sector. The point is made that this approach tends to underestimate the overall scale of the tourism economy by being restricted to declared figures.
- 4 After making appropriate allowances for the deficiencies in the two methods, the results are as follows:

	Lower estimate (FFr million)	Higher estimate (FFr million)
Tourism turnover all areas	21 901	27 383
Tourism turnover coastal areas only	17 551	21 660

- 5 The report contains a detailed analysis of the IOPC Funds' policy on the admissibility of claims and in particular on the criteria relating to geographic proximity to the affected area and economic dependence on the affected resource. The five departments concerned were divided into four zones each, with varying likelihood of claims being considered admissible as follows:

	Polluted coastal areas	Non-polluted coastal areas	Inland areas adjacent to polluted coastal areas	Inland areas adjacent to non-polluted coastal areas
Activities with typical tourism characteristics	YES	YES	YES	NO
Activities with strong link to tourism	YES	YES	YES	NO
Activities with weak link to tourism	YES	NO	NO	NO
Probability of admissibility	100%	30 to 60%	50%	0%

- 6 By applying these factors to the tourism turnover in these zones, the following range of figures were obtained for the activities in which economic losses were likely to qualify for compensation:

	Lower estimate (FFr million)	Higher estimate (FFr million)
Tourism turnover all areas	14 003	17 767
Tourism turnover coastal areas only	13 125	16 510

- 7 Since the IOPC Funds do not base compensation on reduced turnover but on reduced gross profit (ie turnover less variable costs), a calculation of gross profit margins was made for each type of tourism business and geographical area by using taxation statistics. On the basis of this analysis the range of gross profit generated by tourism businesses in the affected areas which could qualify for compensation is estimated at between FFr8 500 million and FFr11 000 million (£850 - £1 100 million).

- 8 The report emphasises the extreme difficulty in predicting with precision the likely performance of the tourism sector in the summer 2000 season. It is stated that the uncertainty is reinforced by media attention, the conditions of the beaches and the results of the beach inspections as well as the risks associated with the pumping operation. The point is made that caution must be applied to the treatment of any figures provided, particularly figures concerning accommodation bookings which are often given in circumstances which result in their not being completely representative.

- 9 In the absence of sufficiently reliable figures to make precise extrapolations possible, a series of indicators were used (for example, visitor levels at the beginning of the year 2000 based on hotel surveys, petrol consumption patterns in the affected areas) as well as a monitoring of the tourism economy (such as wage levels, declared turnovers and declared job vacancies in the tourism sector). These elements were then cross-referenced with information obtained through interviews with tourism professionals.

- 10 This analysis made it possible, by the use of some objective factors, to predict the trends in respect of the reduction in turnover in each department. These trends have been established by

taking into account the factors which may influence the extent of the losses, such as the proportion of foreign visitors or the proportion of visitors in paying and non-paying accommodation, respectively, and the turnover in the tourism sector in each department.

- 11** On the basis of the hypotheses used, the report contains the following estimates of the total amount of the reduction in gross profit which would qualify for compensation:

	Supply method (FFr million)	Demand method (FFr million)
Higher estimate	1 360	1 503
Lower estimate	847	839

- 12** In conclusion it is stated in the report that, subject to possible changes in trends, the total amount of damage qualifying for compensation in the tourism sector is estimated to be within a range of between FFr800 million and FFr1 500 million (£80 - £150 million).
- 13** It is emphasised in the report that this estimate cannot be considered as a definitive 'prediction' of the outcome of the tourism season. It is pointed out in the report that a change of one percentage point would lead to a difference of between 75 and 100 million Francs.
- 14** The point is made that since the 1992 Fund Convention does not lay down the conditions for the admissibility of claims and it is unlikely that a judge would consider himself bound by the 'jurisprudence' of the Executive Committee, the Courts will have a very wide margin of appreciation.
- 15** The report concludes by stating that the greatest caution should be exercised in determining the level of the 1992 Fund's payments. The analyses made in the report provide elements which can contribute to the decision in this regard. There are so many parameters involved, however, that it is not possible to determine the final level of payments at this stage.

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## ANNEX II

### Summary of the comments by the 1992 Fund's experts, L & R Consultants, on the report of the June 2000 study carried out within the Ministry of Economy, Finance and Industry

- 1 L & R Consultants (L & R) have had little time to examine the report of the study carried out within the Ministry of Economy, Finance and Industry. However, L & R was consulted on the methodology used.
- 2 L & R agree that the impact of the *Erika* incident will vary enormously along the 400 kilometres of affected coastline, with the strongest impact in the most heavily oiled areas. L & R mentions that this pattern is confirmed by L & R's assessment of trading patterns over the Easter – May holiday period and the tourism claims received so far.
- 3 L & R draw attention to several factors which could affect the tourism sector during the summer season 2000, namely:
  - the results of the beach inspections carried out by the Direction Départementale de l'Action Sanitaire et Sociale which could lead to the closure of a number of beaches;
  - the weather during the period July – September 2000;
  - the remaining threat of further beach pollution either as a result of high tides washing up trapped oil from the seabed or through further leaks of oil during the operation to remove the oil from the *Erika*;
  - the continued negative media attention.
- 4 L & R have stated that they broadly agree with the conclusion set out in the Ministry report with an overall estimate of the total of the admissible claims for economic loss in the tourism sector of between FFr800 million and FFr1 500 million (£80 - £150 million).
- 5 L & R nevertheless draw attention to the fact that in making the assessment, the drafters of the report have made a number of assumptions regarding the application of the IOPC Funds' criteria for the admissibility of claims which may result in an underestimation of the total amount of the admissible claims.
  - It appears that full account has not been taken of the implications of the Funds' policy that the compensation should place the claimant in the same financial situation as if the oil spill had not occurred. This implies taking into consideration any shown growth or decline in the individual businesses over previous years. The drafters of the Report have not considered it appropriate to estimate a global percentage growth in the turnover in the tourism businesses between a base year and 2000. However, it may be possible to establish consistent growth patterns over the last five years in respect of individual claimants, and this would tend to raise the level of admissible claims.
  - The report does not take into account possible claims from businesses outside France.
  - Claims from major hotel chains have been disregarded on the assumption that such claimants would not be able to prove sufficient economic dependency on the affected resource.

- The approach taken in the report excludes from admissibility any claims from outside the 'admissibility zones'. In some isolated cases claimants outside these zones may be able to justify dependency on the affected resources and therefore qualify for compensation.
  - Claims for costs of publicity campaigns undertaken to mitigate losses have not been included.
  - No account has been taken of any claims for losses suffered in 2001.
- 6** According to L & R these factors may lead to an underestimation in the report of the total amount of the admissible claims in the tourism sector. However, L & R consider that this underestimation may be offset by other factors, eg that a number of claimants may, for various reasons, decide not to present claims.
-