



THE STEAMSHIP MUTUAL
UNDERWRITING ASSOCIATION (BERMUDA) LIMITED

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To the Members

January 2001

Dear Sirs,

OIL POLLUTION FROM THE "ERIK": A VIDEO ACCOUNT

On 12th December 1999 the "Erika", carrying 31,000 tons of heavy fuel oil, broke up in the Bay of Biscay approximately 60 miles off the Brittany Coast. She caused some of the most extensive oil pollution ever seen in Europe, affecting 400 kilometres of the French Atlantic Coastline. This video is an account of the spill and of the intensive clean up which followed it.

The "Erika" was insured by the Steamship Mutual, which co-ordinated its response with the International Oil Pollution Compensation Fund 1992 (the Fund). The Club and the Fund jointly instructed the International Tanker Owners Pollution Federation (ITOPF) and other experts to attend the clean-up from the outset, and in early January 2000 opened a claims office in Lorient.

Under the International Conventions which apply in France (and in many other countries), compensation for pollution damage is available up to a maximum amount of 135 million Special Drawing Rights (SDR), approximately US\$185 million. The first layer of this compensation is paid by the tanker owner and his P and I insurer, in accordance with the 1992 Civil Liability Convention (the CLC).

The French court has determined that the CLC limitation amount applicable to the "Erika" is 84,248,000 French francs, approximately US\$12 million, which represents the first layer of compensation. The Club's liability is limited to this amount under the CLC. Above that, the second layer of compensation is paid by the Fund, in accordance with the 1992 Fund Convention, up to the overall maximum of 135 million SDR.

The video describes how a number of individuals were affected by the spill and how they made claims for compensation, although when it was filmed most claimants had not taken final stock of their losses. In the tourist industry, for example, the assessment of losses could only begin after the summer season was over. Compensation claims are still being submitted, therefore, and the process of assessment is continuing.

In the meantime, those whose claims have already been submitted and assessed, including many involved in mariculture, have received interim compensation, based upon a decision of the Executive Committee of the Fund in July 2000. The Committee concluded that, since the total amount of claims was still uncertain, compensation payments should for the time being be limited to 50% of admissible losses; it will review the position later this year to see whether the percentage can be increased.

Thus claimants are able to receive part payment of their losses, without having to wait until all claims have been submitted by all potential claimants. It seems likely, however, that the total of all admissible claims will exceed the maximum amount of compensation available under the two Conventions, in which case the final adjustment of claims will involve pro-rating.

This video does not, therefore, address claims and compensation in any detail. Its aim is to provide a straightforward account of the spill and its clean-up, and to show how a serious pollution incident was effectively handled through national and local efforts, with help from experts and consultants.

We hope that Members and others will find this account to be of interest. Details of other videos produced in association with the Steamship Mutual can be found on the Club's website (www.simsl.com) or will be provided on request.

Yours faithfully,

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