London Club says $38m loss will not bring cash call

A $38M LOSS was chalked up as a result of the pollution of some 400 kilometres of the French coastline following the break-up of the 37,283-dwt Erika (built 1975) which has been approved by the International Oil Pollution Compensation (IOPC) Funds.

The decision is seen as a breakthrough as it widens eligibility for compensation and makes it more likely that other shipowners whose vessels are hindered by tanker spills can make successful claims in the future.

The limits of compensation eligibility are constantly being tested and widened. After the successful Brittany Ferries claims, owners might turn out to be eligible for compensation if cargoship services are disrupted or even if reefer vessels lose seafood contracts.

Brittany Ferries is seeking some $10.5m of compensation from the 1992 IOPC Fund but may not get all of it. The award will depend on an assessment of what other factors could have contributed to the loss of business it suffered on its routes from the UK to Roscoff and Saint Malo.

P&O Ferries failed to win compensation for loss of business on its Shetland services as a result of the Briar spill in 1993. But the criteria for making a successful oil pollution claim are gradually widening.

Fishermen whose activities have been disrupted have always been key tanker-spill compensation recipients. Claims for cleaning up merchant-ship hulls that must pass through oily waters have also proved to be relatively straightforward.

Demurrage claims have proved more controversial, depending on the circumstances. They were paid in the wake of the Aegan Sea spill in Spain but not in the case of the disruption of Milford Haven in Wales following the Sea Empress case.

The disruption to the Welsh port was considered to result from the blocking of the channel rather than directly from pollution, so that the chain of causation was deemed to have been broken.

Compensation has also been paid when oily water has been drawn into the intakes of merchant ships, causing physical damage.

The approval of the Brittany Ferries claim is significant as the ferry ports of Roscoff and Saint Malo are on the north coast of Brittany and the pollution centred on Lorient on the southwest coast.

The claims have been approved although there was less than immediate geographical proximity and the loss was consequential rather than a result of direct physical disruption of ships owned by Brittany Ferries.

By Jim Mulrenan from London