



International Oil Pollution  
Compensation Funds

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1992 Fund Assembly	92A22	
1992 Fund Executive Committee	92EC69	●
Supplementary Fund Assembly	SA14	

## INCIDENTS INVOLVING THE IOPC FUNDS — 1992 FUND

### NESA R3

#### Note by the Secretariat

<b>Objective of document:</b>	To inform the 1992 Fund Executive Committee of the latest developments regarding this incident.
<b>Summary:</b>	<p>On 19 June 2013, the 856 GT tanker <i>Nesa R3</i>, carrying 840 tonnes of bitumen from the port of Bandar Abbas in the Islamic Republic of Iran, sank off Port Sultan Qaboos, Muscat, the Sultanate of Oman. Tragically, the master lost his life in the incident.</p> <p>The ship spilled an unknown quantity of oil which polluted, with varying degrees of contamination, about 40 kilometres of the coast of Oman. At the end of the first phase of the response, clean-up operations carried out both at sea and onshore had recovered in excess of 250 tonnes of oil. Clean-up operations were concluded in June 2014.</p> <p>The <i>Nesa R3</i> carried less than 2 000 tonnes of persistent oil as cargo and so was not required to maintain compulsory liability insurance. The owners of the <i>Nesa R3</i> had nonetheless taken out insurance with the Indian Ocean Ship Owners Mutual P&amp;I Club, Sri Lanka. The limitation amount applicable under the 1992 Civil Liability Convention (1992 CLC) is SDR 4.51 million (£4.9 million)<sup>&lt;1&gt;</sup>.</p> <p>In October 2013, the Omani Government commenced legal action against the ship owner and the insurer in the Court of Muscat, as they had refused to meet their obligations under the 1992 CLC. In February 2016, the 1992 Fund joined the legal action by the Government of Oman against the ship owner and the insurer of the <i>Nesa R3</i>.</p> <p>In March 2017, the Court of Muscat appointed a marine expert to review the claims submitted with respect to the incident.</p>
<b>Recent developments:</b>	Thirty-one claims totalling OMR 5 932 703 (£11.6 million) have been received and assessed at OMR 1 786 341 (£3.5 million). A total of 19 claims have been paid the total amount of OMR 1 749 125 (£3 million).

<1> The exchange rates used in this document are SDR 1 = £0.9389 and £1 = OMR 0.5038 (as at 15 July 2017), except in respect of payments made by the 1992 Fund where the conversion has been made at the rate on the date of payment.

<b>Relevant documents:</b>	The <a href="#">online Nesa R3 incident report</a> can be found via the Incidents section of the IOPC Funds' website.
<b>Action to be taken:</b>	<u>1992 Fund Executive Committee</u> Information to be noted.

## 1 Summary of incident

Ship	<i>Nesa R3</i>
Date of incident	19.06.2013
Place of incident	About 1.4 nautical miles off Port Sultan Qaboos, Muscat, Oman
Cause of incident	Sinking
Quantity of oil spilled	In excess of 250 tonnes
Area affected	Some 40 kilometres of shoreline
Flag State of ship	Saint Kitts and Nevis
Gross tonnage	856 GT
P&I insurer	Indian Ocean Ship Owners Mutual P&I Club, Sri Lanka
CLC limit	SDR 4.51 million (£4.9 million)
STOPIA/TOPIA applicable	Not applicable
CLC + Fund limit	SDR 203 million or OMR 120 827 630 (£240 million)
Claims submitted	Thirty-one claims totalling OMR 5 932 703 (£11.6 million)
Claims paid	Nineteen claims totalling OMR 1 749 125 (£3 million)
Legal proceedings	The 1992 Fund has joined the legal proceedings commenced by the Omani Government against the shipowner and insurer.

## 2 Introduction

- 2.1 On 19 June 2013, the 856 GT tanker *Nesa R3*, built in 1981, sank in 65 metres of water approximately 1.4 nautical miles off Port Sultan Qaboos, Muscat, the Sultanate of Oman. The Saint Kitts and Nevis flagged ship had arrived in Port Sultan Qaboos on 19 June 2013 to make a routine delivery of bitumen from Bandar Abbas, Islamic Republic of Iran. The exact nature of the problems encountered and the sequence of events remain unknown. Tragically, the ship's master lost his life in the incident.
- 2.2 Background information, including an analysis of the claims submitted, is provided in more detail in the [online Nesa R3 incident report](#).

## 3 Impact

- 3.1 At the time of the incident, the ship was carrying 840 tonnes of bitumen as cargo and five tonnes of bunkers. During the incident and the subsequent sinking of the vessel, some cargo and bunkers were spilled and spread by wind and currents along some 40 kilometres of the Omani coast. The exact amount of cargo and bunkers lost has not been determined. Initial clean-up operations carried out in June 2013, recovered a total of 250 tonnes of the cargo. Further clean-up operations were carried out the following summer, after which the Omani authorities considered clean-up activities for this incident to be completed.
- 3.2 The Omani authorities commissioned a survey of the wreck to, *inter alia*, establish the quantities and condition of the bitumen remaining onboard. The survey found that the bitumen had solidified and no longer posed a risk to the environment and the economic activities in the area around the wreck.

#### **4 Applicability of the 1992 Civil Liability and Fund Conventions**

- 4.1 Oman is Party to the 1992 Civil Liability Convention (1992 CLC) and to the 1992 Fund Convention.
- 4.2 The tonnage of the *Nesa R3* was 856 GT. The limitation amount applicable under the 1992 CLC is therefore SDR 4.51 million (£4.9 million).
- 4.3 The *Nesa R3* carried less than 2 000 tonnes of persistent oil as cargo, and as such, was not required to maintain compulsory insurance under the 1992 CLC. The owners of the *Nesa R3* had nevertheless taken out insurance with the Indian Ocean Ship Owners Mutual P&I Club, based in Sri Lanka. The insurer of the ship, however, refused to consider any claims, stating as the reason for the refusal that the cargo came from the Islamic Republic of Iran.
- 4.4 In October 2013, the 1992 Fund Executive Committee authorised the Director to make payments of compensation in respect of the admissible losses arising out of the *Nesa R3* incident and to claim reimbursement from the shipowner.

#### **5 Claims for compensation**

Thirty-one claims, totalling OMR 5 925 475 (£11.6 million) have been submitted by a number of government agencies, the regional organisation responsible for providing assistance during marine emergencies, and private companies covering clean-up operations, surveys of the wreck, environmental monitoring studies, and economic losses. The claims have been assessed at a total of OMR 1 786 341 (£3.5 million). A total of 19 claims have been received some OMR 1 749 125 (£3 million) in compensation. Additional payments are forthcoming.

#### **6 Legal Proceedings**

- 6.1 The Omani Government's attempts to obtain a financial commitment from the shipowner were unsuccessful. The Government therefore commenced legal action in the Court of Muscat against the owner and the insurer of the *Nesa R3* since they had refused to meet their obligations under the 1992 CLC. The 1992 Fund and the Omani Government also agreed to cooperate with each other in their attempts to recover compensation from the shipowner. Under Omani law, the time bar period is five years from the date the claimant is aware of the damage.
- 6.2 In February 2016, the 1992 Fund joined the legal action commenced by the Omani Government against the shipowner and its insurer in the Court of Muscat. In March 2017, the Court of Muscat appointed a Court Expert to evaluate the claims submitted in respect of the *Nesa R3* incident. The Expert's report is expected to be issued after the summer. The next hearing of the Court is scheduled for 26 October 2017.

#### **7 Action to be taken**

##### 1992 Fund Executive Committee

The 1992 Fund Executive Committee is invited to take note of the information contained in this document.

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