



International Oil Pollution
Compensation Funds

Agenda Item 3	IOPC/MAR21/3/5	
Date	18 March 2021	
Original	English	
1992 Fund Assembly	92AES24	
1992 Fund Executive Committee	92EC75	●
Supplementary Fund Assembly	SAES8	

INCIDENTS INVOLVING THE IOPC FUNDS — 1992 FUND

INCIDENT IN ISRAEL

Note by the Secretariat

Objective of document:

To inform the 1992 Fund Executive Committee of this new incident.

Summary:

On 19 February 2021, the Government of Israel contacted the 1992 Fund requesting assistance with a mystery spill. The Government reported that a few days before, tar balls began to be washed up along the Israeli coastline. The government believes a spill had occurred in the waters of the exclusive economic zone (EEZ) of Israel. However, the source of the spill was not identified at that time.

An investigation is underway. Initial efforts to identify the cause of the spill centred on identifying vessels within the vicinity of the spill location. After extensive checking, the Israeli authorities believe that the oil was released from a tanker carrying crude oil^{<1>}.

Clean-up operations were commenced under the direction of the Marine Environment Protection Division of the Israeli Ministry of Environment following their National Contingency Plan, with local authorities organising the response on the beaches.

At the time of drafting this document, it was estimated that 60 percent of the affected coastline had been cleaned by first responders, comprising government personnel and volunteers. The volunteers, numbering between 7 000-12 000 per day, were organised and monitored by an Israeli non-governmental organisation and the local authorities.

Initial estimates of the cost of the response to the oil spill are in the region of ILS 9 million to 45 million (USD 2.7 million to 13.6 million)^{<2>}.

Recent developments:

Following the notification of the incident by the Israeli authorities, the 1992 Fund instructed a technical expert to travel to Israel to take oil samples for analysis. The results of these tests are currently awaited.

The 1992 Fund will need to examine all issues related to this incident on the basis of the evidence submitted and in accordance with the international Conventions.

<1> According to preliminary testing conducted by the University of Jerusalem.

<2> Based on the exchange rate as at 1 March 2021 of USD 1 = ILS 3.306.

The Israeli authorities believe they have identified the vessel which caused the release of oil and believe it is a 'ship' within the definition of Article I(1) of the 1992 Civil Liability Convention. Furthermore, the authorities believe that the substance released is defined as 'oil' within the definition of Article I(5) of the 1992 CLC.

Action to be taken: 1992 Fund Executive Committee

The 1992 Fund Executive Committee is invited to take note of the information provided.

1 **Summary of incident (based on details of the vessel the Israeli Authorities believe to be the source of the spill)**

Ship	Unknown but said to be <i>MT Emerald</i> (Built 2002, 62 247 GT)
Date of incident	01.02.21/02.02.21 (presumed)
Place of incident	130 km off Israeli coast within Israeli EEZ (presumed)
Cause of incident	Unknown, under investigation
Quantity of oil spilled	Unknown, under investigation
Area affected	Israeli coastline (approximately 190 km) with tar balls
Flag State of ship	Unknown but said to be Panama
Gross tonnage	Unknown but said to be 62 247 GT
P&I insurer	Unknown
CLC limit	If the 1992 CLC were to apply and the <i>MT Emerald</i> was the origin: SDR 40.63 million (USD 58.37 million) ^{<3>}
CLC + Fund limit	SDR 203 million (USD 291.65 million)
Legal proceedings	No legal proceedings commenced to date

2 **Background information as provided by the Israeli authorities**

- 2.1 According to the information provided by the Israeli Government, sometime between the 1 and 2 February 2021, an oil spill incident occurred within the offshore waters of the Israeli exclusive economic zone (EEZ). The incident is believed to have taken place approximately 130 km off the Israeli coastline to the west-north west.
- 2.2 On 17 February, tar balls of a substance reported to be crude oil^{<4>}, began to wash up along the Israeli coastline, ranging in severity from medium-heavy pollution to very light dispersed tar balls. The pollution affected the entire coastline to varying degrees.
- 2.3 The Israeli Marine Environment Protection Division responded under their National Contingency Plan and took control of the overall response to the spill, utilising the local authorities who were in charge of organising the response on the beaches. A company was tasked to remove the oil waste for disposal.
- 2.4 Clean-up operations commenced utilising municipal authorities, nature and parks authority and government personnel and volunteers, which numbered between 7 000-12 000 per day, organised and monitored by an Israeli non-governmental organisation (NGO) and the local authorities. A two-week fishing ban was enacted within areas of the affected coastline.

^{<3>} Based on the exchange rate as at 1 March 2021 of SDR 1 = USD 1.43671.

^{<4>} According to the preliminary testing conducted by the University of Jerusalem.

- 2.5 At the date of drafting the document, the Israeli authorities estimate that approximately 60 percent of the affected coastline had been cleaned by first responders.

Discussions between the Israeli authorities and the 1992 Fund

- 2.6 On 19 February 2021, the Israeli authorities contacted the 1992 Fund to seek assistance and guidance regarding the source of the spill which was at that time unknown.
- 2.7 During the initial discussions, the Director stated that if it was not possible to identify the source of the pollution, a number of criteria were required before the 1992 Fund could class the incident as a 'mystery spill'.
- 2.8 The Director indicated that the criteria included the need for the 'oil' as defined within Article I(5) of the 1992 Civil Liability Convention (CLC) identified as causing the pollution, to be from a 'ship', as defined within Article I(l) of the 1992 CLC.^{<5>}

Investigation into the cause of the incident by the Israeli Authorities

The search to identify the source of the oil spill

- 2.9 The Israeli authorities began their search to identify the source of the oil spill and initially narrowed the search down to ten vessels, by discounting those vessels which were clearly not in the vicinity of the location of the spill origin. Subsequently, when it seemed that the spill occurred before 11 February and probably around 5 February (after reviewing satellite images and running an oil spill model) the circle of suspected vessels was broadened to 39 vessels, and then narrowed down to only tankers because of the laboratory results of the tar balls, indicating it was crude oil.
- 2.10 The Israeli authorities examined Automatic Identification System (AIS) data and satellite imagery which indicated that in their opinion, the vessel responsible for the spill was the *MT Emerald* (62 247 GT), a Panamanian-flagged tanker, registered in the Marshall Islands, and which was initially believed to be owned by an Iranian company.
- 2.11 In the belief that the oil spill emanated from the *MT Emerald*, the Israeli authorities examined satellite and historical AIS data for the recent voyages of that vessel which revealed:
- a) The ship loaded crude oil at Kharg Island (Iran) on the 17 January 2021. According to information about its passage through the Suez Canal, its draft was 14.3 m which suggests that it was fully laden with 112 000 tons of cargo;
 - b) On 1 February 2021, the ship entered the Egyptian EEZ and after crossing the Suez Canal, the vessel turned off its AIS, which only appeared again after 23 hours and 230 nautical miles to the north, in the vicinity of the Cypriot EEZ and offshore Syria (Latakia);
 - c) On 2 February 2021, the *MT Emerald* was located in the Israeli EEZ around 130km from the Israeli shoreline;
 - d) On 5 February 2021, a large oil spill was identified by satellite and notified to the Israeli authorities by the European Maritime Safety Agency (EMSA). The spill was also confirmed by satellites operated by the National Oceanic and Atmospheric Administration (NOAA) of the United States of America after they were asked for information for the same date and location;
 - e) The spill occurred in the EEZ waters of Israel sometime between 1 and 2 February 2021. A 50 nautical mile circle was drawn and examined around the oil spill location of 5 February, and

<5> The 1992 Fund has sent its own experts to obtain samples of the oil spilled for analysis.

analysis of AIS data suggests that there was no other tanker in this area from 1 to 5 February other than the *MT Emerald*;

- f) Between 3 and 14 of February the *MT Emerald* was seen again using AIS, where the vessel was engaged in the open sea with some other unidentified vessel off-loading in STS operations;
- g) On 14 February, the *MT Emerald* discharged via STS operation to another ship *MT Lotus* (Iranian flag), which sailed into a Syrian harbor and refinery. When the *MT Emerald* returned to Iran, it had a draft of 8.3m;
- h) On 17 February 2021, tar balls washed up along all Israeli coastline in a storm of 4m wave height and strong winds of up to 35-50 knots; tar balls in different amount and locations kept being washed ashore until 13 March.

2.12 The Israeli authorities state that there is no other source of crude oil in the Israeli EEZ nor any land pipeline which could be a possible source of crude oil, in the location indicated above.

2.13 Investigations are ongoing into the cause of the incident and have not yet been concluded.

2.14 The Israeli authorities have collected samples of the oil spilled. These samples have been analysed by the Israeli Institute for Energy and Environment and by the University of Jerusalem. The result of the analysis appears to indicate that the oil spilled was crude oil.

Claims for compensation

2.15 The Israeli authorities have not yet established their claim for the clean-up operation costs, but initially indicated that they estimated the total costs for the spill would be between ILS 45 million (USD 13.6 million), allocated by the Ministry of Environment to the local authorities and for waste disposal costs and environmental monitoring activities, and ILS 100 million (USD 30.2 million), including the losses from a two-week fishing ban.

Investigations into the incident of the incident conducted by the 1992 Fund

Analysis of the oil spilled

2.16 The 1992 Fund has instructed technical experts to travel to Israel to collect samples for analysis. However, due to the COVID-19 pandemic and the difficulty of travelling overseas during this time, travel arrangements and the collection of oil samples were delayed, as a consequence of which, the results of the sample testing are not yet ready for publication.

Details of the vessel

2.17 The 1992 Fund has been informed that the *MT Emerald* was, up until 23 December 2020, owned by a Libyan company but was then sold to a company registered in the Marshall Islands, Oryx Shipping Ltd., said to be owned by a Syrian family based in Greece. The 1992 Fund has requested its Greek lawyers to investigate further and details are awaited.

Details of the insurance

2.18 Until 23 December 2020, the tanker was insured by the West of England P&I Club but P&I cover was withdrawn on that date following the vessel's sale. It is not known with which insurance company the insurance cover has been placed.

Contact by the 1992 Fund with the delegation of the Islamic Republic of Iran

- 2.19 The Director has informed the Iranian delegation of the new potential incident involving the 1992 Fund given the allegations that the tanker belonged to an Iranian company and was carrying oil from Iran.

3 Applicability of the Conventions

- 3.1 Israel is a Party to the 1992 CLC and the 1992 Fund Convention.
- 3.2 The question arises as to whether the 1992 CLC and the 1992 Fund Convention apply. This will have to be examined on the basis of the evidence available, in the light of the definition of 'ship' and 'oil' contained in the 1992 CLC.
- 3.3 Article I(1) of the 1992 Civil Liability Convention (CLC) defines 'ship' as: 'any sea-going vessel and seaborne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo, provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard'.
- 3.4 Article I(5) of the 1992 Civil Liability Convention defines 'oil' as: 'any persistent hydrocarbon mineral oil such as crude oil, fuel oil, heavy diesel oil and lubricating oil, whether carried on board a ship as cargo or in the bunkers of such a ship'.
- 3.5 For the 1992 Civil Liability and Fund Conventions to apply, the authorities will have to establish that the oil spilled was crude oil and not fuel oil. The reason is that crude oil is carried in ships as defined in the 1992 CLC, but fuel oil is carried on many types of vessels and used as bunker oil. In addition, the authorities would have to establish that the origin of the crude oil found on the coastline could not have originated from any other source such as a pipeline, refinery or oil tank, and that its origin must have been a passing oil tanker.
- 3.6 At present, pending the outcome of the analysis of the samples collected by the 1992 Fund experts, it is not known what substance was spilled, or from where the oil originated.

4 Limitation proceedings

No limitation proceedings have yet been established.

5 Civil proceedings

No legal proceedings have yet been commenced.

6 Director's Considerations

- 6.1 The Director has informed the Israeli authorities that the 1992 Fund is ready to assist them in the difficult situation caused by the oil spill from an unknown source.
- 6.2 He notes that the results of the oil sampling undertaken by the 1992 Fund's technical experts are currently awaited and that it is presently not possible to state with certainty, whether the Conventions apply and, if so, which vessel had caused the incident. There are strong indications that the responsible vessel might have been the *MT Emerald*, albeit this has to be confirmed, as well as its ownership and insurance arrangements.

6.3 The Director further notes that due to the uncertainties in identifying the oil, and the vessel which caused the oil spill, it is not clear whether the Conventions apply and the 1992 Fund would be involved in this incident.

6.4 The Director will monitor developments and report the outcome of the analysis of the spilled oil at a future session.

7 Action to be taken

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