



International Oil Pollution
Compensation Funds

Agenda Item 3	IOPC/NOV23/3/11	
Date	8 August 2023	
Original	English	
1992 Fund Assembly	92A28	
1992 Fund Executive Committee	92EC81	●
Supplementary Fund Assembly	SA20	

INCIDENTS INVOLVING THE IOPC FUNDS — 1992 FUND

MT HARCOURT

Note by the Secretariat

Objective of document:

To inform the 1992 Fund Executive Committee of the developments regarding this incident.

Summary:

The oil storage tanker *MT Harcourt* (26 218 GRT, built 1997), moored alongside the Elcrest Terminal in the Gbetiokun oil field, Delta State, Nigeria, suffered an explosion in a ballast water tank on 2 November 2020.

Approximately 31 barrels (approximately 4.2 tonnes) of crude oil were reported to have spilled. There were no casualties.

Booms were placed around the vessel and across the entrance of the side channel in which *MT Harcourt* was moored. Cargo from the adjacent tank was moved to other tanks to avoid loss into the ballast tank, which was at that point open to the river.

The P&I Club's surveyors were mobilised and attended on board for the duration of the cargo discharge operations to other vessels. The clean-up operation was organised by the Terminal who used their own barges and crew. The P&I Club's surveyors monitored the boom placement and were satisfied that the clean-up was ultimately wholly successful.

The P&I Club instructed experts to take water samples of the allegedly affected areas for comparison with the ship's oil cargo. No trace of the oil cargo was found in the water samples.

The owner of the *MT Harcourt* is a party to the Small Tanker Oil Pollution Indemnification Agreement (STOPIA) 2006 (as amended 2017) whereby the limitation amount applicable to the tanker is increased, on a voluntary basis to SDR 20 million. It is unlikely that the amount of compensation payable in respect of this incident will exceed the STOPIA 2006 (as amended 2017) limit of SDR 20 million or that the 1992 Fund will be called upon to pay compensation.

Legal proceedings

A representative of 12 riverine communities alleged to have been affected has filed a claim against the shipowner and Master, in the Federal High Court, Warri, Nigeria. The shipowner's P&I Club filed a defence and were successful in striking out the claim upon jurisdictional grounds.

Recent developments:	The claimants have since filed an appeal which the shipowner's lawyers have advised is without merit. No proceedings have been commenced against the 1992 Fund.
Action to be taken:	<u>1992 Fund Executive Committee</u>
	Information to be noted.

1 Summary of incident

Ship	<i>MT Harcourt</i>
Date of incident	02.11.2020
Place of incident	Benin river, Delta State, Nigeria
Cause of incident	Explosion from oil leaked into ballast tank
Quantity of oil spilled	Unknown but estimated to be approximately 31 barrels (4.2 tonnes)
Area affected	Oil reportedly contained within side channel where vessel moored
Flag State of ship	Marshall Islands
Gross tonnage	26 218 GT
P&I insurer	West of England P&I Club
CLC limit	SDR 17.9 million (USD 23.8 million) ^{<1>}
STOPIA/TOPIA applicable	STOPIA 2006 (as amended 2017) limit of SDR 20 million (USD 26.6 million)
CLC + Fund limit	SDR 203 million (USD 270 million)
Legal proceedings	Legal proceedings have been commenced against the shipowner and the Master. The shipowner's P&I Club has filed a defence. No proceedings have been served upon the 1992 Fund.

2 Background information

- 2.1 On 2 November 2020, an explosion occurred within a ballast tank of the oil storage/tanker vessel *MT Harcourt* moored at the Elcrest Terminal in the Gbetiokun oil field, near Koko, Delta State, Nigeria.
- 2.2 The tanker was loading crude oil into two cargo tanks and had just started discharging free water from the port and starboard slops tanks to shore at 0900 hours. At 0915 hours, a loud explosion was heard, and it was noted that smoke was coming out from the water ballast tank manhole covers on both the port and starboard sides.
- 2.3 Cargo and slops disposal operations were suspended immediately, and all crew were mustered and accounted for. There were no injuries or other casualties.
- 2.4 Foam and fire hose water jets were used and directed towards the manhole covers to commence boundary cooling of main deck area above the ballast tank. No fire was noted.
- 2.5 Upon further inspection, it was noted that the port side shell plate of the N° 16 central water ballast tank was fully ruptured, and the deck plating was observed buckled upwards. The starboard side ship shell plating and main deck plating were found buckled, and the starboard side shell plating of the central water ballast tank, approximately two metres above water level, also had a small rupture.
- 2.6 At 1030 hours, oil was observed leaking overboard from the port side ruptured shell plating area. An immediate internal transfer of cargo was commenced and spillage into the water was stopped.

^{<1>} The exchange rate used in this document as at 30 June 2023 is SDR 1 = USD 1.33007

Approximately 31 barrels (approximately 4.2 tonnes) of cargo was lost from the cargo tank into the water ballast tank, out of which a small quantity spilled overboard. This oil was immediately contained by the Terminal, by placing booms around the vessel and across the entrance to the small channel where the ship lay, followed by the clean-up of all the oil from the water.

- 2.7 The P&I Club's surveyors were mobilised and attended on board for the duration of the cargo discharge operations to other vessels. They were assisted by naval architects in London who modelled and monitored vessel stability whilst the cargo was then safely discharged in stages to various barges and other vessels within the same management. The clean-up itself was organised by the Terminal who used their own barges and crew. The Club's surveyors monitored the boom placement and were satisfied that the clean-up was ultimately wholly successful.
- 2.8 On 26 February 2021, a claimant representing 12 riverine communities in the Benin river, served legal proceedings upon the shipowner and ship's Master. The claim value amounts to NGN 11.98 billion (approximately USD 29 million). As at 8 August 2023, the P&I Club had not received any direct claim and no legal proceedings had been served upon the 1992 Fund.
- 2.9 The P&I Club filed a defence to the claim filed by the claimants and were successful in striking out the claim, as in the Judge's view, it was without merit. The claimants were granted a period of three months to file an appeal, which they duly did but the P&I Club's lawyer advised that it was without merit, and that they expected the appeal to fail.
- 2.10 The P&I Club informed the 1992 Fund of the incident and reported that, in its view, since only minor damage had been caused, it would not make interim payments. Accordingly, the incident is being handled by the Club and it is unlikely that the 1992 Fund will be involved further.
- 2.11 After the incident, the P&I Club instructed experts to attend the spill site location to take samples of the Benin River around the communities that were alleged to have been affected by pollution. In addition, samples of oil from the ship's cargo tanks were taken for analysis and comparison purposes.
- 2.12 No trace of the oil cargo from the *MT Harcourt* was found in the water samples.
- 2.13 In addition, photographic evidence indicated that the surrounding communities were using the Benin River in their usual manner and were not affected by the incident, either at the time it occurred or subsequently.

3 Applicability of the Conventions

- 3.1 Nigeria is Party to the 1992 Civil Liability Convention (CLC) and the 1992 Fund Convention.
- 3.2 The total amount available for compensation under the 1992 Civil Liability and Fund Conventions is SDR 203 million (USD 270 million).
- 3.3 Since the *MT Harcourt* is 26 218 GT units of tonnage, the limitation amount applicable under the 1992 CLC is SDR 17.9 million (USD 23.8 million). The owner of the *MT Harcourt* is a party to the Small Tanker Oil Pollution Indemnification Agreement (STOPIA) 2006 (as amended 2017) whereby the limitation amount applicable to the tanker is increased, on a voluntary basis to SDR 20 million. It appears unlikely that the amount of compensation payable in respect of this incident will exceed the STOPIA 2006 (as amended 2017) limit of SDR 20 million (USD 26.6 million). As a result, it is unlikely that the 1992 Fund will be called upon to pay compensation.

Insurance details

- 3.4 The *MT Harcourt* was insured with the West of England P&I Club, part of the International Group of P&I Associations (International Group).

4 Claims for compensation

One claim has been submitted on behalf of 12 riverine communities claiming compensation for damage to the creeks, mangroves, fish breeding grounds, drinking water and means of livelihood of the fisherfolk within the communities. As at 8 August 2023, no evidence other than one photo of some dead fish had been provided to the Club.

5 Civil proceedings

- 5.1 As at 8 August 2023, one claim for NGN 11.98 billion (approximately USD 29 million) was filed against the shipowner and Master of the vessel at the Federal High Court, Warri District, Nigeria. The P&I Club filed a defence and were successful in striking out the claim. The claimants appealed the decision, and a decision is awaited from the appeal Judge.

- 5.2 The P&I Club are of the view that the claim is unfounded and opportunistic.

6 Director's considerations

- 6.1 The Director notes the explosion and subsequent minor oil spill which has taken place in Nigeria, that there were no injuries and that the damage caused, which was minor, has been cleaned up.

- 6.2 The owner of the *MT Harcourt* is a party to STOPIA 2006 (as amended 2017) whereby the limitation amount applicable to the tanker is increased, on a voluntary basis to SDR 20 million. It is unlikely that the amount of compensation payable in respect of this incident will exceed the STOPIA 2006 (as amended 2017) limit, and that the 1992 Fund will be called upon to pay compensation.

- 6.3 The P&I Club has filed a defence to the claim submitted against the shipowner and Master, and will file a defence to the appeal filed by the claimants following their claim being struck out by the First Instance Judge. It appears unlikely that the 1992 Fund will be involved in this case.

- 6.4 The Secretariat will continue to monitor this matter and will report the latest developments to the 1992 Fund Executive Committee as required.

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.
