



International Oil Pollution
Compensation Funds

Agenda Item 3	IOPC/APR24/3/6	
Date	17 April 2024	
Original	English	
1992 Fund Assembly	92AES28	
1992 Fund Executive Committee	92EC82	●
Supplementary Fund Assembly	SAES12	

INCIDENTS INVOLVING THE IOPC FUNDS—1992 FUND

INCIDENT IN TRINIDAD AND TOBAGO

Note by the Secretariat

Objective of document:

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

Summary:

In early February 2024, the articulated tank barge^{<1>} *Gulfstream* (IMO Number 1518444, 4 925 GRT, built in 1974), towed by the tug *Solo Creed* (IMO Number 7505994, 538 GRT, built in 1976), capsized and sank, and began to spill oil approximately 16 km off Tobago, before coming to rest 150 to 200 metres offshore of Canoe Bay, on the southernmost tip of Tobago. It is believed that the vessel was on a voyage from Pozuelo Bay, the Bolivarian Republic of Venezuela, to Guyana. No emergency calls were transmitted by the tug.

Searches for the owner of the tug and barge by the authorities in Trinidad and Tobago have been inconclusive to date but are continuing^{<2>}.

The Tobago Emergency Management Agency (TEMA) triggered the National Oil Spill Contingency Plan to manage the response to the spill which polluted some 15 km of the coastline of Tobago. Oil impacted upon rocky coastlines, beaches and mangroves. The 1992 Fund sent experts to assist and provide advice in relation to the clean-up operations. The 1992 Fund also retained experts who were sent to Tobago to collect samples of oil for testing, and to assist the local authorities responding to the incident.

Subsequently, remnants of the oil slick traversed some 830 km across the Caribbean Sea. On 26 February 2024 some traces of oil and tar balls were washed up on Bonaire's (Kingdom of the Netherlands) east coast. This was cleaned up by the Dutch authorities.

In early March 2024, the Deputy Director/Head of Claims Department and a Claims Manager visited Trinidad and Tobago for a fact gathering visit and to meet with representatives from the Ministry of Energy and Energy Industries (MEEI).

<1> An articulated tank barge consists of a tank vessel (barge) and a large, powerful tug that is positioned in a notch in the stern of the barge, with an articulated or hinged connection system between the tug and barge, which enables the tug to propel and manoeuvre the barge.

<2> Ownership of the barge *Gulfstream* is difficult to establish as sales of barges are often not recorded on any international registry or are often only linked to the sale of an accompanying barge.

	By 11 March 2024, TEMA announced that, considering the amount of oil contamination present both at sea and on the shore, the response would be scaled down, concentrating on the areas of mangroves which required manual clean-up operations to be conducted, and on the removal of oil from the capsized bar
Recent developments:	Two salvage and environmental companies were retained to remove any further oil which remained inside the wreck, with initial estimates stating that a total of some 760 mt remained in the No.6 port and starboard tanks of the barge, with an unknown quantity remaining in the other ten tanks onboard the upturned barge.
	As at 17 April 2024, clean-up operations continue, with upwards of 150 workers and volunteers per day helping with the at-sea and shoreline clean-up operations.
Action to be taken:	<u>1992 Fund Executive Committee</u>
	(a) Take note of the information contained in this document;
	(b) decide whether the 1992 Civil Liability and Fund Conventions apply to this incident;
	(c) decide whether to authorise the Director to make payments of compensation in respect of claims arising from this incident; and
	(d) give the Director such instructions in respect of the handling of this incident as it may deem appropriate.

1 Summary of incident

Ship	Articulated barge <i>Gulfstream</i>
Date of incident	5/6 February 2024
Place of incident	Tobago, Trinidad and Tobago
Cause of incident	Sinking and capsizing
Quantity of oil spilled	Estimated 4 652 mt of persistent fuel oil
Area affected	Tobago and coast of Bonaire, Kingdom of the Netherlands
Flag State of ship	Unknown
Gross tonnage	4 925 GRT
P&I insurer	None
CLC limit	SDR 4.51 million
STOPIA/TOPIA applicable	N/A
CLC + Fund limit	SDR 203 million
Legal proceedings	None at present

2 Background information

2.1 In early February 2024, the 1992 Fund became aware of an oil spill incident off the coast of Trinidad and Tobago. According to initial sources, a barge laden with an unknown quantity of oil had capsized and was leaking oil which was affecting the coast of Tobago.

2.2 Definition of 'oil' under Article I(5) of the 1992 Civil Liability Convention (1992 CLC)

2.2.1 Article I(5) of the 1992 CLC states:

“Oil” means 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.

2.2.2 Shortly after the incident occurred, the authorities in Trinidad and Tobago took samples of the oil which a preliminary investigation revealed to be Bunker Fuel C. The 1992 Fund also obtained samples of oil which it tested independently, which proved the oil to be persistent, a mixture of heavy and crude oil. Subsequent sampling indicated the oil likely originated from Venezuela.

2.3 Definition of 'ship' under Article I(1) of the 1992 CLC

2.3.1 Article I(1) of the 1992 CLC states:

'Ship' means 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.

2.3.2 Records were sought from the classification society the American Bureau of Shipping (ABS), regarding the original construction and classification of the barge, but no details have yet been provided that enable the 1992 Fund to ascertain whether the barge was intended to be a 'sea-going' barge when constructed. The 1992 Fund asked one of the insurers which had previously insured the vessel in 2012^{<3>} for any further details of the vessel it was able to disclose, and that information revealed that they did issue a CLC certificate for the policy year in question.

2.4 Ownership, registration and classification of the tug and barge pre-incident

2.4.1 Initial information obtained showing the history of the barge indicates that between the years 1997 and 2010 the barge traded up and down the east coast of the United States (US). According to records obtained from the US Coastguard Port State Information Exchange, the barge *Gulfstream* historically traded between various seaports along the eastern coast of the US and the Gulf of Mexico. The vessel was initially flagged in the US and classed by ABS. It was often pushed by a tug *Marlin*, but the tug was sold in 2012 to a Panamanian company.

2.4.2 In 2014, the automatic identification system (AIS) data shows that the vessel began regularly visiting petroleum ports in Venezuela and the Caribbean. However, as the sale of barges is not recorded on any international register, only the sale of the tug was shown in the online databases. Google Earth data shows that the tug *Marlin* was still operating with its 'married' barge *Gulfstream*, from images taken from a petroleum port in Maracaibo, Venezuela in 2015^{<4>}.

2.4.3 AIS data and satellite imagery enabled the *Marlin/Gulfstream* articulated tug barge combination to be followed until October 2020, when the *Marlin* last transmitted its AIS position at the ASTINAVE shipyard in Amuay, Venezuela. In February 2021, ASTINAVE posted an image showing the tug *Marlin* and the stern of the barge *Gulfstream*.

2.4.4 In March 2021, Equasis records show that the owners of the tug *Marlin* sold it to another Panamanian company, Star Goods Petroleum SA. That company does not have an online presence and its Panamanian registration documents contain no contact information. The only online presence is a LinkedIn page for the company's Executive Vice President who has not responded to requests for

<3> The barge does not appear to have been insured since that time.

<4> The majority of information provided in this document was obtained from an independent agency comprising researchers, investigators and citizen journalists utilising open-source information and which published several reports following the incident.

information.

- 2.4.5 It is not known whether the barge was sold to the same company, but such a sale would not be unexpected given the linkage system between the tug and barge.
- 2.4.6 Online databases indicate that the barge *Gulfstream* was classed with ABS up until 31 December 2018 and that a survey is overdue. No further registration records are available, and it appears that the vessel has not been reclassified or registered for a number of years.

2.5 Meaning of sea-going vessel and seaborne craft

- 2.5.1 There have been a number of incidents in which the IOPC Funds' governing bodies have accepted that a vessel which traded regularly at sea was a 'sea-going' vessel satisfying the definition of 'ship' within Article I(1) of the Civil Liability Convention (1992 or 1969 CLC depending on the incident).
- 2.5.2 In the *Victoriya* incident (2003), which involved a 2 000 GRT tanker registered for both river and sea navigation trading regularly in the Mediterranean, Black and Baltic Sea areas and which suffered a fire and explosion some 1 300 km inland from the Caspian Sea and the Sea of Azov, the 1992 Fund Executive Committee concluded that the *Victoriya* was a sea-going vessel for the purposes of the Conventions ([document 92FUND/EXC.26/3](#), paragraph 3.7).
- 2.5.3 A similar conclusion was reached in relation to the tanker *Al Jaziah 1* incident (2000), which involved a vessel which had been built originally as an 'inland waters motor tankship', and which had a rudder and propeller, but which did not carry even basic navigation equipment. The 1992 Fund Executive Committee decided that a craft is to be considered a 'seagoing vessel or other sea-borne craft' if it is actually operated at sea at the time of the incident, and thus the *Al Jaziah 1* fell within the definition of 'ship' in the Conventions ([document 92FUND/EXC.14/6](#), paragraph 1.2.2).
- 2.5.4 Similarly, the governing bodies have accepted that where an oil barge is actually carrying oil in bulk as cargo from one place to another it may constitute a 'ship' for the purposes of the Conventions. In 1998, the sea-going barge *Pontoon 300*, in tow of the tug *Falcon 1*, was laden with a cargo of intermediate fuel oil and sank off Hamriyah, United Arab Emirates, spilling its cargo. The issue arose as to whether or not the barge constituted a 'ship' for the purposes of the 1969 CLC and the 1971 Fund Convention.
- 2.5.5 The *Pontoon 300* was a flat-top barge constructed with 24 buoyancy tanks and a double centre bulkhead, originally built as a launch for offshore oil structures and designed to proceed to sea. The 1971 Fund Executive Committee attached importance to the fact that the barge had been actually transporting oil in bulk as cargo from one place to another and decided that in these circumstances, it was a 'ship' for the purposes of the Conventions ([document 71FUND/EXC.57/15](#), paragraph 3.11.4).
- 2.5.6 Other similar decisions involving oil barges under tow include the *Vistabella* incident (Caribbean, 1991) in which it was decided without debate that the barge was a 'ship'.

2.6 Movement of the barge

- 2.6.1 Satellite imagery from February 2022 shows the barge *Gulfstream* floating offshore from the drydock at the ASINAVE shipyard. More recent records and satellite imagery provide that in early 2023, the barge *Gulfstream* was docked in the city of Colón, Panama, near the Atlantic entrance to the Panama Canal at a pier known as Muelle 3.

- 2.6.2 In March 2023 court records reveal that a company holding the concession to operate the Muelle 3 pier filed a claim against the barge for an unpaid balance of over USD 205 000 for its stay at the dock since September 2022. The claimant alleged that it had not received communication or payment from the operators of the barge since its arrival at the pier. In the court claim, the claimant stated that the barge had been in a damaged condition since it had entered the port area and had water leaks so serious that the barge required pumping out to prevent it from sinking.
- 2.6.3 The barge was auctioned three times for sale, eventually being sold for the value of the court expenses (USD 7 496). The barge remained at the pier until June 2023, when satellite imagery showed that the *Gulfstream* was moved to an informal harbour just to the south, where it was laid up for some seven months aground on a beach. The barge remained there until 30 December 2023, having been sold with serious maintenance issues^{<6>} and seemingly without having visited any shipyard for major repairs, when the tug *Solo Creed* (whose position was verified by AIS data) joined the barge to move it to anchor in the harbour at Colón, Panama.
- 2.6.4 After spending a few days anchored off Colón, Panama, AIS and satellite data shows the tug *Solo Creed* initially tied alongside the stern quarter of the barge *Gulfstream* for manoeuvring purposes, before the tug switched to towing the barge to Venezuela.
- 2.6.5 From 17 to 22 January 2024, the *Solo Creed* and *Gulfstream* remained offshore near Amuay, Venezuela.
- 2.6.6 An online database located the barge *Gulfstream* in Pozuelo's Bay, Venezuela, a major petroleum port, on 26 January 2024. The tug and barge were visually matched near this location in Pozuelo's Bay on 27, 29, 30 and 31 January 2024.
- 2.6.7 On 3 February 2024, after leaving Pozuelo's Bay, satellite imagery shows the tug and barge heading northeast, with the barge on a long tow. Notably, the satellite images of the barge show that it is already leaking an oily substance, leaving behind a slick that stretches for at least 40 km. As no such trail was spotted beforehand, it is believed that the *Gulfstream* took on a cargo from Venezuela while in Pozuelo's Bay, possibly via a ship-to-ship transfer^{<7>}.
- 2.6.8 On 6 February 2024, satellite imagery showed the barge *Gulfstream* capsized surrounded by a large oil spill, approximately 16 nautical miles southeast of Tobago. The tug *Solo Creed* had seemingly released the tow wire and fled. Subsequent searches for its whereabouts by authorities in Trinidad and Tobago, who requested the assistance of neighbouring States and various ship registries, have regrettably failed to locate the vessel.

<6> The chief engineer of the *Gulfstream* from 1996 to 2010, stated in an interview that when it was previously operated in the United States, it had been used for carrying asphalt, which must be kept heated when in transit, and that the frequent thermal cycling caused cracks to form in the cargo tanks, which led to the decision to sell the vessel.

<7> It is not possible to verify this information because satellite imagery is not available for all of the days.

2.7 The intended destination of the tug and barge tow

- 2.7.1 According to a document^{<8>} purportedly showing a request to book a pilot for the tug *Solo Creed* and its barge tow *Culie Boy*^{<9>}, the barge was destined for the Vreed en Hoop terminal of Guyana Power and Light, Guyana's state-owned electric utility in fulfilment of a tender process for a number of shipments. Guyana Power and Light has subsequently denied any involvement with the incident. However, the existence of further additional contracts providing oil to entities in Guyana have been mentioned, as to which no conclusions have been reached. The Trinidad and Tobago authorities are continuing their investigations.
- 2.7.2 At present therefore, it has not been possible to discern the ultimate destination of the cargo, or its owner.

2.8 Ownership, registration and classification of the tug and barge post-incident

- 2.8.1 Searches by the authorities in Trinidad and Tobago to locate the tug *Solo Creed* and the owner of the barge *Gulfstream* continue. Despite great efforts these searches have failed to locate the tug *Solo Creed*, which has not re-activated its AIS since the date of the incident seemingly having fled the scene, nor led to the discovery of any definitive information regarding the ownership of the barge *Gulfstream* at the time of the incident.
- 2.8.2 Ship registration documents provided by the Zanzibar Maritime Authority^{<10>} indicate that the listed owner of the *Solo Creed* tug, during its voyage towing the barge *Gulfstream*, was based in Panama. Public data from the Panamanian corporate registry shows that listed name corresponds to an officer of a Panamanian company and that several directors of the company are shared with three other companies which also own several other vessels which transit between Caribbean, Colombian and Venezuelan ports, often appearing to sail 'dark' with AIS tracking data disabled.
- 2.8.3 Investigations by an independent agency identified a person in Nigeria who subsequently claimed to have purchased both the tug and barge in August 2023^{<11>}, and who also claimed that he was having both vessels transported to Nigeria when the incident occurred, that they were not insured, and that the tug *Solo Creed* was still en route to Nigeria.
- 2.8.4 Subsequent to the incident, a 'new' Certificate of Registration was provided by the Zanzibar Maritime Authority dated 13 February 2024 (some six or seven days after the incident), this time listing the owner as a company based in Georgetown, Guyana. It has not been possible to locate that company in the Guyana Commercial Registry. Enquires continue by the Trinidad and Tobago authorities.

3 Response operations

- 3.1 On 7 February 2024, the Tobago Emergency Management Agency (TEMA) was alerted to an oil-like substance washing ashore on Tobago's south eastern coast, and the source was quickly established as the upturned barge *Gulfstream* which TEMA and the Trinidad and Tobago Coastguard had identified as having started to spill oil 15 km west of where the barge eventually lay aground, 150 metres offshore from Canoe Bay, Tobago.

<8> The customs agents whose details are provided on the document did not respond to a request for comment.

<9> This document has not been verified and the identity of the barge *Culie Boy* is unknown but may be another name for the *Gulfstream*.

<10> Dated incorrectly as 30 November 2022, but confirmed subsequently by that authority to relate to 30 November 2023.

<11> Providing an unnotarised Bill of Sale for the barge *Gulf Stream* (whose name was mis-spelled) for a price of USD 350 000 (far higher than the sale proceeds after auction in Panama in 2023, as verified by court documents).

- 3.2 The Tobago Emergency Operations Centre (TEOC) was activated on 8 February 2024 at Tier 2, with the scale and severity of the spill surpassing Tobago's local Tier 1 capacities.
- 3.3 Offshore clean-up and containment began on 8 February 2024, involving over 200 people including 60 to 80 volunteers. Booms were deployed along the coastline, around the vessel, and to fence off environmentally sensitive areas. However, some 15 km of coastline was polluted including some sensitive mangroves. Regrettably, due to spring tides and heavy weather, the oil was pushed beyond the usual high water mark leaving many areas with oil stains. The wave action of the next spring tides will assist in naturally cleaning many areas which were contaminated.
- 3.4 As at 17 April 2024, clean-up operations continue, with an emphasis on removing the sunken oil in mangroves, flushing out any buried oil on beaches, and the removal of oil from the capsized barge, an operation which was due to commence in the week of 1 April 2024, but which was hampered by heavy weather.
- 3.5 Further efforts are being made by the local authorities to deal with the large amounts of waste which have been generated. The table below shows the approximate waste recovered, as at 17 April 2024:

Oil spill response organisation	Liquid waste		Solid waste	
	Barrels	m ³	yd ³	m ³
Contractor 1	49 435	8 682	7 990	6 109
Contractor 2	2 487	395	12 841	9 818
Total	51 922	9 077	20 831	15 927

- 3.6 As at 17 April 2024, no mangroves have died despite being heavily oiled. The clean-up operation is beginning to be scaled back.

4 Applicability of the Conventions

At the time of the incident, Trinidad and Tobago was Party to the 1992 CLC and the 1992 Fund Convention. The limit of liability of the owner of the barge is estimated to be SDR 4.51 million.

5 Claims for compensation

As at 17 April 2024, no claims for compensation have been filed against any party, with searches still ongoing to find the registered owner of the barge *Gulfstream*. Preliminary figures indicate that costs incurred in relation to clean-up operations are in the region of USD 7.9 million, with further costs relating to the oil recovery operation from the barge yet to be incurred. No estimates are available for losses in the tourism or fisheries sectors but these are not expected to be substantial.

6 Limitation proceedings

As at 17 April 2024 no limitation proceedings have been commenced by the registered owner of the barge, who has yet to be identified.

7 Civil proceedings

As at 17 April 2024 no legal proceedings have been commenced against the 1992 Fund.

8 Director's considerations

- 8.1 The Director was sorry to learn of this incident, which has affected the coast of a Member State and involves a barge which appears to have no insurance, was in a poor condition, and for which no registered owner has yet been identified. Furthermore, according to the satellite images found, the barge was already leaking oil at the start of the voyage, a fact which the owner should have been aware of and which suggests that it was unseaworthy before and at the commencement of the voyage.
- 8.2 It appears that there are a number of questions still to be answered regarding the certification, ownership and registration of the barge *Gulfstream* and its lack of insurance, as well as the legality of its cargo.
- 8.3 The Director notes that based on the available information, it appears that the barge and the oil which was laden onboard comply with the definitions of 'ship' and 'oil' within Articles I(1) and I(5), respectively, of the 1992 CLC, and also notes the previous incidents and the decisions taken by the IOPC Funds' governing bodies which similar issues have arisen.
- 8.4 The Director looks forward to working closely with the authorities in Trinidad and Tobago and trusts he will have their full cooperation in order to take all necessary and reasonable legal remedies to identify and pursue those parties liable for this incident.

9 Action to be taken

The 1992 Fund Executive Committee is invited to:

- (a) take note of the information contained in this document;
 - (b) decide whether the 1992 Civil Liability and Fund Conventions apply to this incident;
 - (c) decide whether to authorise the Director to make payments of compensation in respect of claims arising from this incident; and
 - (d) give the Director such instructions in respect of the handling of this incident as it may deem appropriate.
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