



INCIDENTS INVOLVING THE 1992 FUND

N°7 KWANG MIN

Note by the Director

Summary:

The Korean tanker *N°7 Kwang Min* collided with the Korean fishing boat *Chil Yang N°1* in the port of Busan, Republic of Korea, spilling some 64 tonnes of heavy fuel oil. The *N°7 Kwang Min* was not insured for pollution liabilities and the shipowner had very few assets. The value of the *N°7 Kwang Min*, which was built in 1977, was such that the proceeds from its sale would be insufficient to cover the claims for compensation for pollution damage arising from the incident. The 1992 Fund is, in the view of the Director, therefore liable to pay compensation for pollution damage arising out of the incident. Claims totalling £1.2 million have been received by the Fund in respect of costs of clean-up and preventive measures and claims totalling £455 000 have been received from claimants in the fishery and mariculture sectors and owners of live seafood restaurants. Most of these claims are being assessed.

Action to be taken:

To authorise the Director to make final settlements on behalf of the 1992 Fund of claims arising from this incident.

1 The incident

- 1.1 On 24 November 2005 the Korean tanker *N°7 Kwang Min* (161 GT) collided with the Korean fishing boat *Chil Yang N°1* (139 GT) in port of Busan, Republic of Korea. A total of 64 tonnes of heavy fuel oil escaped into the sea from a damaged cargo tank. The remaining oil onboard the *N°7 Kwang Min* was transferred to a number of other vessels. The *N°7 Kwang Min* was subsequently taken to a shipyard in Busan.
- 1.2 The 1992 Fund appointed a team of Korean surveyors to monitor the clean-up operations and investigate the potential impact of the pollution on fisheries and mariculture.

2 Clean-up operations

- 2.1 The Korean Marine Police, the Korea Marine Pollution Response Corporation and seven private clean-up contractors promptly mobilised 36 pollution response vessels. Defensive booms were deployed to protect port installations such as shipyards and fish markets as well as the hulls of a number of ships berthed in the port. As a result of this rapid response serious property damage and

consequential economic losses were prevented. Most of the on water clean-up resources were withdrawn on 27 November 2005.

- 2.2 The remaining spilled oil, as well as considerable quantities of oiled debris, stranded on the shorelines to the west and south of the island of Yeongdo. Approximately 5 km of shoreline composed of rocks, boulders and pebbles were polluted to varying degrees. Four private clean-up contractors were appointed by the shipowner to undertake shoreline clean-up operations using predominantly manual methods to remove bulk oil, followed by high pressure water washing to remove oil stains. Some oiled sections of shoreline were fronted by cliffs, which made access difficult both from the land and from the sea. A landing craft was eventually able to land an earth excavator on the island in order to construct a temporary road and causeway to facilitate the removal of collected oil by barge. Shoreline clean-up operations were completed on 18 January 2006.

3 Impact of the spill

- 3.1 Drifting oil at sea contaminated the hulls of a number of vessels, including those engaged in the clean-up operations.
- 3.2 Some of the affected shorelines support village-fishing grounds, which interrupted the activities of some 80 women divers engaged in the gathering of sub-tidal species of plants and animals.
- 3.3 The oil also affected a number of seaweed (sea mustard and kelp) cultivation farms as it passed through the supporting structures, contaminating buoys and ropes. However, as a result of oiled equipment having been cleaned or replaced quickly, there was no serious damage to the seaweed products.
- 3.4 Six seafood restaurants reported alleged mortalities of fish as a result of oil entering the sub-surface intakes supplying seawater to the aquaria in which they were being kept.

4 Applicability of the 1992 Fund Convention

- 4.1 The limitation amount applicable to the *N^o7 Kwang Min* under the 1992 Civil Liability Convention is 4.51 million SDR (£3.8 million).
- 4.2 In December the Korean Ministry of Maritime Affairs informed the 1992 Fund that the *N^o7 Kwang Min* was not insured for pollution liabilities. The Ministry also stated that the shipowner had very few assets and that the value of the *N^o7 Kwang Min*, which was built in 1977, was such that the proceeds from its sale would be insufficient to cover the claims for compensation for pollution damage arising from the incident. The 1992 Fund is nevertheless investigating the financial situation of the shipowner.
- 4.3 In view of the lack of liability insurance in respect of the vessel and the limited assets of the shipowner it is unlikely that he will be financially capable of meeting his obligations under the 1992 Civil Liability Convention to pay compensation in full to persons suffering pollution damage arising out of the incident.
- 4.4 Although the total amount of the admissible claims will fall below the limitation amount applicable to the *N^o7 Kwang Min* the 1992 Fund will, in the Director's view, therefore be liable in accordance with Article 4.1 (b) of the 1992 Fund Convention to pay compensation.
- 4.5 Regulation 7.4 of the 1992 Fund's Internal Regulations provides that where the Director is satisfied that the 1992 Fund is liable under the 1992 Fund Convention to pay compensation for pollution damage, he may, without the prior approval of the Assembly, make final settlement of any claim, if he estimates that the total cost to the 1992 Fund of satisfying all claims arising out of the relevant incident is not likely to exceed 2.5 million SDRs. The Director may in any case make final settlement of claims from individuals and small businesses up to an aggregate amount of 1 million SDRs in respect of any one incident. The relevant date for conversion shall be the date of the incident in question.

- 4.6 On the basis of the SDR/Won exchange rate on 24 November 2005, the date of the incident, the Director's financial limit under Regulation 7.4 is Won 3 700 million. The Fund's experts have indicated that in their view, the total claims arising from the incident will not exceed this amount. The Director therefore considered that he had the authority to make final settlement of all claims arising out of the incident. The Executive Committee may, nevertheless, wish to endorse the Director's position.

5 Claims for compensation

- 5.1 As at 1 February 2006 eight claims totalling Won 2 107 million (£1.2 million) in respect of the costs of clean-up and preventive measures had been received by the 1992 Fund. Three of these claims, totalling Won 239 million (£139 000), had been settled at Won 237 million (£138 000).
- 5.2 Six live seafood restaurants located on the polluted coast submitted claims for alleged mortalities of fish as a result of oil entering their aquaria via submerged seawater intakes. The restaurants also claimed for losses as a result of cancellations of bookings, one month's loss earnings and other, unspecified damages. The total amount claimed is Won 163 million (£95 000). In order to establish whether oil had entered the restaurants' aquaria the Fund's experts appointed a diver to inspect their seawater intakes, which was located in depths of between 2 and 0.8 metres of water. The divers reported no evidence of any exposure to oil. The Fund therefore rejected the claim for alleged mortalities of fish. The claimants were unable to demonstrate any booking cancellations, but provided sales records for several weeks prior to, and following, the incident. On examination of the sales records it was apparent that no significant loss had occurred during the weeks following the incident. As regards the unspecified losses, the Fund's experts noted that the owners and staff of the restaurants had voluntarily undertaken clean-up of the shoreline fronting their restaurants, which lasted over two days. The Director considered that these activities were prudent preventive measures and the Fund therefore approved costs totalling Won 3.1 million (£1 800) in respect of clean-up operations.
- 5.3 Fishery and mariculture claims totalling Won 618 million (£360 000) have been received by the Fund and these claims are being assessed.

6 Action to be taken by the Executive Committee

The Executive Committee is invited:

- (a) to take note of the information contained in this document;
 - (b) to consider whether to authorise the Director to make final settlements of claims arising from this incident; and
 - (c) to give the Director such instructions in respect this incident as it may deem appropriate.
-