



INCIDENTS INVOLVING THE 1992 FUND

THREE KOREAN INCIDENTS

Duck Yang, Kyung Won and Jeong Yang

Note by the Director

Summary:

Duck Yang: The coastal tanker sank after striking a barge and a quay wall in the port of Busan. A spill of approximately 300 tonnes of fuel oil became widely scattered within the confines of the port causing disruption to port operations and the contamination of the hulls of over 100 ships.

Kyung Won: The un-powered barge stranded on the breakwater of a small fishing port spilling about 100 tonnes of heavy fuel oil. About 17 km of shoreline was polluted to varying degrees impacting fisheries and mariculture. The barge did not have any liability insurance. All claims in respect of clean-up and preventive measures have been settled and paid.

Jeong Yang: The coastal tanker *Jeong Yang* collided with the coastal tanker *Sung Hae* near Yeosu resulting in a spill of some 700 tonnes of heavy fuel. As a result of a combination of favourable tides and an effective response by the operators of the nearby oil terminal most of the oil was contained and recovered at sea as a result of which shoreline pollution was limited and there was little impact on fisheries and mariculture.

Action to be taken: Decide whether to authorise the Director to settle claims arising from the *Jeong Yang* incident.

1 *Duck Yang*

(12 September 2003)

1.1 The incident

- 1.1.1 The mooring ropes of the Korean tanker *Duck Yang* (149 GT) parted in the port of Busan (Republic of Korea), as a result of strong winds and heavy seas created by the typhoon 'Maemi'. The vessel struck a barge and the quay wall of the port's central pier before turning on its side and sinking. The ship's master and chief engineer were reported missing. An estimated 300 tonnes of heavy fuel oil was lost from two cargo tanks whose manhole covers were open and another cargo tank whose shell plating had punctured.

- 1.1.2 The shipowner engaged a local salvage company, which successfully lifted the vessel out of the water by means of floating cranes. The remaining oil on board was then transferred to another tanker.
- 1.1.3 The *Duck Yang* was insured for pollution liabilities with the Korea Shipping Association (KSA). Although KSA is not a member of the International Group of P&I Clubs, the Association agreed with the 1992 Fund's proposal to apply the Memorandum of Understanding signed by the 1992 Fund and the International Group whereby the two parties would jointly instruct surveyors and experts to monitor the clean-up and assist with the assessment of claims for compensation for pollution damage. A team of Korean surveyors and experts were appointed to undertake this work on behalf of the KSA and the 1992 Fund.
- 1.1.4 The oil became widely scattered throughout the port of Busan as a result of which the hulls of over 100 vessels were contaminated. Cleaning the hulls of some vessels proved difficult due to restricted accessibility between vessels and quay walls and changes in vessels' freeboards as cargo was loaded or discharged.
- 1.1.5 A number of piers were so heavily contaminated that vessels were prevented from going alongside until they had been cleaned.
- 1.1.6 As a result of the confinement of the oil within the port areas, impact on fisheries was minimal. However, a number of raw seafood restaurants that abstract seawater into their holding tanks suffered business interruption due to the presence of oil.
- 1.2 Clean-up operations
 - 1.2.1 The Marine Police, the Navy and several commercial contractors mobilised a fleet of 27 pollution response vessels to combat the oil that had escaped.
 - 1.2.2 On water clean-up operations were completed by 20 September 2003, but cleaning of piers, breakwaters and other man-made structures was not completed until mid-October.
- 1.3 Claims for compensation
 - 1.3.1 The limit applicable to the *Duck Yang* under the 1992 Civil Liability Convention is 3 million SDR (£2.5 million).
 - 1.3.2 At its 22nd session, held in October 2003, the Executive Committee authorised the Director to settle claims arising from the incident to the extent that they do not give rise to issues of principle not previously considered by the Funds' governing bodies (document 92FUND/EXC.22/14, paragraph 3.11.10).
 - 1.3.3 Claims in respect of the costs of preventive measures and clean-up, including the cleaning of the hulls of over 100 vessels, totalling Won 3 695 million (£1.7 million) have been assessed at Won 2 883 million (£1.4 million). Claims totalling Won 46 million (£22 000) for property damage and economic losses resulting from disruption of vessel operations in the port of Busan have been assessed at Won 43 million.
 - 1.3.4 Further claims for property damage and consequential economic losses are expected. It is therefore too early to predict whether the total claims arising from this incident will exceed the limitation amount applicable to the *Duck Yang*.

2 Kyung Won

(12 September 2003)

2.1 The incident

- 2.1.1 The Korean tank barge *Kyung Won* (144 GT), whilst moored near the port of Gwangyang, Namhae Island, Republic of Korea, stranded on the breakwater of the village of Yu Po during the passing of the typhoon 'Maemi'. Approximately 100 tonnes of heavy fuel oil escaped from a cracked cargo tank before a contractor was able to seal the cracks and transfer the remaining oil. On 14 September 2003 the barge was towed to a shipyard in Busan for repairs.
- 2.1.2 The 1992 Fund appointed a team of Korean surveyors and experts to monitor the clean-up operations and investigate the potential impact of the pollution on fisheries and mariculture.
- 2.1.3 Approximately 14 km of shoreline, along which 17 fishing villages are located, were polluted by oil of which six km were heavily impacted. Shorelines consist of a mixture of sand, pebbles and rocks as well as breakwaters and sea walls.
- 2.1.4 Fishing and mariculture activities undertaken in the area include intertidal harvesting of marine products, inshore fishing with vessels and set nets, shellfish culture farms and onshore hatcheries producing a range of marine products. Many of these activities also suffered the direct effects of the typhoon.

2.2 Clean-up operations

- 2.2.1 The Marine Police, a private clean-up contractor and the Korean Marine Pollution Response Corporation (KMPRC) deployed 31 response vessels to undertake clean-up operations at sea. These operations were terminated on 17 September, the remaining oil having stranded on shorelines.
- 2.2.2 Two private clean-up contractors, working under the direction of KMPRC, organised shoreline clean-up operations, which were undertaken by local labour drawn from the affected fishing communities. These operations were completed by mid-December 2003.

2.3 Applicability of the 1992 Civil Liability Convention and the 1992 Fund Convention

- 2.3.1 The *Kyung Won*, which was built in 1986, was an un-powered sea going barge comprising six cargo tanks, one of which was fitted with heating coils, an aft deck house, two generators and a boiler. Each cargo tank has a separate manhole and cargo line.
- 2.3.2 At the time of the incident the *Kyung Won* was not entered with any classification society and did not carry any liability insurance. It appears that liability insurance was terminated in May 2002 when the shipowner became bankrupt, and since then the former employees of the shipowner had continued to operate the vessel as a bunkering barge.
- 2.3.3 At its 22nd session, held in October 2003, the Executive Committee authorised the Director to settle claims for compensation arising from *Kyung Won* incident to the extent that they did not give rise to issues of principle not previously considered by the Funds' governing bodies. The Committee further decided that, since the *Kyung Won* was not insured for pollution liabilities and the shipowner was unlikely to have the financial resources to make any significant compensation payments, the 1992 Fund should pay settled claims even if the shipowner did not make any payments (document 92FUND/EXC.22/14, paragraphs 3.11.17 - 3.11.18).

2.4 Claims for compensation

- 2.4.1 Claims totalling Won 3 117 million (£1.5 million) in respect of the costs of clean-up and preventive measures have been settled and paid for Won 2 921 million (£1.3 million). No further claims are expected in these categories are anticipated.

2.4.2 In February 2004 the Fund received claims from 18 village fishery associations (VFAs) in respect of losses in the fishing and mariculture sectors. The total amount claimed is Won 3 268 million (£1.6 million). The Fund's Korean experts are assessing these claims.

2.5 Consideration of possible action against the shipowner

2.5.1 In November 2003 the Director considered whether the Fund should register the arrest of the *Kyung Won*, with a view to recovering the proceeds from public auction of the vessel in the event that the Fund were to obtain a judgement against the shipowner in respect of its subrogated claims. Such a registration of arrest would have prevented the owner from selling the vessel, whilst at the same time allowing it to continue trading.

2.5.2 Before deciding whether to proceed with the registration of arrest the Director instructed the Fund's Korean lawyers to estimate the value of the *Kyung Won*. In December 2003 the Fund's lawyers advised the Director that the value of the *Kyung Won* was in the region of Won 70 – 80 million (£33 000 – £38 000) and that the owner had mortgaged the vessel for Won 50 million (£23 000). In view of likely costs involved in pursuing a claim and the limited value of the *Kyung Won* in relation to the total claims exposure of the 1992 Fund, the Director decided that there was no merit in the Fund attaching the vessel for a potential subrogation claim.

3 Jeong Yang

(23 December 2003)

3.1 The incident

3.1.1 Shortly after departure from the L-G Caltex terminal near Yeosu (Republic of Korea), the laden Korean tanker *Jeong Yang* (4 061 GT) collided with the un-laden Korean tanker *Sung Hae* (5 914 GT). As a result of the collision two of the *Jeong Yang*'s cargo tanks were holed which led to the spillage of some 700 tonnes of heavy fuel oil. In its attempt to avoid the collision the *Jeong Yang* stranded on a muddy shore, but was refloated with the aid of a tug. The cargo remaining on board the *Jeong Yang* was offloaded on 24 December 2003.

3.1.2 Due to the high pour point of the oil and the ambient sea temperature, the spilt oil solidified into mats up to 10 centimetres thick. The oil drifted on the flood tide back towards the terminal from where the vessel had sailed, which enabled the terminal personnel to contain most of the oil using a permanently deployed boom.

3.1.3 Tar balls up to 20 centimetres in diameter stranded over a four kilometres stretch of shoreline on the island of Myodo to the north of the terminal and over a 22 kilometres stretch of coastline on Namhaedo to the east of the terminal.

3.1.4 The *Jeong Yang* was entered with the Sveriges Angfartygs Assurans Förening (Swedish Club) and the *Sung Hae* with the United Kingdom Mutual Steamship Assurance Association (Bermuda) Limited.

3.1.5 The Swedish Club and the 1992 Fund jointly appointed Korean experts to monitor the clean-up operations and assist with the assessment of claims for compensation for pollution damage. An expert from the International Tanker Owners Pollution Federation Limited (ITOPF) travelled to Korea on 23 December 2003.

3.2 Clean-up operations

3.2.1 Some 60 vessels, including specialised pollution craft and fishing vessels, were mobilised to combat the oil on the water. Due to the nature of the oil, mechanical collection methods were employed using grab buckets and front-end loaders mounted on barges. By 31 December 2003 all of the oil contained in the boom at the terminal and other floating oil had been recovered and the cleaning and demobilisation of equipment had commenced.

3.2.2 Booms were deployed around the seawater intakes of three power stations and a steel plant to the north of the terminal. Manual cleaning of shorelines was carried out rapidly and efficiently due to the solid nature of the oil, which prevented spreading on surfaces and penetration into beach sediments.

3.2.3 Some 590 tonnes of liquid waste and 755 tonnes of solid waste have been collected as a result of clean-up operations. Under Korean law the reprocessing and recycling of oily wastes is prohibited and all wastes must therefore be incinerated.

3.3 Impact of the spill

3.3.1 As a consequence of the successful containment of the bulk of the oil at the terminal, the impact of the spill on fisheries and mariculture was limited.

3.3.2 The booming of the seawater intakes was successful and it was therefore not necessary to close any of the power plants and the steel plant.

3.4 Claims for compensation

3.4.1 As at 5 February 2004 no claims for compensation had been submitted. The Korean experts appointed by the Swedish Club and the 1992 Fund have estimated on a very preliminary basis that the clean-up costs will be in the region of about Won 3 700 million (£1.7 million). Some claims for property damage and economic losses can be expected.

3.4.2 The limitation amount applicable to the *Jeong Yang* under the 1992 Civil Liability Convention is 4.5 million SDR (£3.8 million). It is too early to say whether the total amount of claims will exceed this amount. However, the Executive Committee may nevertheless wish to authorise the Director to settle claims arising from the incident to the extent that they do not give rise to issues of principle not previously considered by the Funds' governing bodies.

4 Action to be taken by the Executive Committee

The Executive Committee is invited:

- a) to take note of the information contained in this document; and
 - b) to decide whether to authorise the Director to settle claims in respect of the *Jeong Yang* incident.
-