



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUNDS

<b>Agenda item: 3</b>	IOPC/OCT13/3/16	
Original: ENGLISH	15 September 2013	
1992 Fund Assembly	<b>92A18</b>	
1992 Fund Executive Committee	<b>92EC59</b>	•
Supplementary Fund Assembly	<b>SA9</b>	
1971 Fund Administrative Council	<b>71AC31</b>	

## INCIDENTS INVOLVING THE IOPC FUNDS – 1992 FUND

### NESA R3

#### Note by the Secretariat

<b>Objective of document:</b>	To inform the 1992 Fund Executive Committee of this new incident that took place in the Sultanate of Oman.
<b>Summary of the incident so far:</b>	<p>On 19 June 2013 the 856 GT tanker <i>Nesa R3</i>, carrying 840 tonnes of bitumen from the port of Bandar Abbas in the Islamic Republic of Iran, sank off the port of Mina Sultan Qabous, Muscat, Oman, tragically claiming the life of its master.</p> <p>The oil polluted, in varying degrees of contamination, about 40 kilometres of the coast of Oman. As at 15 September 2013, it is unknown how much oil was left on board the wreck after the sinking. However, as at 1 July 2013, clean-up operations carried out both at sea and onshore had recovered in excess of 250 tonnes of oil.</p> <p>Two claims for clean-up related activities, totalling OMR 307 254 (£525 000) <sup>&lt;1&gt;</sup> have been received. Further claims are expected for at sea and onshore clean-up operations as well as for a survey of the wreck. Claims may also arise from the fisheries sector and tourism-related businesses.</p> <p>The <i>Nesa R3</i> carried less than 2 000 tonnes of persistent oil as cargo and as such was not required to maintain compulsory insurance. The owners of the <i>Nesa R3</i> had nonetheless taken out insurance with the Indian Ocean Ship Owners Mutual P&amp;I Club, Sri Lanka.</p> <p>As at 15 September 2013, the shipowner had not yet responded to requests from the Omani Government as to his intentions or confirmed whether he would meet his obligations under the 1992 Civil Liability Convention (1992 CLC) to pay compensation to persons suffering pollution damage arising out of the incident. It was also still unclear whether the insurance cover of the ship would be valid for this incident.</p> <p>As a consequence, although the total amount of the admissible claims may fall below the limitation amount applicable to the <i>Nesa R3</i>, the 1992 Fund will, in the Director's view, be liable in accordance with Article 4.1 (b) of the 1992 Fund Convention to pay compensation for this incident.</p>
<b>Action to be taken:</b>	<p><u>1992 Fund Executive Committee</u></p> <p>Decide whether to authorise the Director to make payments of compensation in respect of claims arising from this incident.</p>

<1>

The exchange rates used in this document (as at 1 August 2013) are £1 = 1.0040 SDR and £1 = OMR 0.5837.

## 1 **Summary of incident**

Ship	<i>Nesa R3</i>
Date of incident	19 June 2013
Place of incident	About 1.4 nautical miles off the port of Mina Sultan Qabous, Muscat, Sultanate of Oman
Cause of incident	Sinking
Quantity of oil spilled	In excess of 250 tonnes
Area affected	Some 40 kilometres of shoreline
Flag State of ship	Saint Kitts and Nevis
Gross tonnage	856 GT
P&I insurer	Indian Ocean Ship Owners Mutual P&I Club, Sri Lanka
CLC limit	4.51 million SDR
STOPIA/TOPIA applicable	Not applicable
CLC + Fund limit	203 million SDR
Claims submitted	Two claims totalling OMR 307 254 (£525 000). Further claims are expected
Legal proceedings	No legal proceedings commenced to date

## 2 **Incident**

- 2.1 The 856 GT tanker *Nesa R3*, built in 1981, sank approximately 1.4 nautical miles off the port of Mina Sultan Qabous, Muscat, Oman on 19 June 2013. The Saint Kitts and Nevis' flagged ship had arrived in the port of Mina Sultan Qabous on 19 June 2013 to make a routine delivery of bitumen from Bandar Abbas, Islamic Republic of Iran.
- 2.2 While awaiting the arrival of a pilot, the master signalled that the ship was in distress and requested urgent assistance from the port. Crew statements reported that a loud bang was heard followed by vibration through the ship immediately after which the ship began to list to starboard. Action was taken to attempt to correct the list but was not successful and the order to abandon ship was given. The exact nature of the problems encountered and the sequence of events are unknown; they are being investigated by the Omani authorities, the owners and the flag State.
- 2.3 The port immediately deployed its available resources, supplemented by local fishing craft operating nearby, which identified that the vessel was in distress. The vessel's situation deteriorated quickly and, even with additional resources on site, its sinking could not be prevented. Less than twenty minutes passed between the request for assistance and the sinking of the vessel. The rescue operations managed to rescue nine of the ten crew members from the vessel before it sank about 1.4 nautical miles from the port.
- 2.4 After ensuring the safe evacuation of his crew, the master of the vessel re-entered his accommodation to retrieve the ship's documents and tragically lost his life when the ship sank.

## 3 **Investigations into the cause of the incident**

Investigations into the cause of the incident have been initiated by the competent authorities in Oman, the owners and by the ship's flag State administration in St Kitts and Nevis. These inquiries are still in progress.

## 4 **Impact of the spill**

- 4.1 At the time of the incident, the ship was carrying 840 tonnes of bitumen as cargo and five tonnes of diesel bunkers. During the incident and the subsequent sinking of the vessel, some cargo and diesel bunkers were spilled and spread by wind and currents along some 40 kilometres of the Omani coast. The exact amount of cargo and bunkers lost has not yet been determined.

- 4.2 The cargo on the *Nesa R3* was grade 60/70 bitumen and was loaded at a temperature of 122°C in order to make it easier for handling and pumping. The specific gravity of this bitumen is in the range 1.01 to 1.06 and is therefore more than that of fresh water and may be greater than that of sea water (1.025) meaning the product may sink or submerge.
- 4.3 Immediately after the spill, the bitumen spread quickly but, because of the rapid cooling due to the contact with sea water, it became very viscous and rapidly formed thick patches which were moved by wind and current along the coastline. Due to the higher specific gravity of the bitumen some patches were partially submerged, making detection more difficult.
- 4.4 Observations on site during clean-up operations also found that in areas of shallow water, due to high daytime temperatures, sunken and submerged oil had remobilised resulting in re-contamination of areas previously cleaned of stranded oil.
- 4.5 Since the *Nesa R3* sank at a depth of approximately 65 metres, it is very likely that any bitumen still on-board the vessel or spilled in the vicinity would have solidified and therefore be immobile. The Omani authorities have commissioned a survey of the wreck to, *inter alia*, establish the quantities and condition of the bitumen remaining on board.

## **5 Clean-up operations**

- 5.1 Immediately after the spill, the Government of Oman set up a National Technical Committee tasked with identifying and deploying the necessary resources to survey the vessel and determine its condition, the cause of the incident and the status and condition of the cargo. The Omani Government had also requested the Marine Emergency Mutual Aid Centre to provide technical advice and to support the National Technical Committee which is expected to continue its work until the removal of the oil.
- 5.2 Resources were deployed by both the port of Mina Sultan Qabous and the central Government to recover the oil at sea. When it was clear that some oil would still reach the shoreline, the Government contracted two specialist oil spill clean-up contractors based in Oman to undertake the shoreline clean-up under the direction of the National Technical Committee. Clean-up operations have been conducted not only from land, where access was available, but also from sea using specialist vessels and local fishing boats to transport personnel and equipment.
- 5.3 As at 1 July 2013, some 250 tonnes of bitumen had been recovered and operations were on-going to deal with the remaining identified concentrations of oil. The bitumen recovered represented the bulk of the floating and beached oil. Subsequent clean-up operations were focussed on recovering submerged oil in the near shore areas and monitoring beaches for secondary contamination. The possible impact of the spilled oil on fisheries and tourism activities, as well as turtle breeding, was also being studied.
- 5.4 In August 2013, the National Technical Committee issued a tender to carry out a survey of the wreck to identify the quantity of oil and bunkers left on board and whether any further removal operations were needed. The survey is expected to take place in the autumn.
- 5.5 The Omani authorities requested the 1992 Fund's support in dealing with the incident from the very early stages. The 1992 Fund has provided technical expertise and support with regard to the reasonableness of the operations undertaken so far. The 1992 Fund's Head of Claims Department/Technical Advisor, as well as an external fisheries expert, travelled to Oman in July 2013. The 1992 Fund's Secretariat continues to provide support and to monitor events.

## **6 Applicability of the 1992 Civil Liability and Fund Conventions**

- 6.1 Oman is Party to the 1992 CLC and a 1992 Fund Convention.

- 6.2 The tonnage of the *Nesa R3* was 856 GT. The limitation amount applicable under the 1992 CLC is therefore 4.51 million SDR (£4.5 million).
- 6.3 The *Nesa R3* is owned by Welance Marine Inc of Charlestown, Saint Kitts and Nevis. The vessel was bareboat chartered to Cyrus Transportation, located in the United Arab Emirates, which managed the technical and commercial operations, and the crewing of the vessel to transport and deliver bitumen to the Cyrus Group bitumen depot in Muscat.
- 6.4 The *Nesa R3* carried less than 2 000 tonnes of persistent oil as cargo and as such was not required to maintain compulsory insurance under the 1992 CLC. The owners of the *Nesa R3* had nonetheless taken out insurance with the Indian Ocean Ship Owners Mutual P&I Club, based in Sri Lanka. However, it has not yet been established if the shipowner's insurer had issued certificates (blue cards) for the vessel or if the tanker carried a 1992 CLC certificate. The insurer had also indicated that, in any case, the insurance policy of the *Nesa R3* would not apply in this case as the oil originated from Iran.
- 6.5 The Omani Government has informed the 1992 Fund that it had contacted the owners and charterers through their legal representative in Oman and requested them to either establish a limitation fund or provide other types of financial guarantee to cover their obligations under the 1992 CLC and for the inspection and potential removal of the wreck and its cargo. As at 15 September 2013, the vessel owners had not established any such fund or provided any other financial guarantee. The Omani authorities are pursuing measures to encourage the shipowner to establish a limitation fund or deposit a suitable guarantee at an appropriate level.

## **7 Claims situation**

- 7.1 Two claims for costs incurred by the two companies involved in the clean-up operations have been forwarded to the 1992 Fund by the Oman Ministry of Environment. The two claims amount to OMR 205 315 (£350 000) and OMR 101 939 (£175 000), respectively. The 1992 Fund is examining the claims.
- 7.2 Further claims are expected for clean-up operations as well as for economic damages to fisheries and tourism businesses. A claim for the costs of the survey of the wreck is also expected.

## **8 Director's considerations**

- 8.1 The Director notes with great regret that the master of the *Nesa R3* very sadly lost his life while trying to save his vessel.
- 8.2 He notes that two claims for compensation by the companies engaged to carry out clean-up operations have been already forward by the Omani authorities to the 1992 Fund and it is understood that more claims will be forwarded to the 1992 Fund in the near future.
- 8.3 He also notes that the *Nesa R3* carried less than 2 000 tonnes of persistent oil as cargo and as such was not required to maintain compulsory insurance under the 1992 CLC. Although the ship was insured with the Indian Ocean Ship Owners Mutual P&I Club, the insurer had indicated that the insurance policy of the *Nesa R3* would not apply in this case.
- 8.4 He notes, furthermore, that since all the attempts made so by the Omani authorities to obtain a financial commitment by the shipowner have been so far unsuccessful, there are strong indications that the shipowner will not meet his obligations under the 1992 CLC to pay compensation in full to persons suffering pollution damage arising out of the incident.
- 8.5 As a consequence, although it is yet unknown whether the total amount of the admissible claims will fall below the limitation amount applicable to the *Nesa R3*, in the Director's view the 1992 Fund will in any case be liable to pay compensation for this incident in accordance with Article 4.1 (b) of the 1992 Fund Convention.

8.6 The Director therefore proposes that the 1992 Fund Executive Committee authorise him to make payments of compensation in respect of losses arising out of the *Nesa R3* incident and to claim reimbursement from the shipowner.

9 **Action to be taken**

1992 Fund Executive Committee

The 1992 Fund Executive Committee is invited:

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