



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUNDS

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1992 Fund Executive Committee	92EC61	●	
1971 Fund Administrative Council	71AC32		
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INCIDENTS INVOLVING THE IOPC FUNDS – 1992 FUND

NESA R3

Note by the Secretariat

Objective of document:	To inform the 1992 Fund Executive Committee of the latest developments regarding this incident.
Summary of the incident so far:	<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 Sultan Qaboos, Muscat, Sultanate of Oman, tragically claiming the life of its master.</p> <p>The ship spilled an unknown quantity of oil which polluted, in varying degrees of contamination, about 40 kilometres of the coast of Oman. At the end of the first phase of the response, clean-up operations carried out both at sea and onshore had recovered in excess of 250 tonnes of oil. As at 8 April 2014, some bitumen remains stranded on the beaches and semi submerged in some near-shore areas.</p> <p>Two claims for clean-up related activities, totalling OMR 508 133 (£795 000)^{<1>} 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 are also expected from the fisheries sector and 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&I Club, Sri Lanka. The limitation amount applicable under the 1992 Civil Liability Convention (1992 CLC) is therefore 4.51 million SDR (£4.87 million).</p> <p>In October 2013, the Omani Government commenced legal action against the shipowner in the Court of Muscat, as the latter had refused to meet its obligation under the 1992 CLC and the insurer of the ship had also refused to consider any claims citing, as the reason, that the country of origin of the cargo was the Islamic Republic of Iran.</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 would, 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> <p>In October 2013, in view of the considerations set out above, the 1992 Fund Executive Committee decided 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 18 March 2014) are 1 SDR = £1.0803 and £1 = OMR 0.639.

Recent developments:	<p>In February 2014, the 1992 Fund's Secretariat visited Oman again and met with the National Technical Committee and various ministries to discuss the status of the response to the incident. During the meeting, the Ministry of Environment of Oman informed the 1992 Fund that it had identified potential pollution threats in the bunker and lubricating oils still present on board the wreck and that it was considering removing the remaining oil. Discussions took place regarding the reasonableness of a recovery operation when little was known of the quantities and types of pollutants remaining on board.</p> <p>A survey was carried out in March 2014 to identify the type and quantity of the residual oil remaining in the wreck. As a result of the survey the Omani authorities considered that there was no further threat of pollution posed by the oil remaining on board and decided not to carry out any further oil removal operation from the wreck.</p>
Action to be taken:	<p><u>1992 Fund Executive Committee</u></p> <p>Information to be noted.</p>

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 Sultan Qaboos, 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 (£4.87 million)
STOPIA/TOPIA applicable	Not applicable
CLC + Fund limit	203 million SDR or OMR 120 827 630 (£189 million)
Claims submitted	Two claims totalling OMR 508 133 (£795 000). Further claims are expected.
Legal proceedings	Legal proceedings by the Omani Government against the shipowner.

2 Introduction

- 2.1 The 856 GT tanker *Nesa R3*, built in 1981, sank approximately 1.4 nautical miles off the Port Sultan Qaboos, Muscat, Oman on 19 June 2013. The Saint Kitts and Nevis flagged ship had arrived in the Port Sultan Qaboos on 19 June 2013 to make a routine delivery of bitumen from Bandar Abbas, Islamic Republic of Iran. The incident tragically claimed the life of the ship's master.
- 2.2 The exact nature of the problems encountered and the sequence of events are unknown; they are being investigated by the Omani authorities and the flag State. The exact amount of cargo lost has also not yet been determined.

3 Applicability of the 1992 Civil Liability and Fund Conventions

- 3.1 Oman is Party to the 1992 CLC and to the 1992 Fund Convention.
- 3.2 The tonnage of the *Nesa R3* was 856 GT. The limitation amount applicable under the 1992 CLC is therefore 4.51 million SDR (£4.87 million).

- 3.3 The *Nesa R3* was owned by Welance Marine Inc of Charlestown, Saint Kitts and Nevis. The vessel was bareboat chartered to Cyrus Service and Trading, Inscape Marine Services, 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.
- 3.4 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.
- 3.5 The Government informed the 1992 Fund that all the attempts made to obtain a financial commitment by the shipowner had so far been unsuccessful, and that there were strong indications that the shipowner would not meet his obligations under the 1992 CLC to pay compensation in full to persons suffering pollution damage arising out of the incident.
- 3.6 The Government also informed the 1992 Fund that the insurer of the ship had also refused to consider any claims, stating as the reason for the refusal that the cargo came from the Islamic Republic of Iran.
- 3.7 The Government had commenced legal action in the Court of Muscat against the owner of the *Nesa R3* since the latter had refused to meet his obligation under the 1992 CLC. The next hearing of the Court is scheduled at the end of May 2014.
- 3.8 Considerations of the Executive Committee
- 3.8.1 In October 2013, the Executive Committee noted that in view of the fact that all the attempts made so far by the Omani authorities to obtain a financial commitment by the shipowner had been unsuccessful, and that, although it was yet unknown whether the total amount of the admissible claims would fall below the limitation amount applicable to the *Nesa R3*, in the Director's view the 1992 Fund would be liable to pay compensation for this incident in accordance with Article 4.1 (b) of the 1992 Fund Convention.
- 3.8.2 As a consequence, the Executive Committee authorised the Director to make payments of compensation in respect of the admissible losses arising out of the *Nesa R3* incident and to claim reimbursement from the shipowner.
- 3.9 Maximum amounts available for compensation under the 1992 Civil Liability and Fund Conventions
- 3.9.1 Based on Article 4.4(e) of the 1992 Fund Convention, the aggregated amount available for this incident should be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the 1992 Fund as to the first date of payment of compensation.
- 3.9.2 The value of the Omani Rial *vis-à-vis* the SDR on the date of the adoption of the Record of Decisions of the October 2013 sessions of the 1992 Fund's governing bodies, ie 25 October 2013, was 1 SDR = OMR 0.59521. The conversion on the basis of the rate applicable on that day gives the total amount available for compensation under the 1992 Civil Liability and Fund Conventions as OMR 120 827 630 (£189 million).
- 4 Impact**
- 4.1 At the time of the incident, the ship was carrying 840 tonnes of bitumen as cargo and five tonnes of bunkers. During the incident and the subsequent sinking of the vessel, some cargo and 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 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.
- 4.3 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.
- 4.4 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 commissioned a survey of the wreck to, *inter alia*, establish the quantities and condition of the bitumen remaining on board. The survey found that the bitumen had indeed solidified and no longer posed a risk to the environment and the economic activities in the area around the wreck.

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 also requested that the Marine Emergency Mutual Aid Centre 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 the Port Sultan Qaboos, the central Government and two government-contracted private clean-up companies to recover the oil at sea. 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 a result of the initial clean-up operations in June 2013, some 250 tonnes of bitumen were 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 identifying 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 studied. No further clean-up activity was conducted during the winter season.
- 5.4 Further clean-up operations to remove buried oil from beaches as well as patches of semi-submerged oil from some near-shore sea areas are due to commence in April 2014. The clean-up operations are expected to last two weeks.

6 Claims situation

- 6.1 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 302 818 (£474 000) and OMR 205 315 (£321 000), respectively. In October 2013, the Omani Government informed the 1992 Fund of its intention to settle these claims and then to submit a request for compensation to the 1992 Fund. As at 8 April 2014, the 1992 Fund is examining the claims.
- 6.2 Further claims are expected for the costs of the surveys on the wreck and for the subsequent study on the types of oil as well as at sea and onshore clean-up operations. Claims are also expected from businesses in the fisheries sector.

7 Contact with the Omani Government

- 7.1 The Omani authorities requested the 1992 Fund's support in dealing with the consequences of the *Nesa R3* spill during the very early stages of the incident. The Head of the Claims Department visited Oman in June 2013 with an external technical expert and provided technical expertise and support with regard to the operations undertaken.
- 7.2 In February 2014, the 1992 Fund Secretariat visited Oman again to discuss the potential threat of oil pollution from the wreck but later on, as a result of the findings of a survey, the Omani authorities decided not to carry out any oil removal operation from the wreck. The 1992 Fund and the Omani Government have maintained close contact in the intervening months.

8 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.
