



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1971

ASSEMBLY
23rd session
Agenda item 17

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INCIDENTS INVOLVING THE 1971 FUND

EVOIKOS

Note by the Director

Summary:	Claims have been presented in Singapore, Malaysia and Indonesia. Most claims from Malaysia and Singapore have been assessed and offers for settlement have been made in respect of these claims. The shipowner's insurer has made provisional payments in respect of the claims by public authorities in Malaysia and Singapore. The shipowner has commenced limitation proceedings.
Action to be taken:	Decide whether the Director should be authorised to make payments of compensation.

1 Introduction

- 1.1 The Cypriot tanker *Evoikos* (80 823 GRT) collided with the Thai tanker *Orapin Global* (138 037 GRT) whilst passing through the Strait of Singapore on 15 October 1997. The *Evoikos*, which carried approximately 130 000 tonnes of heavy fuel oil, suffered damage to three cargo tanks, and an estimated 29 000 tonnes of heavy fuel oil was subsequently spilled. The *Orapin Global*, which was in ballast, did not spill any oil.
- 1.2 At the time of the incident, Singapore was Party to the 1969 Civil Liability Convention but not to the 1971 Fund Convention or the 1992 Protocols, whereas Malaysia and Indonesia were Parties to the 1969 Civil Liability Convention and the 1971 Fund Convention, but not to the 1992 Protocols thereto.

2 Impact of the spill

The spilt oil initially affected the waters and some southern islands of Singapore, but later oil slicks drifted into the Malaysian and Indonesian waters of the Malacca Strait. In December 1997 oil came ashore in places along a 40 kilometre length of the Malaysian coast in the Province of Selangor.

3 Response and clean-up operations

Singapore

- 3.1 The Maritime and Port Authority of Singapore (MPA) took charge of the clean-up operations, which initially focused on dispersant spraying at sea, and was followed by the containment and recovery of the floating oil. Clean-up equipment owned by East Asia Response Ltd (EARL) and the Petroleum Association of Japan (PAJ) was deployed as well as local industry and commercially available response resources.

Malaysia

- 3.2 After the first few days natural weathering processes had rendered the oil no longer amenable to chemical dispersants. The oil slicks were nearly solid and had spread over a wide area in the Malacca Strait, making at-sea recovery operations impractical. The Malaysian Marine Department undertook aerial and boat surveillance and placed equipment on stand-by so as to make it possible to take preventive measures to protect sensitive resources along the coast in the Malacca Strait if required. The clean-up was carried out by the Malaysian Department of the Environment with support from the Marine Department. District authorities within the Province of Selangor organised manual removal of oil and oily material from sandy shores. Oiled mangroves were left to recover naturally.
- 3.3 Many fish farms are located along the Malaysian coast, and measures were taken to protect those threatened by the oil. Fish farmers were encouraged to surround their fish cages with protective barriers against floating oil, using locally available resources. Only very small spots of weathered oil reached the farms in a few locations.
- 3.4 Many prawn farms along the Strait rely on intakes of fresh water for their operations. On advice from the Malaysian Fisheries Department, measures were taken by the owners of the farms to monitor the intakes to prevent any oil being drawn into the facilities. Some fishermen sustained an oiling of their boats, nets and ropes.

Indonesia

- 3.5 There is no information on any clean-up operations in Indonesia.

4 Claims for compensation

Singapore

- 4.1 Claims relating to clean-up operations and preventive measures have been submitted by Singapore Government agencies for a total amount of S\$4.5 million (£1.7 million). After preliminary discussions with the UK Club the Government reduced this figure to S\$3.1 million (£1.2 million). Contractors appointed by MPA have presented claims for a total of S\$12.8 million (£4.8 million). These claims are being examined. The shipowner's insurer, the United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Ltd (UK Club), has made a provisional payment to the Singapore authorities of S\$500 000 (£190 000).
- 4.2 The UK Club has settled claims by clean-up contractors appointed by the Club on behalf of the shipowner amounting to some S\$4 million (£1.5 million).

- 4.3 The UK Club has received a claim from another contractor for clean-up operations for US\$5 308 00 (£2 million).
- 4.4 Claims for property damage total S\$1.8 million (£670 000). These include claims for the cleaning of a number of ships' hulls that were contaminated by oil escaping from the *Evoikos*. A company involved in the development of an island has submitted a claim in the amount of S\$1 230 000 (£460 000) for the cost of clean-up operations on the island. A claim for the cleaning of a ship's hull has been approved and paid by the UK Club in the amount of US\$ 8 300 (£5 650).
- 4.5 The shipowner and his insurer have indicated that they might maintain that the operations carried out in Singaporean waters (or at least part thereof) were undertaken to prevent or minimise pollution damage in Malaysia or Indonesia and that the costs thereof would therefore qualify for compensation under the 1971 Fund Convention. In addition, claims for salvage operations might be submitted not only under Article 13 of the 1989 International Convention on Salvage but also under Article 14 of that Convention. At its session in October 1999 the Executive Committee maintained its view that it was premature for the Committee to take any position on these issues.

Malaysia

- 4.6 Claims for clean-up costs have been submitted by the Department of the Environment and the regional Marine Departments for a total of RM740 000 (£133 000). This claim has been assessed and approved by the UK Club and the Fund in the amount of RM690 000 (£124 000). The Malaysian authorities are considering whether to accept this figure. The UK Club has made a provisional payment of RM777 579 (£140 000).
- 4.7 A Malaysian oil industry co-operative (PIMMAG), which carried out clean-up operations at the request of the authorities, has presented a claim for RM996 000 (£160 000). It is understood that the Malaysian authorities have paid PIMMAG's claim. This claim has been assessed and approved by the UK Club and the Fund in the amount of RM366 000 (£66 000). However, this claim is still the subject of discussions with the Malaysian authorities.
- 4.8 Some 1200 claims relating to fisheries total RM1.9 million (£310 000). The claims of all but 67 fishermen have been assessed and approved in the amount of RM1.2 million (£210 000). This figure has been communicated for consideration to the fishermen via the relevant regional fisheries authorities.
- 4.9 Claims from a number of fishermen relating to fish farming activities have been rejected, either because the oil did not reach the fish farm in question or because the farm was adequately protected.

Indonesia

- 4.10 The Indonesian authorities have submitted a claim to the shipowner and his insurer for US\$3.4 million (£2.1 million). The claim, which is not supported by detailed documentation, relates to pollution of mangroves (US\$2 million), pollution of sand (US\$1.2 million), fishermen's loss of income (US\$11 000) and the cost of clean-up operations (US\$152 000). The Indonesian authorities have been invited by the insurer to provide further documentation. This claim has been presented in the limitation proceedings in Singapore.
- 4.11 In view of the paucity of information available in respect of the claims by the Indonesian authorities, the 1971 Fund has not been able to express any opinion on the admissibility of the claim. However, the Director has expressed the view that it appears that the amounts claimed under the items relating to pollution of mangroves and pollution of sand are based on abstract calculations and that these items are therefore inadmissible.

5 Payments by the 1971 Fund

- 5.1 In view of the uncertainty as to the total amount of the claims, the Executive Committee confirmed, at its 62nd session held in October 1999, its decisions at previous sessions that the Director was not authorised to make any payments of claims for the time being.
- 5.2 Since the total amount of established claims remains uncertain, the Director is still of the opinion that it would be premature for the 1971 Fund to make payments at this stage.

6 Criminal proceedings

Following the collision criminal charges were brought against the masters of both ships. The master of the *Evoikos* was sentenced to three months' imprisonment and fines totalling S\$60 000 (£22 000). The master of the *Orapin Global* was sentenced to two months' imprisonment and a fine of S\$11 000 (£4 000).

7 Limitation proceedings

The shipowner has commenced limitation proceedings with the competent Singapore court. The court has determined the limitation amount applicable to the *Evoikos* at 8 846 941 SDR (£7.5 million).

8 Action to be taken by the Assembly

The Assembly is invited:

- (a) to take note of the information contained in this document;
 - (b) to consider whether to authorise the Director to make payments; and
 - (c) to give the Director such other instructions as the Assembly may deem appropriate in respect of this incident.
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