



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1971

ADMINISTRATIVE COUNCIL
9th session
Agenda item 15

71FUND/AC.9/13/7
19 September 2002
Original: ENGLISH

INCIDENTS INVOLVING THE 1971 FUND

EVOIKOS

Note by the Director

Summary:

Claims for compensation have been presented in Singapore, Malaysia and Indonesia. All claims in Malaysia and all claims but one in Singapore have been settled and paid by the shipowner's insurer. The claims for damage in Indonesia, which were not pursued by the claimants, have been dismissed by the court in charge of the limitation proceedings in Singapore. The shipowner and his insurer are considering whether to withdraw the proceedings against the 1971 Fund in Malaysia and the United Kingdom which were commenced to prevent any claims against the 1971 Fund becoming time-barred. The proceedings taken by the owner and the Club against the Fund in Indonesia have been discontinued.

Action to be taken:

Information to be noted.

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 was carrying 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 Claims for compensation

Singapore

- 2.1 Claims relating to clean-up operations and preventive measures were submitted by the Maritime and Port Authority of Singapore (MPA) for a total amount of S\$4.5 million (£1.7 million), but the claims were later reduced to S\$3.1 million (£1.1 million). Contractors appointed by MPA presented claims for a total of S\$12.8 million (£4.7 million). The shipowner's insurer, the United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Ltd (UK Club), has informed the 1971 Fund that MPA's claim was settled at S\$2.2 million (£810 000) and the claims by the contractors appointed by MPA at S\$3.3 million (£1.2 million).
- 2.2 The UK Club has settled claims by clean-up contractors appointed by the Club on behalf of the shipowner for a total of S\$4.5 million (£1.7 million).
- 2.3 Claims for property damage have been settled at S\$1.5 million (£550 000). These include claims for the cleaning of a number of ships' hulls contaminated by oil escaping from the *Evoikos*. A claim for the clean up of a ship's hull is outstanding. The Club has offered US\$15 000 (£9 700) as settlement and is awaiting acceptance of the offer.

Malaysia

- 2.4 The UK Club has settled and paid all clean up claims in respect of Malaysia at a total of RM1.4 million (£240 000). The Club has also settled and paid all fisheries claims at a total of RM1.2 million (£200 000).

Indonesia

- 2.5 The Indonesian authorities submitted claims to the shipowner and the UK Club totalling US\$3.4 million (£2.2 million). The claims, which were not supported by any documentation, related to alleged pollution of mangroves (US\$2 million), pollution of sand (US\$1.2 million), loss of income from fishing (US\$11 000) and the cost of clean-up operations (US\$152 000). The Indonesian authorities were invited by the UK Club to provide further documentation but no such information was provided. This claim, which was presented in the limitation proceedings in Singapore, has been dismissed since the claimants ceased pursuing the matter.

3 Legal proceedings

- 3.1 The shipowner and the UK Club commenced proceedings against the 1971 Fund in October 2000 in Malaysia to prevent potential claims against the 1971 Fund (including a claim for indemnification in accordance with Article 5.1 of the 1971 Fund Convention) becoming time-barred. This action was stayed in July 2001 by mutual consent. The shipowner and the Club is considering whether to withdraw this action in light of the developments set out in paragraphs 3.3 and 3.5 below.
- 3.2 In October 2000 the shipowner and the UK Club also commenced legal proceedings against the 1971 Fund in London (United Kingdom) to prevent any claims against the 1971 Fund from becoming time-barred. In the Director's view, these legal proceedings were not necessary, as legal proceedings had been taken in Malaysia and Indonesia. The shipowner and the Club is considering whether to withdraw this action in light of the developments set out in paragraphs 3.3 and 3.5 below.
- 3.3 The shipowner and the UK Club also commenced proceedings against the 1971 Fund in Indonesia in October 2000, claiming £50 000 each from the Fund. In December 2001, and at the request of the shipowner and the UK Club, the Court decided that the proceedings should be discontinued.

- 3.4 The total amount of the established claims from this incident will not exceed S\$11.5 million (£4.3 million) and RM2.6 million (£440 000).
- 3.5 In the limitation proceedings commenced by the shipowner in Singapore, the Court determined the limitation amount applicable to the *Evoikos* at 8 846 948 SDR (£7.6 million). As the admissible claims total £4.7 million, the Director considers that the 1971 Fund will not be required to make any payments of compensation nor pay any indemnification under Article 5.1 of the 1971 Fund Convention.

4 Action to be taken by the Administrative Council

The Administrative Council is invited:

- (a) to take note of the information contained in this document; and
 - (b) to give the Director such other instructions as the Council may deem appropriate in respect of this incident.
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