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INFORMATION ON OTHER INCIDENTS

AGIP ABRUZZO

Note by the Director

1 The Incident

1.1 Whilst lying at anchor two miles off the port of Livorno on 10 April 1991, the Italian tanker AGIP ABRUZZO (98 544 GRT) was struck at night by the Italian ro-ro ferry MOBY PRINCE. Both vessels caught fire. All passengers and all crew members but one on board the ferry (143 persons in all) died, and the ferry was totally destroyed. Nobody on board the tanker died, although some crew members were injured. As a result of the incident, a state of local emergency was declared on 10 April, and it was lifted on 18 May 1991.

1.2 The AGIP ABRUZZO was carrying about 80 000 tonnes of Iranian light crude oil. The fire on board the tanker lasted for seven days during which time about 2 000 tonnes of the cargo and an unknown quantity of bunker fuel oil was spilled.

1.3 As a result of the collision, the AGIP ABRUZZO was damaged in the aft end cargo tank on the starboard side, resulting in an initial escape of oil. The accommodation area and the engine room were destroyed by the fire, which probably also consumed some of the cargo. Explosions in the starboard bunker tank three days after the incident caused extensive structural damage to the ship and a subsequent loss of fuel oil.

2 Clean-up Operations and Salvage

2.1 Originally it was envisaged that the water from the flooded engine room and other spaces would be pumped so as to reduce the AGIP ABRUZZO's draught, thereby enabling her to be brought into the port of Livorno to discharge her cargo there. However, due to the difficulties that arose, it was decided to conduct a lightening operation at the anchorage. The transfer of the cargo to another vessel was completed on 17 May, after having been interrupted several times due to bad weather and operating difficulties. The AGIP ABRUZZO was sold to a non-Italian company for scrapping and was towed away from Livorno on 26 October.

2.2 During the operations, and as a result of bad weather some two weeks after the initial incident, further small releases of oil occurred from the starboard bunker tank through a damaged cargo tank. As a direct consequence, the Italian Government insisted that the number of vessels available for containment of oil at sea and recovery of floating oil be increased, and that these vessels should remain in place while the transfer of the cargo was being carried out.

2.3 Attempts to recover the oil at sea were partially successful, but difficulties were experienced due to the high viscosity of the burnt oil residue and because the spilt fuel oil was distributed over a wide area. The spilt oil eventually stranded over some 130 kilometres of shoreline, mostly north of Livorno, although the pollution was intermittent and for the most part consisted of light scattering of tar balls.

2.4 Shoreline cleaning in the Livorno area was undertaken by local contractors using vacuum trucks to recover bulk oil, followed by manual removal of oiled debris, sand and pebbles. Hot water and dispersants were used for final cleaning of amenity areas. While most of these operations were completed by early June, before the beginning of the main tourist season, one area in Livorno and one in Marina di Pisa required cleaning operations to be continued through the summer. In addition, some localised re-oiling occurred, apparently as a result of heavy weather in June and again in August.

2.5 The clean-up operations on shore and at sea were monitored on behalf of the IOPC Fund, the owners of the AGIP ABRUZZO and the owner's P & I insurer (the Skuld Club) by experts from the International Tanker Owners Pollution Federation Limited (ITOPF), assisted by local surveyors. The IOPC Fund gave Murray Fenton & Associates the task of monitoring the salvage operations on the Fund's behalf. These experts held numerous discussions with representatives of the Italian authorities and representatives of the shipowner.

3 Limitation Proceedings

The owner of the AGIP ABRUZZO (SNAM, a company belonging to the state owned ENI group) has not yet initiated limitation proceedings. It is estimated that the limitation amount applicable to the AGIP ABRUZZO under the Civil Liability Convention is approximately Lit16 600 million (£7.7 million).

4 Claims for Compensation

4.1 Claims have been submitted by three contractors, Labromare, Fratelli Neri and Castalia. On 20, 21 and 22 November 1991 negotiations were held in Milan between the contractors, on the one side, and the owner of the AGIP ABRUZZO, the Skuld Club and the IOPC Fund, on the other side, in respect of these claims. The claims gave rise to a number of important questions, in particular the reasonableness of certain operations, the relationship between preventive measures, salvage and other operations not related to the prevention of pollution, and the rates charged for the employment of equipment and personnel.

4.2 As a result of these negotiations, agreements were reached in respect of the claims submitted by Labromare and Neri, whereas the negotiations with Castalia will have to be continued. The settlements with Labromare and Neri are submitted to the Executive Committee for consideration and approval.

4.3 Under Internal Regulation 8.4.1, the Director may, without the prior approval of the Executive Committee, make final settlement of any claim, if he estimates that the total cost to the IOPC Fund of satisfying all claims arising out of the relevant incident is not likely to exceed 37.5 million (gold) francs (2.5 million SDR, corresponding to £1.9 million). The Executive Committee may, pursuant to Internal Regulation 8.4.2, authorise the Director to settle claims in respect of a particular incident beyond that limit. In the Director's view, it is not unlikely that the total cost to the IOPC Fund of satisfying claims for compensation arising out of the AGIP ABRUZZO incident will exceed 37.5 million (gold) francs.

Labromare Claim

4.4 Labromare was involved mainly in the clean-up of the shoreline and in the storage and treatment of collected waste. This work was carried out in accordance with recommendations made by the IOPC Fund's experts. Labromare also provided some small craft which were used initially for oil recovery and later to transport equipment and personnel to and from the ship. In addition, Labromare carried out work on board the AGIP ABRUZZO to prevent oil leaking from the area of damage.

4.5 The claim presented in respect of these operations totalled Lit8 089 604 427 (£3.7 million). Certain operations on-shore covered by the Labromare claim had in fact been carried out by Castalia as a subcontractor. It was agreed that this item of the claim (Lit1 263 743 062) should be discussed in the context of Castalia's claim (see paragraph 4.17 below). Labromare's claim was thus reduced to Lit6 825 861 365 (£3.2 million).

4.6 During the negotiations the Director maintained that certain tariffs applied by the claimant in respect of equipment and manpower were unreasonable. In addition the Director considered that certain operations did not have the prevention of pollution as their primary purpose and should therefore not be compensated under the Civil Liability Convention and the Fund Convention. For example, support craft were used in connection with the fire fighting operation to transport and handle foam. Labromare also provided personnel to maintain a fire watch on board the vessel. In addition, Labromare assisted with the cargo transfer operation, including the handling and subsequent cleaning of hoses and transportation of Yokohama fenders. This company also put one vessel at SNAM's disposal from the date of the incident up to the end of September.

4.7 After lengthy discussions, agreement was reached that the operations relating to clean-up and preventive measures should be settled at an aggregate amount of Lit4 799 million (£2.2 million), inclusive of interest, and that the operations falling outside the scope of the Civil Liability Convention should be compensated by the shipowner in the amount of Lit351 million (£160 000), inclusive of interest.

4.8 The Director made it clear that his acceptance of this settlement was subject to the approval of the Executive Committee.

Neri Claim

4.9 Neri supplied tugs and other craft that provided a range of services to the AGIP ABRUZZO, including fire fighting, pollution prevention, pumping of the engine room and disposal of solid and liquid waste.

4.10 The Neri claim totalled Lit13 446 833 500 (£6.2 million). Of this amount, Lit5 160 171 500 (£2.4 million) related to pollution prevention, Lit3 286 662 000 (£1.5 million) to services rendered to SNAM and Lit5 000 million (£2.3 million) to costs of salvage operations and salvage reward. The services rendered to SNAM included the provision of standby tugs, the supply of equipment used for the pumping of the engine room and the supply of barges for the transportation of personnel and equipment to the ship. Some of these services contained elements which related to pollution prevention activities.

4.11 This claim gave rise to the question of the relationship between "preventive measures" and salvage operations including other activities not related to pollution prevention. This relationship has been considered within the IOPC Fund in connection with several previous incidents. The Executive Committee has taken the position that only operations which have as their primary purpose to prevent or minimise pollution fall within the definitions of "pollution damage" and "preventive measures" laid down in the Civil Liability Convention; if the operations have primarily another purpose, eg that of salvaging ship and cargo, the operations fall outside the scope of these definitions even if they had as a result the prevention of pollution. In his discussions with the claimants, the Director based his approach on the position taken by the Executive Committee set out above.

4.12 Certain operations had a dual purpose, and it was not possible to establish with any certainty which was the primary purpose of such operations. The IOPC Fund's experts were asked to apportion some items, based on their experience, between pollution prevention and other activities. In so doing, they took the following factors into consideration. The ship was at anchor in an open anchorage and without power. The ship was not able to enter the port of Livorno because the engine room was flooded, resulting in an excessive draught. The structure of the vessel was severely weakened and several cracks had appeared in the shell plating. The forepeak had to be ballasted so as to raise the damaged area to reduce the flow of bunker oil from the ship. In view of these factors, the Director is of the opinion that there was a significant element of pollution prevention in the operations carried out by Neri and that a certain portion of the cost of these operations should be considered as falling within the definition of "preventive measures".

4.13 On the basis of the advice given by IOPC Fund's experts, the Director made an assessment of what should be the reasonable costs of the operations which fell within the definitions of "pollution damage" and "preventive measures", as interpreted by the Executive Committee. In particular, the Director maintained that the tariffs applied to pontoons and tugs were unreasonable.

4.14 After lengthy discussions agreement was reached to settle the claim in respect of the activities which were considered falling within the definitions of "pollution damage" and "preventive measures" at Lit2 500 million (£1.2 million), inclusive of interest. The Director made it clear that his acceptance of this amount was subject to the approval of the Executive Committee.

4.15 Discussions were also held between Neri, SNAM and the hull and cargo underwriter concerning the costs of the salvage operations and the other activities which were not related to the prevention of pollution and concerning the assessment of the salvage reward. It was agreed between these three parties that the costs for services not related to anti-pollution (which would fall within the concept of general average) should be settled at Lit2 500 million (£1.2 million) inclusive of interest, and that the salvage reward should be fixed at Lit3 100 million (£1.4 million).

Castalia Claim

4.16 The operations carried out by Castalia related mainly to clean-up of pollution at sea. Castalia provided supply vessels, booms and skimmers in response to the requirements laid down by the Livorno harbour master.

4.17 The total amount of the Castalia claim is Lit11 352 883 984 (£5.3 million), including the item relating to the operations referred to in paragraph 4.5 above.

4.18 The documents submitted in support of this claim before the meeting held in Milan in November 1991 were not sufficient to enable the IOPC Fund's experts to complete their examination. Further documentation was presented during the meeting. Since the IOPC Fund's experts needed time to examine the new documents, it was not possible to conclude the discussions at that meeting. A new meeting will be held in January 1992.

4.19 In respect of the Castalia claim, discussions at the meeting in Milan dealt with whether certain operations were reasonable and whether the rates applied in respect of certain craft, equipment and personnel were reasonable. In particular, the Director questioned whether the number of vessels deployed during the later part of the operations were justified in view of the fact that the risk of serious pollution had decreased.

4.20 At the meeting in November 1991, Castalia stated that a delay in settlement of its claim would cause serious financial difficulties to the company and requested a substantial advance payment. For this reason, the owner of the AGIP ABRUZZO agreed, after consultation with the Director, to make an advance payment to Castalia of Lit2 500 million (£1.2 million).

4.21 Since considerable progress was achieved in the negotiations at the meeting in November 1991, the Director hopes that a settlement of this claim will be reached at the meeting to be held in January

1992. In view of the financial difficulties that a delay in payment would cause Castalia, the Director submits to the Executive Committee for consideration whether the Committee might be prepared to authorise him to make a final settlement of this claim, pursuant to Internal Regulation 8.4.2 (see paragraph 4.3 above).

Other Claims

4.22 SNAM has presented a claim in respect of services rendered in connection with this incident for an amount of Lit3 757 727 086 (£1.7 million). These services were partly rendered by SNAM, and partly by a number of subcontractors. The IOPC Fund has not yet received sufficient supporting documentation in respect of this claim.

4.23 The Italian Government has informed the Director that it will submit a claim in respect of the operations of the various Government agencies involved in this incident. It is estimated that these costs will be in the region of Lit2 000 million (£930 000). The Director has not yet been able to establish whether a claim relating to damage to the marine environment will be submitted by the Italian Government in respect of the AGIP ABRUZZO incident.

4.24 Labromare will present an additional claim in respect of the costs for disposal of collected oily waste. These costs are estimated at approximately Lit257 500 000 (£120 000).

4.25 A claim relating to clean-up operations has recently been submitted by the Municipality of Livorno in the amount of Lit230 359 720 (£107 000). Although the Fund Secretariat has not been able to complete its examination of this claim, the Director is of the opinion that the amount claimed is in general reasonable. For this reason, the Executive Committee may wish to consider authorising the Director to settle this claim, pursuant to Internal Regulation 8.4.2 (see paragraph 4.3 above).

4.26 It is possible that there will be some claims from private individuals and small businesses.

5 Action to be Taken by the Executive Committee

The Executive Committee is invited to:

- (a) take note of the information contained in this document;
 - (b) consider the Director's proposal to approve:
 - (i) the claim submitted by Labromare in the amount of Lit4 799 million (paragraph 4.7 above)
 - (ii) the claim submitted by Neri in the amount of Lit2 500 million (paragraph 4.14 above);
 - (c) consider whether to authorise the Director to make final settlement in respect of:
 - (i) the claim submitted by Castalia (paragraphs 4.17 and 4.21 above);
 - (ii) the claim submitted by the Municipality of Livorno (paragraph 4.25 above); and
 - (d) give the Director such instructions in respect of the remaining claims as the Committee deems appropriate.
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