



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

EXECUTIVE COMMITTEE
31st session
Agenda item 4

FUND/EXC.31/5
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INFORMATION ON OTHER INCIDENTS

RIO ORINOCO

Note by the Director

1 The Incident

1.1 The asphalt carrier RIO ORINOCO (5 999 GRT), registered in the Cayman Islands, experienced problems with her main engine whilst en route from Curaçao to Montreal with about 9 000 tonnes of heated asphalt cargo and about 300 tonnes of intermediate fuel oil and heavy diesel oil on board. When effecting repairs in the Gulf of St Lawrence, the ship dragged anchor in bad weather and grounded on the south coast of Anticosti Island on 16 October 1990. An estimated 185 tonnes of the intermediate fuel oil was spilled and came ashore east of the grounding position. About ten kilometres of the coastline were heavily polluted, and small patches were spread over a further 30 kilometres. Changing weather conditions redistributed some of the beached oil westwards, small quantities reaching Baie d'Ellis, off Port Menier, eight kilometres west of the grounding position. No asphalt cargo was spilled. Over subsequent weeks the cargo cooled and a significant part became solid.

1.2 A salvage team arrived at the site of the incident on 16 October. Tugs and equipment were mobilised and a salvage contract based on the principle "no cure, no pay" (Lloyds Open Form 90) was signed on 18 October. The weather then deteriorated and the grounded ship moved again, finally coming to rest wedged between two rock shelves. The salvage master cancelled the salvage contract on 22 October. Three attempts were made by the shipowner between 1 and 5 November to pull the ship free, but without success. Renewed attempts to refloat the vessel were made by the Canadian Coast Guard in December 1990, but these attempts also failed. After extensive preparations, the ship was finally refloated on 7 August 1991 and taken to a safe haven at Sept Iles.

1.3 The RIO ORINOCO was entered with Sveriges Ångfartygs Assurans Förening (the "Swedish Club") in respect of both hull and P & I insurance.

1.4 The RIO ORINOCO was declared a constructive total loss by the hull insurer on 18 November 1990, and the Canadian Coast Guard then assumed control of the ship. On 23 November, the shipowner informed the Coast Guard that he was financially incapable of removing the ship and her cargo.

1.5 The limitation amount applicable to the RIO ORINOCO was fixed by the Canadian Court at Can\$1 182 617 (£543 000). The limitation fund was constituted by the P & I insurer by means of letter of guarantee.

1.6 For a detailed description of the clean-up operations and the removal of the RIO ORINOCO, her bunker oil and cargo, reference is made to document FUND/EXC.28/4.

2 Claims Already Dealt With by the Executive Committee

Canadian Government's Claim

2.1 In August 1991 the Canadian Government submitted a claim for a total amount of Can\$7 261 546 (£3.3 million) in respect of the operations carried out by or on behalf of the Canadian Coast Guard up to 31 January 1991 in connection with attempts to remove the ship from its grounded position. This claim related to the operations carried out by various private companies under contract with the Coast Guard, eg inspection of the vessel by divers, inspection and repair of the ship's boilers, services of a naval architect and a salvage master, hire of two barges, services connected with the attempts to remove the ship, supervision of the ship during the winter and the cost of the Coast Guard's monitoring of these operations.

2.2 After negotiations, agreement was reached between the Canadian Government and the Director to settle the claim relating to the operations undertaken by or on behalf of the Coast Guard up to 31 January 1991 at an aggregate amount of Can\$6 950 000 (£3.2 million).

2.3 In September 1991, the Canadian Government presented a claim relating to the operations carried out by a Canadian contractor (Groupe Desgagnés) to remove the RIO ORINOCO from her grounded position and to take her to a place of safety. This claim amounted to Can\$3 497 667 (£1.6 million). Agreement was reached between the Canadian Government and the Director to settle this claim at Can\$3 268 848 (£1.6 million).

2.4 In October 1991, the Executive Committee approved the two claims presented by the Canadian Government at an aggregate amount of Can\$10 218 848 (£4.9 million), as proposed by the Director (document FUND/EXC.28/9, paragraph 3.3.3).

2.5 The IOPC Fund paid Can\$6 million (£2 962 232) to the Canadian Government on 20 November 1991 and Can\$4 218 848 (£1 964 539) on 10 February 1992. Payment had to be made in two instalments as the IOPC Fund's working capital was insufficient to cover such a significant payment in respect of an incident which had not been taken into account in the assessment of the 1990 annual contributions.

Claim by the Swedish Club

2.6 On-shore clean-up operations were carried out during the period up to 10 November 1990 by contractors on behalf of the shipowner. The Swedish Club presented a claim in the amount of Can\$1 227 255 (£563 000) against the IOPC Fund in subrogation in respect of these operations. The major part of the bunker oil remaining in the RIO ORINOCO was removed in December 1990. The Swedish Club submitted a claim to the IOPC Fund in subrogation amounting to Can\$257 462 (£118 100) in respect of the removal operations. The Swedish Club submitted a further claim in subrogation totalling Can\$156 316.61 (£71 700) relating to the cost of cleaning polluted equipment used during the on-shore operations up to 10 November 1990 and to the cost of renting and transporting containers used for storage of collected oily waste.

2.7 The claims submitted by the Swedish Club mentioned in paragraph 2.1 above were settled in June 1991 by the Director at an aggregate amount of Can\$1 641 034 (£752 770), in accordance with authorization given by the Executive Committee (documents FUND/EXC.26/5, paragraph 3.3 and

FUND/EXC.27/6, paragraph 11.2). In September 1991 the IOPC Fund paid the part of the Club's claim which was in excess of the limitation amount, viz Can\$458 417 (£232 817).

2.8 On 30 September 1991, the Swedish Club submitted a claim for Can\$470 404 (£223 417) in subrogation in respect of the clean-up operations carried out during the summer of 1991 and the disposal of waste collected during these operations. At its 28th session, the Executive Committee authorised the Director to settle this claim, pursuant to Internal Regulation 8.4.2 (document FUND/EXC.28/9, paragraph 3.3.4). The claim was settled in full by the Director and was paid in February 1992.

3 Claims Not Previously Considered by the Executive Committee

Canadian Government's Claim

3.1 In March 1992 the Canadian Government submitted a claim in the amount of Can\$1 963 444.51 (£900 700). This claim related to the operations carried out by the Coast Guard after 31 January 1991 to the end of the incident (Can\$1 928 674) as well as the operations carried out by the Ministry of Environment and the Ministry of Fisheries and Oceans (Can\$23 381 and Can\$11 389, respectively).

3.2 The Canadian Government's claim related to operations carried out by various private companies under contract with the Coast Guard (eg maintenance of the RIO ORINOCO during the winter and transport of equipment), as well as the cost of the Coast Guard's monitoring of the operations relating to maintenance and refloating (eg cost of personnel, equipment, ships and aircraft).

3.3 The Government's claim included invoices relating to operations carried out by two private contractors for Can\$456 000 and Can\$73 675.69 respectively. These invoices were not accepted by the Canadian Government which considered the amounts unreasonable. After negotiations, agreement was reached between the Canadian Government and the contractors to settle these invoices at Can\$134 067.14 and Can\$47 175 respectively. As a result of these settlements, the Canadian Government's claim was reduced to Can\$1 623 010.96 (£744 500).

3.4 The claims documents were examined by the IOPC Fund Secretariat with the assistance of experts from Murray Fenton & Associates who have been following the various operations. In his examination of this claim, the Director considered the admissibility of certain items and the reasonableness of the amounts claimed. Some items were considered by the Director to include small amounts relating to "fixed costs" or "remote overheads" which, in line with IOPC Fund policy, were inadmissible.

3.5 On 13 May 1992, negotiations were held in Quebec (Canada) between the Canadian Government and the IOPC Fund concerning this claim. After discussions of the various issues, agreement was reached between the Canadian Government and the Director to settle the claim in the amount of Can\$1 573 000 (£721 560). The Director gave his agreement to this settlement subject to approval by the Executive Committee.

Claim by the Swedish Club

3.6 The Swedish Club submitted a final claim in March 1992 in respect of the disposal of waste collected in 1990 in the amount of Can\$118 562.47. After having examined this claim with the assistance of experts, the Director is of the opinion that the amount claimed is reasonable. However, the Director takes the view that a reduction should be made in the amount of Can\$7 338.94, relating to the Canadian Goods and Service Tax. The Director has therefore agreed with the Swedish Club to settle this claim at Can\$111 223.53, subject to approval by the Executive Committee.

4 Remaining Issues

4.1 There are no further claims arising out of this incident.

4.2 The investigation into the cause of the incident has not been completed. It is expected that the report on the investigation will be published in September 1992. The Director will report to the Executive Committee on this issue at its 32nd session.

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; and
 - (b) consider the Director's proposal to approve:
 - (i) the Canadian Government's claim in respect of the operations carried out by or on behalf of the Coast Guard after 31 January 1991 and in respect of the operations carried out by the Ministry of Environment and the Ministry of Fisheries and Oceans, for an aggregate amount of Can\$1 573 000 (paragraphs 3.1-3.5 above); and
 - (ii) the claim presented by the Swedish Club in respect of disposal of collected waste in the amount of Can\$111 223.53 (paragraph 3.6 above).
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