



INTERNATIONAL
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COMPENSATION
FUND

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INCIDENTS INVOLVING THE IOPC FUND

TAIKO MARU

Note by the Director

1 The Incident

1.1 On 31 May 1993 the Japanese coastal tanker TAIKO MARU (699 GRT), carrying 2 062 tonnes of heavy fuel oil as cargo, collided with the Japanese dry cargo ship KENSHO MARU N°3 (499 GRT) some five kilometres off Shiroyazaki, Fukushima (Japan). As a result, two cargo tanks of the TAIKO MARU were fractured and some 520 tonnes of oil escaped into the sea. The oil remaining on board the TAIKO MARU was transferred to another vessel.

1.2 The IOPC Fund is following the investigations into the cause of the incident. Proceedings in the marine court are expected to take place in late 1993.

2 Clean-up Operations

2.1 The spilt oil spread rapidly over a large area. The shipowner and his P & I insurer, the Japan Shipowner's Mutual Protection and Indemnity Association (JPIA), engaged the services of the Japan Maritime Disaster Prevention Centre to carry out clean-up operations in accordance with the directives given by the Maritime Safety Agency. The operations were monitored by a surveyor employed jointly by JPIA and the IOPC Fund.

2.2 Clean-up operations at sea commenced in the afternoon of 31 May. Two large oil-dispersing tugs, several patrol boats, two prefectural fishery watching boats and several work boats spraying chemical solvent were used. The clean-up operations were not effective since the visibility was restricted due to dense fog. From 2 June a helicopter was also employed for spraying chemicals. By 13 June, the oil had spread over a vast area of the sea.

2.3 On 2 June 1993 oil in the form of tar patches reached the shore, affecting some 50 kilometres of coast line.

2.4 Onshore clean-up operations were carried out by local contractors and local fishermen under sub-contract with the Maritime Disaster Prevention Centre. The operations consisted of the manual and mechanical removal of stranded oil and contaminated beach sediments. Oil and oily wastes collected were transported to a disposal factory for incineration.

2.5 The shore clean-up was almost completed by mid June 1993. In some fishing ports and in a bay, however, oil had become trapped between concrete tetrapods and rocks. The tetrapods had to be removed for cleaning by sand blasting and the rocks were cleaned using chemical solvents.

2.6 Considerable quantities of oil had sunk to the bottom of the sea. Removal of the submerged oil began on 27 June, and a vessel with oil collecting facilities was used for this purpose. On 27 August, a typhoon caused some of the sunken oil to resurface at various places, and this oil threatened to cause further contamination of the coast. Since clean-up operations were undertaken immediately, the pollution damage caused by this oil was minimal.

2.7 The oil caused damage to fishing nets and led to the disruption of fishing activities. Five fixed fishing net arrangements, varying between 200 and 800 metres in length, were contaminated, and the fishermen using these nets were prevented from fishing until 25 June when the nets had been cleaned.

2.8 Soon after the incident a committee composed of representatives of the fishery associations, the local authorities and the health authorities decided to suspend the catching of young sardines and abalone and the gathering of sea-urchins and shellfish in the affected area. These fishing activities were partly resumed by the end of June or early in July. As regards hokki shellfish, analysis of samples had shown that these shellfish were tainted. The lifting of the suspension in respect of these shellfish was not approved by the respective local health authorities until 6 and 12 August 1993, after analysis of samples showed there was no remaining contamination.

3 Claims for Compensation

3.1 One contractor, a small business, which had carried out clean-up operations under contract with the Marine Pollution Prevention Centre presented a claim for ¥95 494 000 (£604 000). JPIA made an advance payment of ¥30 million (£190 000) in July 1993. After this claim had been examined by the surveyor, the Director approved the claim in full. In order to mitigate undue financial hardship to this claimant, the Director decided, pursuant to International Regulation 8.6, to make a provisional payment of ¥65 494 000 (£415 000). The IOPC Fund paid this amount on 19 August 1993.

3.2 The Director's authority to make provisional payments to victims is governed by Internal Regulation 8.6. The Director may, at his discretion, make provisional payments to victims if in his view this is necessary in order to mitigate undue financial hardship to them. The Director shall endeavour to ensure that no person receiving such payment receives more than 60% of the amount which he is likely to receive from the IOPC Fund in the event of the claims being reduced pro rata, ie if the total amount of the established claims were to exceed the maximum amount of compensation available under the Civil Liability Convention and the Fund Convention. The total amount of advance payments made by the Director in respect of a given incident may not exceed 90 million (gold) francs or 6 million SDR (£5.7 million).

3.3 Another contractor, also a small business, presented a claim for ¥25 014 634 (£158 000) relating to the disposal of oily residues. The Director approved this claim in full pursuant to Internal Regulation 8.4.1 which authorises him to make final settlement of any claim from individuals and small businesses up to an aggregate amount of 10 million (gold) francs or 0.67 million SDR (£635 000). This amount was paid by the IOPC Fund on 19 August 1993.

3.4 Further claims relating to clean-up operations carried out in July and August will be presented by the same contractors.

3.5 Sixteen fishery co-operative associations presented claims for compensation relating to the participation of over 7 000 of their members in the clean-up operations, during which more than 400

boats and 600 vehicles were used. The claims submitted so far total ¥115 million (£730 000). The claims are being examined by the surveyor employed by JPIA and the IOPC Fund.

3.6 The fishery co-operative associations requested advance payments for their members for a total amount of ¥100 million (£630 000) in respect of the clean-up operations. In order to mitigate financial hardship to these fishermen, the Director decided, pursuant to Internal Regulation 8.6, after a preliminary examination of the claims had been carried out by the surveyor, that the IOPC Fund should make advance payments to the associations for a total amount of ¥100 million (£630 000). The payment was effected on 19 August 1993.

3.7 The above-mentioned fishery co-operative associations have also presented claims for loss of income suffered by their members as a result of the suspension of the fishing activities for a total amount of ¥1 258 121 652 (£8 million). These claims are being examined by the surveyors. It is unlikely that further claims for loss of income will be submitted by fishermen.

3.8 A claim for compensation will be presented by the Maritime Safety Agency for the cost of some vessels which took part in the clean-up operations at sea. Some regional and local authorities which incurred clean-up expenses will also submit claims.

3.9 Two popular tourist beaches were polluted. These beaches were closed for swimming during the period of 20-30 July. It is possible that claims for loss of income will be presented by some hotels, restaurants and other tourist related businesses located along or close to these beaches.

3.10 Claims may be submitted in respect of costs for cleaning some contaminated yachts.

3.11 The IOPC Fund's surveyor has been informed that claims may be presented by ten fish processing factories in the region which allegedly made losses as a result of the fishing being suspended in the area for a period of time.

3.12 A power station will present a claim relating to the cost of cleaning the inlet for cooling water which was contaminated.

3.13 Although it is premature to make any precise estimate of the total amount of the claims for compensation arising out of this incident, the Director estimates, on the basis of advice given by the IOPC Fund's Japanese lawyer and surveyor, that the total claims will be in the region of ¥2 000 million (£13 million).

3.14 The limitation amount of TAIKO MARU is estimated at ¥29 205 120 (£185 000).

4 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 to what extent it is prepared to authorise the Director to settle the claims in respect of:
 - (i) clean-up operations;
 - (ii) losses suffered by fishermen;
 - (iii) losses suffered by fish processing factories;
 - (iv) losses suffered by operators within the tourist industry;
 - (v) damage caused to yachts;
 - (vi) cleaning of the inlet for cooling water of a power station; and
 - (c) give the Director such instructions in respect of his handling of this incident as the Committee may deem appropriate.
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