



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

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## INCIDENTS INVOLVING THE IOPC FUND

### SEKI

#### Document submitted by the Government of the United Arab Emirates

1 The United Arab Emirates extends its greetings and sincere wishes to the Chairman, the Members of the Executive Committee and Delegates of all Member States participating in this session.

2 As member to the CLC and Fund Conventions, the United Arab Emirates, contemplates that the discussions, views and eventually, the decisions of this 42nd session of the Fund's Executive Committee will enhance further a more efficient and constructive policy, to minimise the sufferings of the victims of oil pollution incidents, which as we believe is the reason for which the Fund has been created.

3 The United Arab Emirates being a party to the oil industry would like to assert on the need and necessity for all such parties to cooperate in facing the risks associated with this industry and the eventual damages which at most occasions, proved to be disastrous to innocent individuals, communities or countries, who unluckily, happened to be the victims of an oil pollution incident, by ensuring in an effectual manner that adequate compensation is not only available to persons who suffer damages but also promptly payable to such persons without making them suffer further.

4 The United Arab Emirates, unfortunately, has been very recently the stage of a severe incident of the like, which may be, rightfully described, as a disaster. On the 30th of March, 1994, 9.6 NM off our Emirate, Al-Fujairah, in the East Coast of the UAE two oil tankers, the MT *Seki* and the MT *Bainunah* collided together while the *Seki* was carrying Iranian crude oil. Sixteen Thousand (16,000) tons of crude oil were spilled into our sea. Fumes and intolerable smell coated and spread over the whole town of Fujairah and all of its coastal towns and villages. Most inhabitants were forced, as a result of the incident, to spend the night in anguish or had to go to other Emirates. The marine life inclusive of reefs and coral wealth and the environment were substantially affected and pollution by the spillage touched

mostly all sectors of the East Coast of the Emirates and its territory: beaches, economy, tourism, fishery, citizens, desalination plants, farms, hotels..... Winds and waves broke the oil into several oil slicks and consequently the oil slicks hit the coastline. First on 2nd of April, 1994 and continued on the subsequent days. At sandy beaches, massive viscous and dense oil got entrapped within the sandy substrate and due to the lack of prompt preventive measures, the oil started to penetrate deeper into the sands. At rocky and gravel beaches, the oil hit the rocks and pebbles and got entrapped underneath the pebbles and within the gravel sediments.

5 The incident was reported by the press all over the world. To our surprise and disappointment, no response was made for commencing immediate preventive measures to effectively face this disaster. We expected that parties concerned will immediately alert, mobilise and call upon, large data bank owners of oil pollution response equipment in various parts of the world to hasten to deploy their equipments and techniques in assisting to cope with the calamity.

6 To our dismay, cleaning of the coastline commenced reluctantly only in August 1994 after more than 4.5 months. Considerable time was wasted by ITOPF, which is definitely not an independent or impartial consultant, in alleged experimentation of various techniques. It was obvious and true that International Tanker Owners Pollution Federation ("ITOPF") had been less concerned with the continuing pollution and its adverse effects on the environment and the Citizens than with the savings contemplated to be affected by delayed confront with the disaster. Relying in this respect on natural forces of strong sun, wind, tides and waves without any cost on the parties concerned.

7 One year passed and the cleaning of the beaches is still dragging inefficiently. The fishermen are continuing to suffer waiting to be compensated and so are the other parties who duly submitted their claims, but remained until this day, not responded to. The Government has therefore, ceased the submission of claims to the insurers, the Britannia Steamship Insurance Association, due to the lack of a serious and effective claim settlement procedure supported by the IOPCF.

8 Fishing in the East Coast stopped and further was disturbed for a considerable period. Fishing gear of considerable value was destroyed or lost. Fishing industry, fishermen and fish traders suffered substantial losses, and any attempts of the fishermen or fish traders on the east coast of UAE to sell even small quantities of fish caught from other areas were unsuccessful because of the resistance of the buyers due to perceived fears of carcinogenic effects of the fish.

9 Fishermen made claims of over US\$ 13.5 million for loss of income and damages to fishing gear. These claims were carefully examined and assessed by an independent Assessment Committee appointed by the government. The Committee comprised representatives of ministries of fishery, health and environment, coast guard, municipalities and fishery cooperatives. After careful consideration the Committee, finally assessed the claims at a little over US\$ 10 million. Yet the P&I Club and the IOPCF arbitrarily decided a payment less than US\$ 1.8 million based on certain irrelevant, unrealistic arbitrary assumptions and modellings which are not valid and contrary to the specific circumstances of the region.

10 In the present prevailing circumstances, the claims's settlement process is in our view inconsistent with the objectives of the international Conventions, intended to ensure compensation for victims of oil pollution incidents. The victims are compelled to wait and struggle bitterly with the insurers and the IOPCF, in order to recover their losses, as the case is with the Fujairah Government.

11 Due to the failure of the parties concerned to comply with the CLC Provisions, by refraining from constituting an adequate financial guarantee acceptable to the competent authorities, the Government

of Fujairah, had to duly seek the arrest of the vessels and assessed its initial damages, in the amount of US\$ 200 million in the Courts of Merits. The parties concerned, instead of honouring their obligations under the CLC, continued to resist adherence to the provisions of the Convention in order to avoid the Constitution of a financial fund as required. However, despite the positive attitude and cooperation of the Government, which later resulted in the release of the vessels, the claims' settlement process adopted by the concerned parties failed as yet, to properly deal at least with or settle the initial claims which have already been submitted.

12 The present Claims' Settlement Process adopted by the IOPCF is in our view adding more suffering, physical and moral, to the victims of oil pollution incidents, because those victims are suffering bitterly in their struggle for the recovery of their losses, more than they had suffered as a result of the incident. This is totally unfair and unacceptable.

13 The UAE's view is that:

- ▶ The Fund should not fail to ensure a fair and speedy claims' settlement procedure or system.
- ▶ The Fund's philosophy should be to ensure or cause payment of compensation and not to resist such payment.
- ▶ The Fund should promptly exist physically in the place of disaster to provide assistance and seek information sur place.
- ▶ The Fund should also use the services of local experts who are more familiar or acquainted with and more learned about their region. Rather than relying only, on long distance expertise which would very likely fail to present realistic, factual and correct findings, or estimates consistent with the specific or characteristic conditions and circumstances of the region, where the incident has occurred.
- ▶ The Fund should make sure that the environment be rehabilitated and damages thereto be compensated.

14 We do not believe it at all that any of the members convening here, would agree that an injustice be exercised or made to succeed against the interests of the victims. The IOPCF, as we understand, has been created only for the sake of the victims. Hence, if the international Conventions should be constructively applied to the benefit of the victims of an oil pollution incident, the IOPCF should find out and establish a valid and efficacious process for the assessment of damages sustained by victims and a speedy settlement thereof by looking only at the interests of such victims and not otherwise. We do not accept and we are not proud to see the IOPCF a party to litigations where innocent victims are the other party. This situation, we think, is inconsistent with the spirit of the CLC and the Fund Conventions and further would eventually result in destroying the credibility of the Fund, as an international organisation, which we all, are very much keen to promote to optimum extents. There should be no bitter struggle or ill feeling between the IOPCF and the victims and the policy of the IOPCF must, at all reasonable cost, keep off the resentment or dissatisfaction of the victims, which we assume, has augmented, in some parts of the world, and may confirm that it has, in our area. We do not suggest that the IOPCF donates, but we insist on fairness and justice to the victims in a manner which would categorically "ensure that adequate compensation is available to persons who suffer damages..." as the preamble of the CLC suggests.

15 To close, the UAE Government, contemplates that the issues brought forward before your esteemed Committee by virtue of this document will be given the utmost consideration and that directives will be made to expedite the settlement of all claims relating to the *Seki* incident.

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