



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND

EXECUTIVE COMMITTEE  
44th session  
Agenda item 3

FUND/EXC.44/2  
13 October 1995

Original: ENGLISH

## INCIDENTS INVOLVING THE IOPC FUND

### Summary of Incidents

Note by the Director

#### Introduction

1 Article 26.1(b)(ii) of the Fund Convention provides that the Executive Committee shall approve settlements of claims against the IOPC Fund and take all other steps in relation to such claims envisaged in Article 18.7 of the Fund Convention.

2 Since the opening of the 40th session of the Executive Committee, nine incidents have occurred that have given or may give rise to claims against the IOPC Fund, namely the *Toyotaka Maru* incident which occurred during the 40th session, and the *Hoyu Maru N°53*, *Sung Il N°1*, *Dae Woong*, *Sea Prince*, *Yeo Myung*, *Shinryu Maru N°8*, *Senyo Maru* and *Yuil N°1* incidents.

#### Presentation of documentation

3 The documentation presented to the 44th session of the Executive Committee has been structured in such a way as to distinguish three groups of incidents:

- (a) incidents which require decisions by the Executive Committee or which are of great importance;
- (b) incidents which, although generally not requiring decisions by the Committee or being of great importance, nevertheless may be of particular interest to delegations; and
- (c) incidents in respect of which the Director only reports on developments of lesser importance.

4 It goes without saying that the Director does not in any way intend that, by such a grouping, the Executive Committee should be prevented from discussing the developments in respect of any incident, or from taking such decisions and giving him such instructions as the Committee considers appropriate.

5 On the basis of these considerations, the following documents have been prepared:

(a) **Incidents requiring decisions by the Executive Committee or which are of great importance:**

*Haven* incident (FUND/EXC.44/3)  
*Aegean Sea* incident (FUND/EXC.44/4)  
*Braer* incident (FUND/EXC.44/5)  
*Keumdong N°5* incident (FUND/EXC.44/6)  
*Seki* incident (FUND/EXC.44/7)  
*Toyotaka Maru* incident (FUND/EXC.44/8)  
*Sea Prince* incident (FUND/EXC.44/9)  
*Yeo Myung* incident (FUND/EXC.44/12)  
*Senyo Maru* incident (FUND/EXC.44/13)  
*Yuil N°1* incident (FUND/EXC.44/14)

(b) **Other incidents of particular interest (FUND/EXC.44/10)**

(c) **Report on incidents with developments of lesser importance (FUND/EXC.44/11)**

Developments which take place after the drafting of the above-mentioned documents will be reported to the 44th session of the Executive Committee in addenda to the respective documents.

6 In the above-mentioned documents, the conversion of currencies into Pounds Sterling has been made - unless otherwise indicated - on the basis of the rates of exchange on 30 June 1995. However, for amounts representing actual payments by the IOPC Fund, the conversion has been made at the rate of exchange on the day of payment.

**Summary of incidents**

7 The situation in respect of the incidents involving the IOPC Fund can be summarised as follows:

*Document FUND/EXC.44/3*

- ▶ *Haven* (Italy, 1991): The incident caused pollution damage in Italy, France and Monaco, and some 1 350 claims for compensation have been submitted to the Court of first instance in Genoa for a total amount corresponding to approximately £645 million; however, a number of claims are duplications. The aggregate amount of the claims greatly exceeds the total amount of compensation available under the Civil Liability Convention and the Fund Convention, viz 900 million (gold) francs, which in the IOPC Fund's view corresponds to 60 million Special Drawing Rights or Lit 102 643 million (£39 million). However, in a judgement of 26 July 1993 the Court of first instance in Genoa upheld a decision by the judge in charge of the limitation proceedings fixing the maximum amount payable by the IOPC Fund at Lit 771 397 947 400 (£296 million), calculated on the basis of the free market value of gold. The IOPC Fund has appealed against the Court's judgement. The shipowner, his P & I insurer and the IOPC Fund have made an offer for a global settlement of all claims arising out of the incident. This has been accepted by practically all claimants except the Italian Government and some Italian public bodies.

**Decision requested:** *Instructions concerning the claims arising out of this incident.*

*Document FUND/EXC.44/4*

- ▶ *Aegean Sea* (Spain, 1992): So far, 1 270 claims totalling some £128 million have been received. Payments totalling £7.4 million in respect of 793 claims have been made by the P & I Club and the IOPC Fund. The IOPC Fund has become involved in complex court proceedings in the Court of first instance in La Coruña.

**Decisions requested:** Instructions concerning

- (a) the handling of various types of claims,
- (b) the on-going court proceedings in La Coruña.

*Document FUND/EXC.44/5*

- ▶ *Braer* (United Kingdom, 1993): A large number of claims for compensation have been submitted, eg by salmon farmers, fishermen, fish processors, farmers and crofters whose grassland was contaminated, persons whose houses were contaminated and persons in the tourist industry. The United Kingdom Government and the Shetland Islands Council have also submitted claims. Some 1 500 claims for compensation have been paid, wholly or partly, for a total amount of approximately £46 million.

**Decisions requested:** Instructions concerning the handling of various types of claims.

*Document FUND/EXC.44/6*

- ▶ *Keumdong N°5* (Republic of Korea, 1993): All claims for clean-up operations have been settled at Won 5 588 million (£4.6 million) and have been paid by the shipowner's P & I insurer. Claims totalling Won 93 132 million (£77 million) have been submitted in respect of some 6 000 fishermen, and these claims are being examined. It has been indicated that further claims of approximately Won 900 million (£75 million) will be presented by fishermen in respect of future losses.

**Decisions requested:** Instructions concerning the handling of claims arising from this incident.

*Document FUND/EXC.44/7*

- ▶ *Seki* (United Arab Emirates and Oman, 1994): The *Seki* spilled approximately 16 000 tonnes of oil when another tanker collided with it nine miles off the coast of the United Arab Emirates. The spilt oil affected some 30 kilometres of coast in the Emirates and Oman. Extensive onshore and offshore clean-up operations were required. Claims in respect of clean-up contractors, fishermen and other affected persons are being examined. The claims submitted so far total about £6.8 million. The shipowner's P & I insurer has made payments totalling £4.7 million.

**No decisions requested**

*Document FUND/EXC.44/8*

- ▶ *Toyotaka Maru* (Japan, 1994): The *Toyotaka Maru* was involved in a collision, resulting in the escape of some 560 tonnes of crude oil. There is widespread intensive fishing and aquaculture in the area affected by the spill. The incident gave rise to significant claims for compensation for clean-up operations and loss of income suffered by fishermen. All claims were settled and paid by July 1995 for a total amount of £5.7 million.

**No decisions requested**

*Document FUND/EXC.44/9*

- ▶ *Sea Prince* (Republic of Korea, 1995): The *Sea Prince* grounded with approximately 86 000 tonnes of crude oil on board. Some 700 tonnes of bunkers and a similar quantity of cargo oil were spilled. The remaining cargo was transferred to barges, with the exception of a quantity of some 630 tonnes. The spilt oil affected the coastline and necessitated clean-up operations. Widespread intensive mariculture is carried out in the area, and mariculture facilities were affected by the oil. This incident has given rise to claims for compensation in very significant amounts.

**Decision requested:** Authorise the Director to settle claims arising out of this incident to the extent that the Executive Committee deems appropriate

*Document FUND/EXC.44/10: No decisions requested*

- ▶ *Patmos* (Italy, 1985): The total amount of the accepted claims was below the limitation amount applicable to the *Patmos*. The IOPC Fund will not be called upon to make any payments of compensation or indemnification. All fees and expenses arising from this incident have been paid.
- ▶ *Kasuga Maru N°1* (Japan, 1988): All claims for compensation have been paid, and all fees and expenses have been met.
- ▶ *Rio Orinoco* (Canada, 1990): All claims have been settled and paid. The Executive Committee decided that the Fund should not pursue the various legal actions to recover the amount paid by the Fund in compensation (Can\$12 831 892, corresponding to £6 103 835). The Committee decided that the shipowner was not entitled to indemnification. All fees and expenses arising from this incident have been paid.
- ▶ *Vistabella* (Caribbean, 1991): All claims have been settled and paid in the aggregate amount of £1 002 512. Any further claims are time-barred. The IOPC Fund is involved in legal proceedings for the purpose of recovering the amount of compensation paid by the Fund.
- ▶ *Agip Abruzzo* (Italy, 1991): The total of the settled claims and the pending claim falls below the limitation amount applicable to the vessel. Any further claims are time-barred. The IOPC Fund paid indemnification amounting to £635 290 to the shipowner in June 1995. All fees and expenses arising from this incident have been paid.
- ▶ *Taiko Maru* (Japan, 1993): All claims have been settled and paid for a total amount of £7.6 million. £363 550 was recovered by way of recourse against the colliding vessel. All fees and expenses have been paid.
- ▶ *Iliad* (Greece, 1993): Claims totalling Drs3 061 million (£8.5 million) have been submitted in the limitation proceedings by the shipowner, the Greek Government and a variety of businesses. These claims are being examined by the shipowner, his insurer and the IOPC Fund.
- ▶ *Sung II N°1* (Japan, 1994): The *Sung II N°1* ran aground spilling some 18 tonnes of her cargo of heavy fuel oil. All claims for clean-up costs, as well as those in respect of fishery damage, have been settled and paid for a total amount of some £43 000. Indemnification of the shipowner has not yet been paid.

*Document FUND/EXC.44/11*

- ▶ *Portfield* (United Kingdom, 1990): All claims have been settled and paid, and all fees and fees and expenses have been met.
- ▶ *Kumi Maru N°12* (Japan, 1991) and *Daito Maru N°5* (Japan, 1994): All claims have been settled and paid, and all fees and fees and expenses have been met.

- ▶ *Ryoyo Maru* (Japan, 1993): All claims have been settled and paid. The Director is taking the necessary steps to initiate recourse action against the owner of the other ship involved in the collision.
- ▶ *Hoyu Maru N°53* (Japan, 1994): As a result of the mishandling of a supply hose, heavy fuel oil supplied from the *Hoyu Maru N°53* entered the cargo hold of a fishing boat. The cargo of frozen fish was contaminated and had to be destroyed. All claims have been settled for a total of £39 000, but have not yet been paid. Indemnification of the shipowner has not been paid.

**Decision requested:** Waive requirement to establish the limitation fund.

- ▶ *Dae Woong* (Republic of Korea, 1995): The *Dae Woong* ran aground. Claims for clean-up costs totalling Won 45 million (£37 360) are being examined. Claims for fishery damage are expected.
- ▶ *Shinryu Maru* (Japan, 1995): While the *Shinryu Maru N°8* was supplying bunkers to a bulk carrier through another tanker, oil escaped following the mishandling of a supply hose. As a result, oil contaminated three vessels, and some oil spilled into the sea. Claims have not yet been submitted.

*Document FUND/EXC.44/12*

- ▶ *Yeo Myung* (Republic of Korea, 1995): The *Yeo Myung* collided with a tug, spilling some 40 tonnes of oil along a stretch of coast which had been cleaned following the *Sea Prince* incident. The oil also affected mariculture facilities. There will be claims for compensation for considerable amounts.

**Decision requested:** Authorise the Director to settle claims arising out of this incident to the extent that the Executive Committee deems appropriate

*Document FUND/EXC.44/13*

- ▶ *Senyo Maru* (Japan, 1995): The *Senyo Maru* collided with a bulk carrier, spilling some 94 tonnes of heavy fuel oil. The incident necessitated extensive clean-up operations. It is expected that the incident will give rise to claims for clean-up costs and fishery damage for considerable amounts.

**Decision requested:** Authorise the Director to settle claims arising out of this incident to the extent that the Executive Committee deems appropriate

*Document FUND/EXC.44/15*

- ▶ *Yuil N°1* (Republic of Korea, 1995): The *Yuil N°1* grounded then sank off Pusan, resulting in the spillage of heavy fuel oil. The sunken vessel contains a significant quantity of oil. Claims for considerable amounts are expected in respect of both the cost of clean-up operations and fishery damage.

**Decision requested:** Authorise the Director to settle claims arising out of this incident to the extent that the Executive Committee deems appropriate

**Action to be taken the Executive Committee**

- 8 The Executive Committee is invited to take note of the information contained in this document.
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