



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

EXECUTIVE COMMITTEE
47th session
Agenda item 3

FUND/EXC.47/8
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INCIDENTS INVOLVING THE IOPC FUND

YUIL N°1

Note by the Director

1 The incident

1.1 The Korean coastal tanker *Yuil N°1* (1 591 GRT), carrying approximately 2 870 tonnes of heavy fuel oil, ran aground on the island of Namhyeongjedo off Pusan (Republic of Korea) on 21 September 1995. The tanker was refloated by a tug and a Navy vessel some six hours after the grounding. While being towed towards the port of Pusan, the tanker sank in 70 metres of water, 10 kilometres from the mainland.

1.2 Three cargo tanks were reported to have been breached as a result of the grounding. Apart from the initial release of oil following the grounding and sinking, small quantities of oil leaked from the wreck from time to time during October, and minimal quantities have leaked from time to time thereafter.

1.3 Shorelines on the east and north coast of Koje Island, on the west coast of Kadokto and immediately to the east and west of the mainland at Pusan, as well as a number of smaller islands were oiled as a result of the initial spill. Some re-oiling of shorelines west of Pusan also occurred following later small releases of oil from the wreck.

1.4 The *Yuil N°1* was entered with the Standard Steamship Owners' Protection & Indemnity Association (Bermuda) Ltd (the "Standard Club").

1.5 The shipowner, the Standard Club and the IOPC Fund engaged Korea Marine & Oil Pollution Surveyors Co Ltd (KOMOS) and the International Tanker Owners Pollution Federation Ltd (ITOPF) to act as their surveyors.

2 Clean-up operations

2.1 Initially, the clean-up operations at sea were carried out by two skimmers and a number of fishing vessels deploying sorbent pads. The Marine Police also used ships for spraying dispersants. The operations at sea were reduced, however, when it became apparent that the oil leaking from the wreck did not constitute a serious threat to coastal resources. Booms were deployed in some coastal areas to protect laver seaweed farms and the booms were later removed when the perceived threat of further pollution had decreased.

2.2 The onshore clean-up was carried out by a number of contractors, with the assistance of some 1 750 villagers. The clean-up operations in many areas were completed by early November. In the more heavily polluted areas the onshore clean-up was terminated at the end of November, although some operations were not completed until mid January 1996.

3 Consideration by the Executive Committee at its 44th session

3.1 At its 44th session, the Executive Committee expressed its concern that the total amount of the established claims arising out of this incident might exceed the total amount of compensation available under the Civil Liability Convention and the Fund Convention. For this reason, the Committee considered it necessary for the IOPC Fund to exercise caution in the payment of claims. The Committee authorised the Director to make final settlements as to the quantum of all claims arising out of this incident to the extent that the claims did not give rise to questions of principle which had not previously been decided by the Committee. However, the Director was instructed not to make any payments (document FUND/EXC.44/17, paragraph 3.11.3).

3.2 In the light of the information then available on the aggregate amount of the claims, the Executive Committee authorised at its 46th session the Director to make payments of claims which were settled. In view of the remaining uncertainty concerning the total amount of the claims, however, the Committee decided that the IOPC Fund's payments should for the time being be limited to 60% of the established damage suffered by each claimant (document FUND/EXC.46/12, paragraph 4.5.6).

4 Claims for compensation

4.1 Claims have been received from various contractors for the cost of clean-up operations. Agreement has been reached on the quantum of the claims with all these contractors for a total of Won 11 621 million (£9.7 million). The Standard Club has made full or partial payments in respect of some of the agreed claims, totalling Won 627 million (£520 800). Further partial payments in respect of some of the agreed claims were made on behalf of the shipowner for Won 3 441 million (£2.9 million). The IOPC Fund has reimbursed the Standard Club and the shipowner for a total amount of Won 376 million (£313 000), which is below 60% of the established amount of each claim. The IOPC Fund has made payments directly to some clean-up contractors for Won 2 878 million (£2.4 million), corresponding to 60% of the established amount of each claim.

4.2 Pusan Marine Police has presented a claim for the cost of clean-up operations relating to material, equipment and overtime allowances in the amount of Won 182 013 660 (£151 200). This claim was accepted by the Standard Club and the IOPC Fund in full and was paid by the Club in February 1996.

4.3 The oil affected areas where there is intensive fishing and mariculture. KOMOS and ITOFF carried out surveys of some stretches of coastline and mariculture facilities which had allegedly been affected by the oil. Further surveys were carried out in the Pusan area from 30 October to 4 November 1995 jointly by KOMOS, ITOFF and experts employed by the claimants.

4.4 A co-operative of owners of set nets on Koje island claimed compensation for its members for a total of Won 1 385 million (£1.2 million) for the costs of cleaning their nets and for loss of income during varying periods of up to 20 days when fishing was interrupted. The claims, which were accepted for Won 1 167 million (£969 000), were paid in full by the Standard Club in November 1995.

4.5 On 25 October 1995 agreement on the method for calculating the losses was reached with representatives of eleven local fisheries associations on Koje island. A final settlement of the claims presented by ten of these associations was reached on 25 November, for a total amount of Won 1 400 million (£1.2 million). These claims relate to cleaning costs and loss of earnings for fishing boat owners, loss of earning for set net owners, loss of earnings in respect of class N°1 common fishery grounds and farms for cultivation of sea squirt and short necked clams. A major part of the settlement amount for these claims was paid by the Standard Club in December 1995 and the balance in January 1996.

4.6 A laver cultivation farm in the Naktongp'o region claimed Won 62 million (£51 200) for the cost of cleaning and replacing contaminated equipment. This claim, which was accepted in full, was paid by the Standard Club in November 1995.

4.7 The IOPC Fund has reimbursed the Standard Club an amount of Won 1 953 million (£1.6 million) in respect of the claims referred to in paragraphs 4.4-4.6, corresponding to 60% of the established amount of each claim.

4.8 Claims for the cleaning of facilities by the owners of oyster and mussel farms on the north-west coast of Koje island have been agreed for Won 73 million (£60 300). The IOPC Fund paid 60% of this amount (Won 44 million or £36 100) to the claimants.

4.9 It is expected that further fishery related claims will be submitted by members of another four local fisheries co-operatives on Koje island and by fishermen in the Pusan area.

4.10 The shipowner and the Standard Club have indicated that they intend to claim compensation for the costs of any measures to remove the wreck, since in their view such operations should be considered as preventive measures.

4.11 So far, claims have been agreed for a total of Won 14 541 million (£12 million), out of which Won 11 841 million (£9.8 million) relates to clean-up operations and Won 2 701 million (£2.2 million) to fishery claims. Payments made so far total Won 9 799 million (£8.1 million), out of which the IOPC Fund's payments total Won 8 315 million (£6.8 million).

5 Wreck removal and related issues

5.1 The shipowner employed a specialist British company to conduct a survey using a remotely operated submarine vehicle to establish the condition of the wreck.

5.2 In November 1995 the Marine Police ordered the shipowner to remove the oil or the wreck. On the basis of studies carried out by experts employed by the shipowner, the owner has maintained that it would be unnecessary and unwise to remove the oil or the wreck. The shipowner has argued that there was a minimal release of oil and that there was no risk of any significant release of oil if the wreck is left where it was since the wreck was slowly being covered by mud which would help to prevent further significant releases of oil. The owner has also stated that if an oil removal or wreck removal operation were to be carried out, there would be a significant risk that oil would escape causing further pollution. This issue is being considered by the Korean authorities, but no final decision has been taken.

5.3 In a letter to the IOPC Fund dated 24 January 1996, the Korean Government stated that there was growing concern about the possibility of an oil spill from the wreck which could cause pollution in the nearby coastal area and which could severely affect the livelihood of the local people. The

Government mentioned that Korean experts were of the opinion that there was a need to carry out further investigation of the wreck using deep sea divers in order to acquire more accurate and detailed information on the condition of the wreck for removal. The Government therefore asked whether the IOPC Fund was prepared to carry out further investigation of the condition of the wreck and further asked whether, in the event that the IOPC Fund was not prepared to carry out such an investigation, the Fund would compensate the Korean Government its cost for carrying out this investigation as preventive measures against possible oil pollution. Finally, the Government asked whether the Fund would fund the costs incurred by the Government for removing the sunken tanker and its cargo. The Government mentioned that a fire practice base of the Korean Navy was situated in the vicinity of the wreck, and that this could contribute to a greater risk of oil pollution.

5.4 In his response, the Director stated that it was not the task of the IOPC Fund to carry out itself clean-up operations or measures to prevent or minimise pollution damage, nor to undertake studies in these fields, and that for this reason the IOPC Fund would not be able to undertake the investigation referred to in the letter from the Korean Government. He referred to the fact that under the Civil Liability Convention and the Fund Convention, the IOPC Fund paid compensation for reasonable measures taken after an incident had occurred to prevent or minimise oil pollution damage, and that the question of reasonableness was to be considered on an objective basis, in the light of all circumstances of the case. It would in his view be for the Executive Committee to decide whether or not, in the light of all facts, the cost of any investigation or of any operation carried out by the Korean Government in respect of the removal of the wreck would be admissible. The Director also stated that the IOPC Fund would have to reserve its position as to whether any damage, costs and expenses caused by oil pollution resulting from the Korean Navy's fire practice would be admissible under the Conventions. He expressed the view that it would be for the Korean authorities to take the necessary steps in order to avoid causing pollution damage.

6 Level of payments

In view of the remaining uncertainty concerning the total amount of the established claims, the Director takes the view that the limit of the IOPC Fund's payments to 60% of the established damage by each claimant laid down by the Executive Committee should be maintained.

7 Limitation proceedings

7.1 The shipowner has recently started limitation proceedings.

7.2 The limitation amount applicable to the *Yuil N°1* is estimated at Won 244 million (£202 600).

8 Investigation into the cause of the incident

The Korean authorities are carrying out an investigation into the cause of the incident. The IOPC Fund is following this investigation through its Korean lawyers.

9 Action to be taken by the Executive Committee

The Executive Committee is invited to:

- (a) take note of the information contained in the present document;
 - (b) take note of the Director's response to the questions raised by the Korean Government relating to certain wreck removal issues (paragraph 5); and
 - (c) give the Director such instruction concerning the handling of the claims arising out of this incident as the Committee may deem appropriate.
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