

INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND

EXECUTIVE COMMITTEE
48th session
Agenda item 3

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SEA EMPRESS INCIDENT

Note by the Director

1 The Incident

1.1 The Liberian registered tanker *Sea Empress* (77,356 GRT) struck a rock at the entrance to Milford Haven harbour in South Wales (United Kingdom) at about 20.00 hours on 15 February 1996. A few minutes later the ship grounded in shallow waters approximately 1 100 metres from St Ann's Head. There was a pilot on board who had joined the ship at 19.30 hours outside the harbour entrance.

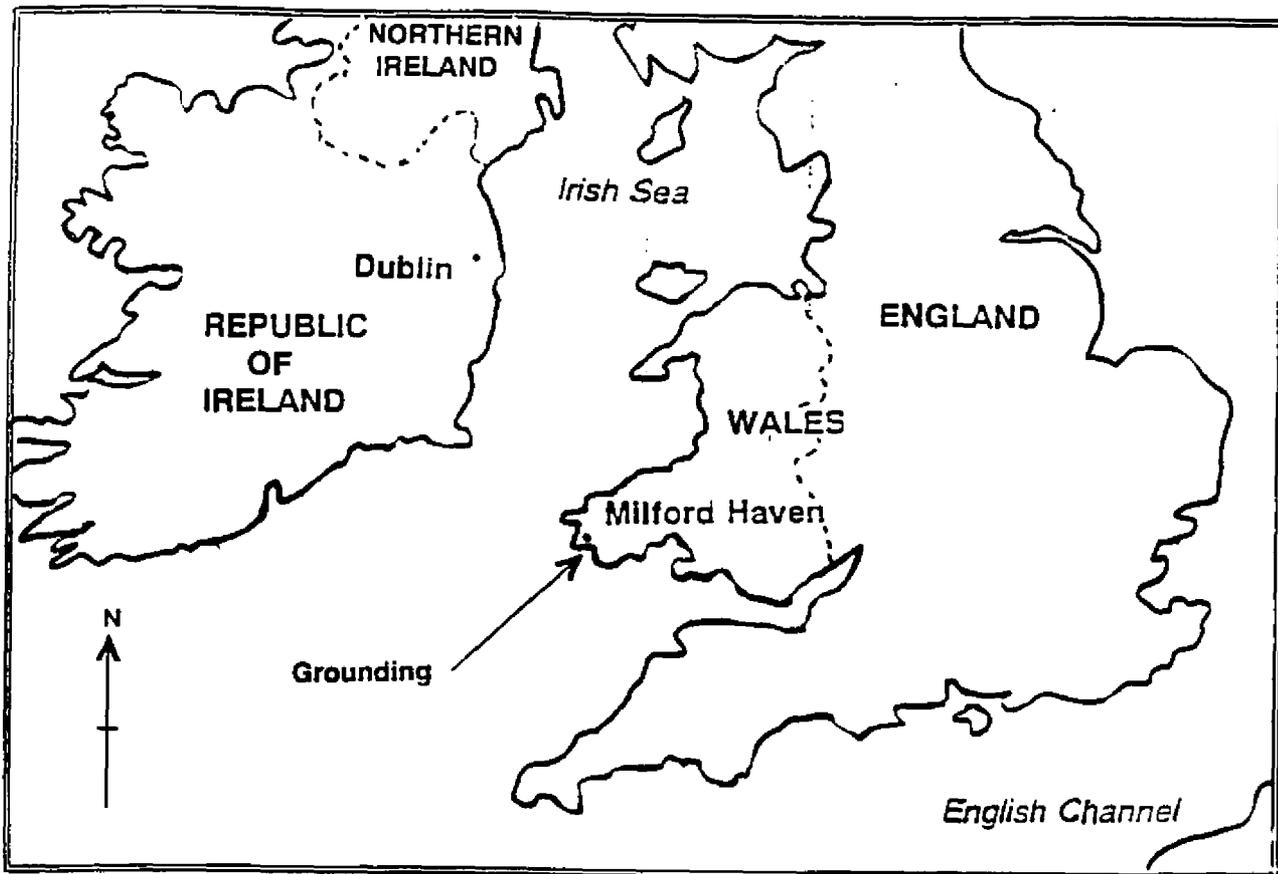
1.2 The ship was carrying a cargo of approximately 131 000 tonnes of Fortes North Sea crude for the Texaco refinery at Milford Haven.

1.3 It was established immediately after the grounding that four cargo tanks and several ballast tanks had been ruptured and a significant quantity of oil had been spilled.

1.4 The shipowner entered into a salvage contract on 16 February with Smit Tak Bv, Cory Towage Ltd and Klyne Tugs Ltd under Lloyds Open Form 1995. Harbour tugs were on site almost immediately after the grounding, and larger tugs arrived on 16 February.

1.5 During the following days, in continuing heavy weather, the *Sea Empress* was refloated and ran aground on a number of occasions. Other cargo and ballast tanks were damaged, and further quantities of oil were spilled. By the afternoon of 19 February it was believed that only three tanks remained intact. On 21 February the salvors succeeded in refloating the ship which was then towed to a berth in Milford Haven.

1.6 Oil continued to leak from the ship. Steps were taken to remove fuel oil from ruptured tanks, and 500 tonnes of bunkers were transferred to another vessel. Between 24 February and 3 March the remaining cargo, some 58 000 tonnes, was discharged and delivered to the Texaco refinery.



- 1.7 It is estimated that some 73 000 tonnes of oil were spilled as a result of the incident.
- 1.8 An underwater survey showed that the *Sea Empress* had suffered extensive structural damage. The ship was towed out of Milford Haven on 27 March and was delivered to a shipyard in Belfast for repairs.
- 1.9 The *Sea Empress* is owned by Alegrete Shipping Co Inc and the cargo is owned by Texaco.
- 1.10 The *Sea Empress* is entered in Assurancéföreningen Skuld (Skuld Club).

2 Clean-up operations

2.1 Overall management of the response to the incident was provided through Milford Haven Port Authority with a management team consisting of central and local authorities, environmental protection agencies and oil industry representatives. The co-ordination of marine activities, including salvage and offshore pollution response, was undertaken by the Marine Pollution Control Unit (MPCU) of the United Kingdom Department of Transport. For the purpose of co-ordinating the shoreline clean-up operation, a Joint Response Centre (JRC) was opened in Milford Haven on 16 February by MPCU and Dyfed County Council. The JRC used the facilities of the Milford Haven Port Authority.

2.2 The response to oil pollution at sea included aerial application of dispersants as well as mechanical oil containment and recovery operations using booms and skimmers deployed from various vessels. Two vessels from France and two from the Netherlands also took part in offshore oil recovery operations.

2.3 The quantities of floating oil gradually diminished during ten days of calm weather in early March and the offshore oil recovery operations ceased in mid-March. A period of bad weather with

a south-easterly gale and rough seas had the effect of scouring beaches and providing a high degree of natural cleaning along the rocky portions of the oiled coastline.

2.4 The oil affected some 100 kilometres of coastline, consisting of both sandy beaches and cliffs. A large part of the affected coast falls within the Pembrokeshire Coast National Park. Clean-up of the contaminated beaches involved the collection of liquid oil using vacuum trucks, the flushing of rocky areas and the manual removal of oiled beach material. At the height of the clean-up activity about 600 people were employed. The work on beaches and accessible rocky shorelines to remove major accumulations of oil was completed by the middle of March. The work then concentrated on final cleaning of amenity areas.

2.5 Approximately 14 000 tonnes of oil/water mixtures and 3 000 tonnes of oily beach material were collected during the clean-up operations. The liquid waste was transported to the Texaco refinery at Milford Haven for separation. The solid waste was disposed of at the Texaco refinery and at licensed landfill sites in Wales and England.

2.6 It is estimated that the clean-up costs incurred by the MPCU, local authorities, Texaco and various contractors had reached about £8 million by mid-March.

2.7 On 14 and 15 March reports were received from the Republic of Ireland of tar balls stranding on many beaches along 100 kilometres of the south east coast. Preliminary results of chemical analysis, together with other evidence, indicate that the source of the tar balls was the *Sea Empress* spill. An expert from ITOPF visited the polluted beaches and monitored the response activity. Clean-up of the contaminated beaches, which was carried out by the local authorities, involved the manual removal of oiled beach material and the disposal in licensed landfill sites. The clean-up was completed by the end of March.

3 Impact of the spill

3.1 According to statistics compiled by the Royal Society for the Prevention of Cruelty to Animals (RSPCA), about 4 000 dead birds have been found, and a further 3 600 live oiled birds have been taken into care for cleaning and rehabilitation.

3.2 Inshore fishermen in the affected area decided to impose a voluntary ban on fishing between St David's Head and West Helwick Buoy from 21 February 1996, initially for four days.

3.3 On 28 February, the Welsh Office imposed a Food Protection Order prohibiting the landing of fisheries and aquaculture products taken from a designated zone from St David's Head to the Gower Peninsula, and extending 10-30 kilometres offshore. On 20 March a statutory ban was also imposed by the Welsh Office on salmon and migratory trout in all freshwater rivers and streams which flow into the sea between the Gower Peninsula and St David's Head. The Ministry of Agriculture, Fisheries and Food together with the National Rivers Authority are monitoring the levels of oil contamination in coastal waters and in animal tissues within the designated zone. The fisheries experts engaged by the Skuld Club and the IOPC Fund have been in regular contact with the authorities concerning the monitoring work.

3.4 There is diverse inshore fishing activity carried out from several ports in Milford Haven and the surrounding area by small vessels of up to 15 metres in length. Many fishermen operating these vessels appear to be affected by the incident. There is also hand-gathering of shellfish in the intertidal zone. The total value of annual landings from inshore fishery and shellfish gathering in south west Wales has been estimated at £6 million.

3.5 There are also offshore fishing activities based in Milford Haven employing much larger vessels. Since the majority of these vessels operate in areas remote from the oil spill and sell their catches in distant European markets, it is unlikely that they will be affected by the spill.

3.6 There is an oyster farm in one of the estuaries in the upper reaches of Milford Haven which was affected by the incident.

3.7 The incident may have an impact on tourism in the area.

4 Investigations into the cause of the incident

4.1 The Marine Accident Investigation Branch (MAIB) of the Department of Transport of the United Kingdom is carrying out an enquiry into the cause of the incident. In a special bulletin dated 7 March 1996 the MAIB published its interim findings. It was stated that the *Sea Empress* had no known deficiencies when she embarked the pilot off Milford Haven, that the ship was in a seaworthy condition and that all certification for the vessel and the crew was valid in accordance with the requirements of the flag state authority and SOLAS, STCW and MARPOL. It was also stated that the pilot, master, chief officer and helmsman were adequately rested before starting their respective duties. It is mentioned that there were no communication difficulties between these persons which might have contributed in any way to the grounding. The anchors were ready for use, with the third officer and crew members standing by forward before the vessel entered the West Channel. It was noted that the master and the pilot had not discussed and agreed a plan for the approach to the West Channel. It was further stated that a position plotted by the chief officer at 2006 hours showed that the vessel had already crossed the line of the outer leads.

4.2 The Liberian authorities are also carrying out an investigation into the cause of the incident.

4.3 The Director will examine the results of the investigations when they become available.

5 Claims handling

5.1 The Skuld Club and the IOPC Fund have together established a Claims Handling Office in Milford Haven. The purpose of that office is to receive claims and forward them to the Skuld Club and the IOPC Fund for examination and approval. That office also assists claimants in the presentation of their claims.

5.2 The Claims Handling Office has registered several hundred persons and organisations who expected to suffer losses as a result of the *Sea Empress* incident, mostly relating to tourism, fisheries and the contamination of pleasure craft.

5.3 The IOPC Fund and the Skuld Club have engaged a number of experts to examine various groups of claims, viz those relating to clean-up operations, fishing, tourism, salvage and property damage. Their work is co-ordinated by the Claims Handling Office.

6 Considerations at the Executive Committee's 47th session

6.1 At its 47th session, the Executive 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 (document FUND/EXC.47/14, paragraph 3.10.2).

6.2 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. In view of the uncertainty as to the total amount of the claims, the Committee decided that the Director was not authorised at this stage to make any payments (document FUND/EXC.47/14, paragraph 3.10.5).

7 Claims for compensation

7.1 It is expected that claims will be submitted by, inter alia, the following groups and bodies:

United Kingdom Government
Local authorities in the United Kingdom
Local authorities in the Republic of Ireland
Milford Haven Harbour Authority
Texaco
Fishermen
Owners of pleasure craft
Groups incurring costs for bird cleaning
Tourist industry
Salvors

7.2 It is not possible at this stage to make an assessment of the level of the potential claims. The Director intends to give more detailed information in this regard in an addendum to the present document in which he will also address the issue of the level of the IOPC Fund's payments.

8 Interim hardship payments by the Skuld Club

8.1 In order to mitigate financial hardship to claimants, the Skuld Club has set up a procedure for making interim hardship payments which will be in force up to the end of April 1996, by which time the Skuld Club will reconsider its position in this regard. The assessment of hardship payments is made for that purpose only, and the claims will be reassessed for the purpose of final settlements in the light of any further evidence provided by the claimants concerned.

8.2 As at 31 March 1996, 42 requests for interim hardship payments had been received. Payments totalling £161 536 had been made to 26 claimants. One of these payments related to a small business operating wind surfing and similar activities, and another to an oyster farm located within the area covered by the fishing ban. The remaining 24 payments were made to fishermen who had been prevented from fishing as a result of the fishing ban imposed by the United Kingdom Government.

8.3 The interim hardship payments have been made by the Skuld Club after consultation with the Director.

8.4 Payments were made only if the Director agreed that the claims were admissible in principle and that the amount of the interim hardship payment did not exceed the loss suffered for the period in question, as assessed by the experts engaged by the Skuld Club and the IOPC Fund.

9 Limitation proceedings

9.1 The limitation amount applicable to the *Sea Empress* is approximately £8 million.

9.2 The shipowner has not yet initiated limitation proceedings.

10 Invitation to give evidence before Parliamentary Committee

10.1 The Director was invited to give oral evidence before the Welsh Affairs Committee of the House of Commons on 27 March 1996. The Skuld Club and the expert engaged by the IOPC Fund and the Club to run the Claims Handling Office in Milford Haven were also invited to appear before the Committee and give oral evidence.

10.2 After consultation with the Chairmen of the Assembly and the Executive Committee, the Director sent a reply to the Chairman of the Welsh Affairs Committee stating that the IOPC Fund would be pleased to assist the Committee in its important task of examining the current problems facing the sea fishing industry in Wales, by providing information concerning the international compensation system. The Director maintained, however, that the Committee's invitation gave rise to certain difficulties in view of the particular status of the IOPC Fund as an intergovernmental organisation and that it would be inappropriate for the Director, as head of the IOPC Fund Secretariat, to give evidence before a Parliamentary Committee in any Member State. He stated that similar considerations applied to experts working for the IOPC Fund. The Director also mentioned that the Committee's invitation to him, as well as the invitation to the expert engaged by the IOPC Fund and the Skuld Club to run the Claims Handling Office, gave rise to important issues relating to diplomatic immunity, and he made reference to the Headquarters Agreement between the United Kingdom Government and the IOPC Fund. For these reasons, the Director stated that it would not be appropriate for him or for the expert in charge of the Milford Haven Office to give evidence before the Committee.

10.3 The Welsh Affairs Committee's hearing scheduled for 27 March was cancelled. The Committee accepted a proposal by the Director that he would present a memorandum containing information on the compensation system established by the Conventions, and such a memorandum has been submitted to the Committee.

11 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) give the Director such instructions as it may deem appropriate in respect of the handling of the claims arising out of this incident;
 - (c) give the Director instructions on the payment of claims;
 - (d) give the Director such instructions in relation to other aspects of this incident as it may deem appropriate; and
 - (e) take note of the Director's position in respect of the invitation to give oral evidence before a parliamentary committee.
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