



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1971

EXECUTIVE COMMITTEE  
59th session  
Agenda item 3

71FUND/EXC.59/14  
7 October 1998

Original: ENGLISH

## INCIDENTS INVOLVING THE 1971 FUND

### MARITZA SAYALERO

Note by the Director

<b>Summary:</b>	On 8 June 1998, gas oil escaped from a sub-sea flexible hose while the <i>Maritza Sayalero</i> was discharging cargo at a terminal in Venezuela.
<b>Action to be taken:</b>	Decide whether the incident falls within the scope of application of the 1969 Civil Liability Convention and the 1971 Fund Convention.

#### 1 Introduction

1.1 The Panamanian tanker *Maritza Sayalero* (28 338 GRT) was berthed at an oil terminal at Carenero Bay (Venezuela) operated by Petroleos de Venezuela SA (PDVSA), the national oil company, where it was to discharge the three cargoes it was carrying, namely premium gasoline, popular gasoline and medium diesel. On 8 June 1998, while the tanker was discharging the medium diesel, a member of the crew observed a slick of oil of about 140 m<sup>2</sup> on the port side of the ship. The crew stopped the discharging operation. On the basis of shore tank and ship's cargo tank measurements it was estimated that 262 tonnes of medium diesel were lost from the tanker and a further 699 tonnes of medium diesel were lost from the terminal.

1.2 The 1971 Fund was informed of the incident on 5 August 1998.

1.3 A diver checked the hoses and found two ruptures on the submarine hose used to discharge the medium diesel. This hose, which belonged to the oil terminal, consisted of six pieces of flexible hose of about 9 metres each, hooked together by bolts. One end of this set of hoses was connected to the shore submarine pipeline and the other to the vessel's manifold. The ruptures were located in the second and

third hoses from the end which was connected to the shore submarine pipeline. The distance between the tanker and the rupture was approximately 40 metres.

1.4 The *Maritza Sayalero* is entered in the United Kingdom Mutual Steam Ship Assurance Association (Bermuda) Limited (UK Club).

1.5 Venezuela is Party to the 1969 Civil Liability Convention and the 1971 Fund Convention.

## **2 Clean-up operations**

2.1 Under the Venezuelan National Contingency Plan for Oil Pollution, PDVSA is responsible for implementing oil spill response measures in Carenero Bay. PDVSA activated the contingency plan and booms were deployed to protect sensitive areas. A small quantity of spilt medium diesel reached a nearby beach and reportedly affected bivalves living in the intertidal zone. Clean-up operations were carried out on the affected beaches.

2.2 PDVSA instructed the Instituto Tecnológico Venezolano de Petroleo (INTEVEP), the Centro de Investigaciones Economicas y Sociales (CIES) and the Instituto Tecnológico del Mar (INTECMAR) from the Simon Bolivar University to assess the damage caused to the environment.

## **3 Impact on fishing and tourism**

Although early indications are that there was minimal impact on fishing and tourism, PDVSA has estimated that the claims for commercial losses will be in the region of US\$700 000 (£412 000). It is understood that PDVSA has started to settle claims. There has not been any consultation between PDVSA and the 1971 Fund with regard to claim settlements.

## **4 Court proceedings**

4.1 A criminal first instance court in Miranda is carrying out an investigation into the cause of the incident. The Court will determine whether anyone has incurred criminal liability as a result of the incident.

4.2 On 8 July 1998, the town of Brion presented a claim for compensation against the terminal operator, PDVSA, the shipowner and the UK Club before the Supreme Court in Caracas for an estimated amount of Bs10 000 million (£12.5 million) plus legal costs. The town of Brion requested that the Court should notify the 1971 Fund of the proceedings. The 1971 Fund has not yet been notified of this action.

## **5 Applicability of the Conventions**

5.1 The Director has considered whether the 1969 Civil Liability Convention and the 1971 Fund Convention apply to this incident. He takes the view that since the spill emanated from a ruptured hose which belonged to the oil terminal and which was shoreside of the ship's manifold, the maritime transport of the oil had been completed and the oil could not be considered as being carried by the *Maritza Sayalero* at the time of the spill. For this reason, he takes the view that the incident falls outside the scope of application of the Conventions.

5.2 The 1969 Civil Liability Convention and the 1971 Fund Convention apply only to spills of oil falling within the definition in Article 1.5 of the 1969 Civil Liability Convention which reads:

“Oil” means any persistent oil such as crude oil, fuel oil, heavy diesel oil, lubricating oil and whale oil, whether carried on board a ship as cargo or in the bunkers of such a ship.’



5.3 The 1969 Civil Liability Convention and the 1971 Fund Convention do not contain any definition of persistent oil, but only give examples of certain types of oil that should be considered as "persistent", eg heavy diesel oil.

5.4 It will be recalled that the 1971 Fund elaborated a non-technical guide to the nature and definition of persistent oil, which was considered by the Assembly at its 4th session (documents FUND/A.4/11 and FUND/A.4/16, paragraph 14). Under these guidelines an oil is considered non-persistent if at the time of shipment at least 50% of the hydrocarbon fractions, by volume, distil at a temperature of 340°C and at least 95% of the hydrocarbon fractions, by volume, distil at a temperature of 370°C. Preliminary analyses indicate that the medium diesel in question was non-persistent according to these guidelines but further tests are being conducted. It is expected that these further tests will confirm the results of the preliminary tests. Given the information set out above, the Director is of the opinion that the oil in question is probably non-persistent and that, for this reason also, the incident would fall outside the scope of application of the Conventions.

## **6 Limitation proceedings**

6.1 The shipowner has not yet commenced limitation proceedings.

6.2 If the 1969 Civil Liability Convention were to apply to the incident, the limitation amount applicable to the *Maritza Sayalero* would be in the region of 3 million SDR (£2.4 million).

## **7 Investigation into the cause of the incident**

An investigation by the UK Club into the cause of the incident has ruled out any fault or negligence on the part of the vessel.

## **8 Action to be taken by the Executive Committee**

The Executive Committee is invited:

- (a) to take note of the information contained in this document;
  - (b) to decide whether the incident falls within the scope of the 1969 Civil Liability Convention and the 1971 Fund Convention; and
  - (c) to give the Director such other instructions in respect of the handling of this incident as it may deem appropriate.
-