



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1971

EXECUTIVE COMMITTEE
62nd session
Agenda item 3

71FUND/EXC.62/11
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INCIDENTS INVOLVING THE 1971 FUND

PONTOON 300

Note by the Director

Summary:	Claims totalling £1.2 million have been submitted. The claims have been assessed at £790 000. Compensation payments so far total £344 800. Further claims, including claims relating to losses suffered by fishermen, are expected.
Action to be taken:	Review the level of the 1971 Fund's payments.

1 Introduction

1.1 On 7 January 1998 intermediate fuel oil was spilled from the barge *Pontoon 300* (4 233 GRT), which was being towed by the tug *Falcon 1* off Hamriyah in Sharjah, United Arab Emirates. The barge had reportedly become swamped during high seas and strong north-westerly winds and had taken on water whilst losing oil. During the course of the night of 8 January, the barge sank and settled on the seabed at a depth of 21 metres, six nautical miles off Hamriyah.

1.2 The *Pontoon 300* was registered in Saint Vincent and the Grenadines and was owned by a Liberian company. It appears that the barge was not covered by any insurance for oil pollution liability. The tug *Falcon 1* is registered in Abu Dhabi and owned by a citizen of that Emirate.

1.3 The *Pontoon 300* was a flat-top barge of 4 233 gross tons and 9 885 tons loaded displacement. The deadweight tonnage for the *Pontoon 300* was 8 037 tons. The barge was constructed with 24 buoyancy tanks in six rows of four tanks each, and a double centre bulkhead. Divers reported signs of diesel oil having been loaded in fore and aft ballast tanks in the barge. The divers also discovered that most of the tanks on the barge were interconnected, making it difficult to estimate the total quantity of oil that had been spilled. However it is estimated that some 4 000 - 4 500 tonnes of oil was spilled.

1.4 Several unsuccessful attempts to raise the barge were made during January 1998. The barge was finally lifted on 4 February 1998 and was towed into the port of Hamriyah. After oil residues had been removed, the barge was towed out to sea and scuttled.

2 Applicability of the Conventions

2.1 At its 57th session the Executive Committee decided that the *Pontoon 300* fell within the definition of 'ship' in the 1969 Civil Liability Convention (document 71FUND/EXC.57/15, paragraph 3.11.4).

2.2 A number of delegations observed that the circumstances of the case (such as the apparent absence of an insurance certificate and the use of buoyancy tanks for cargo) merited closer scrutiny, with a view to possible recourse action. It was stressed, however, that the 1971 Fund's priority should be the payment of compensation to claimants, and that questions of recourse should be considered separately.

3 Clean-up operations

3.1 The spilt oil spread over 40 kilometres of coastline, affecting four Emirates, namely Sharjah, Ajman, Umm Al Quwain and Ras Al Khaymah. The worst affected Emirate was Umm Al Quwain, where there is a beach hotel and a fishing harbour at Al Naqaa.

3.2 The Federal Environment Agency (FEA) co-ordinated the spill response, with support from the Frontier and Coast Guard Service (FCGS) and municipal authorities. Onshore clean-up operations were carried out by oil companies and a number of local contractors under the co-ordination of FEA. Collected oily waste was transported to an inland disposal site. All shoreline clean-up operations were suspended on 24 January when government funds allocated for the task had been exhausted. After a standstill of seven weeks, beach cleaning was resumed on 12 March 1998 with a labour force of 100 men. The work was completed in June 1998.

4 Claims situation

4.1 As at 30 September 1999, 11 claims for compensation had been received. These claims, totalling Dhs 7 429 000 (£1.2 million), relate to clean-up operations. Eight of these claims, totalling Dhs 5 274 000 (£852 000), have been presented by the FEA. Preliminary assessments of the FEA claims have been made at Dhs 2 762 231 (£446 000) and interim payments at 75% of this amount are expected to be made in the near future. Clarification has been requested in respect of certain items relating to some of these claims.

4.2 A local contractor submitted claims totalling Dhs 2 154 000 (£345 000) in respect of clean-up work carried out between 12 March and 10 June 1998. These claims have been settled at Dhs 2 153 000 (£344 800) and paid at 75% of the agreed amount, ie Dhs 1 615 000 (£258 600).

4.3 It is expected that the Umm Al Quwain municipality will submit a claim in the near future. It appears that the claim will contain the following:

- losses suffered by some 200 fishermen following the spill
- beach-cleaning costs
- damage to facilities of the Marine Resources Research Centre
- costs of studies undertaken by Al Ain University and the FEA
- damage to mangroves in the Umm Al Quwain Creek

5 Level of the 1971 Fund's payments

5.1 At its 57th session the Executive Committee decided that for the time being the 1971 Fund's payments should be limited to 50% of the loss or damage actually suffered by each claimant, as assessed by the Fund's experts at the time the payment was made (document 71FUND/EXC.57/15, paragraphs 3.11.8 and 3.11.9). At its 58th session the Executive Committee decided to increase the level of the 1971 Fund's payments to 75% (document 71FUND/EXC.58/15, paragraph 3.9.5). The Committee decided at its 59th session to maintain this payment level (document 71FUND/EXC.59/17, paragraph 3.12.2).

5.2 In view of the continuing uncertainty as to whether the total amount of the claims might exceed the total amount available under the 1969 Civil Liability Convention and the 1971 Fund Convention (60 million SDR, corresponding to approximately £48 million), the Director considers that it would be appropriate to maintain the level of the 1971 Fund's payments at 75% of the loss or damage actually suffered by each claimant.

6 Investigations into the cause of the incident

6.1 The Director has instructed the 1971 Fund's lawyers in the United Arab Emirates to investigate the cause of the incident, with the assistance of technical experts, as required. At the Executive Committee's 57th session it was pointed out that some claimants might be those against whom recourse action would have to be taken, and that particular caution regarding the payment of compensation would be needed in respect of payments to such claimants.

6.2 As instructed at the Committee's 58th session, the Director is continuing his investigations into the cause of the incident and the possibilities of taking recourse actions.

6.3 The shipowner has not commenced limitation proceedings.

7 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 review the level of the 1971 Fund's payments; and
 - (c) to give the Director such other instructions as the Committee may deem appropriate in respect of this incident.
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