



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUNDS 1971 AND
1992

EXECUTIVE COMMITTEE
17th session
Agenda item 3

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71FUND/AC.8/5

INCIDENTS INVOLVING THE 1971/1992 FUNDS

ZEINAB

Note by the Director

Summary:

The vessel sank off Dubai (United Arab Emirates), resulting in the loss of some 400 tonnes of oil and the subsequent pollution of the coast. Both governing bodies decided that both the 1971 and the 1992 Fund Conventions applied to the incident and that the liabilities should be distributed between the two Funds on a 50:50 basis. The 1971 Fund's liabilities in respect of the incident are covered by insurance to the extent that they exceed a deductible of 250 000 SDR.

Action to be taken:

- a) Take note of the information contained in this document; and
- b) Decide the basis on which the 1971 Fund's deductible of 250 000 SDR is to be converted into pounds sterling.

1 The incident

- 1.1 On 14 April 2001 the Georgian-registered vessel *Zeinab*, suspected of smuggling oil from Iraq, was arrested by the multi-national Interception Forces. The vessel was being escorted to a holding area in international waters when the vessel lost its stability about 16 miles from the Dubai coastline and sank in 25 metres of water.
- 1.2 The vessel was reported to be carrying a cargo of 1 500 tonnes of fuel oil, of which it is estimated that some 400 tonnes was spilled at the time of the incident. The oil drifted towards the nearby shorelines in Dubai and also reached the coasts of the northern Emirates of Sharjah and Ajman.
- 1.3 Some 1 100 tonnes of cargo remained in the unbreached tanks and this cargo was successfully removed from the sunken vessel without further significant spillage of oil.
- 1.4 It appears that the *Zeinab* was not entered with any classification society and was not covered by any liability insurance.

2 Previous considerations by the 1992 Fund Executive Committee and the 1971 Fund Administrative Council

Definition of 'ship'

- 2.1 The 1992 Fund Executive Committee and the 1971 Fund Administrative Council decided at their June 2001 sessions that the *Zeinab* fell within the definitions of 'ship' laid down in the 1969 Civil Liability Convention and the 1992 Civil Liability Convention (documents 92FUND/EXC.13/7, paragraph 3.4.6 and 71FUND/AC.5/ES.8/10, paragraph 5.6.6).

Applicability of the Conventions and the distribution of liabilities between the 1971 and 1992 Funds

- 2.2 The 1992 Fund Executive Committee and the 1971 Fund Administrative Council also decided at their June 2001 sessions that, since the United Arab Emirates was at the time of the *Zeinab* incident a Party to both the 1969/1971 Conventions and the 1992 Conventions, both sets of Conventions applied to the incident, and that the liabilities should be distributed between the 1992 Fund and the 1971 Fund on a 50:50 basis (documents 92FUND/EXC.13/7, paragraphs 3.4.8 and 3.4.11 and 71FUND/AC.5/A/ES.8/10, paragraphs 5.6.8, 5.6.9 and 5.6.11).

Settlement of claims

- 2.3 The Executive Committee and the Administrative Council decided at their October 2001 sessions to authorise the Director to make final settlements on behalf of the 1971 and 1992 Funds of all claims arising out of the incident to the extent that they did not give rise to questions of principle which had not been decided by any of the governing bodies of the 1971 Fund or the 1992 Fund (documents 92FUND/EXC.14/12, paragraph 3.5.27 and 71FUND/AC.6/A.24/22, paragraph 19.10.24).

3 Claims for compensation

- 3.1 The Dubai Ports Authority submitted claims totalling US\$480 000 (£343 000) in respect of costs of preventive measures and clean-up. This claim has been settled at US\$ 454 000 (£312 000) and was paid on 22 May 2002.
- 3.2 The Federal Environment Agency (FEA) has submitted a claim for US\$ 850 000 (£583 000) in respect of the operations to remove the remaining oil from the sunken wreck and the costs it incurred in responding to the oil pollution. The Funds' experts are assessing this claim.
- 3.3 Claims in the region of US\$1.2 million (£850 000) are anticipated from the Dubai Municipality in respect of shoreline clean-up operations. Further claims are expected from local oil companies that participated in the clean-up operations.
- 3.4 Although it is not yet possible to make an evaluation of the total amount of the claims for compensation, it is extremely unlikely that the amount will approach anywhere near the 1971 Fund limit of 60 million SDR. The Director is therefore of the view that it is not necessary to convert the 60 million SDR into the national currency. For the same reason he does not consider it necessary to convert the 1992 Fund limit of 135 million SDR into the national currency.
- 3.5 As at 1 June 2002, the Funds had paid a total of £346 000 in compensation and legal and other expert fees. On the basis of the 50:50 sharing of liabilities between the 1971 and 1992 Funds each Fund has therefore made payments of some £173 000.

4 Determination of the 1971 Fund's deductible under the terms of the insurance cover

- 4.1 As authorised by the Administrative Council at its October 2000 session, the 1971 Fund purchased insurance covering any liabilities of the 1971 Fund for compensation and

indemnification up to 60 million SDR (£55 million) per incident minus the amount actually paid by the shipowner or his insurer under the 1969 Civil Liability Convention as well as legal and other experts' fees in respect of all incidents occurring between 25 October 2000 and 24 May 2002, the date when the 1971 Fund Convention ceased to be in force. Under the insurance policy the 1971 Fund has to cover a deductible of 250 000 SDR for each incident.

- 4.2 It is expected that when the claim by the FEA referred to in paragraph 3.2 is settled, the 1971 Fund's payments will have exceeded the deductible of 250 000 SDR.
- 4.3 The insurance contract stipulates that the conversion of SDR into pounds sterling shall be calculated by the 1971 Fund in accordance with its normal operating procedures or by a competent court. The contract does not deal with the issue of the conversion of SDR into any other national currency.
- 4.4 For the purpose of converting the amount of 250 000 SDR into pounds sterling, the Director proposes that the 1971 Fund should follow the procedure provided for in the 1971 Fund's Internal Regulation 3.5 relating to the conversion of the maximum amount payable from the General Fund (1 million SDR) into pounds sterling, namely that the relevant date for conversion shall be the date of the incident in question, which in the case of the *Zeinab* is 14 April 2001.
- 4.5 The SDR: pound sterling exchange rate on 12 April 2001 (the 13, 14, 15 and 16 April being non-banking days) was 1 SDR = £0.88130. If the governing bodies were to approve the Director's proposal, the deductible under the insurance policy would be £220 325.

5 Action to be taken by the governing bodies

The governing bodies are invited:

- a) to take note of the information contained in this document;
 - b) to decide on the date to be used for conversion of SDR to pounds sterling for the purpose of determining the deductible under the insurance policy; and
 - c) to give the Director such instructions in respect of this incident as they may deem appropriate.
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