



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUNDS 1971 AND
1992

EXECUTIVE COMMITTEE
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Agenda item 3

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71FUND/AC.9/13/11

INCIDENTS INVOLVING THE 1971/1992 FUNDS

NATUNA SEA

Note by the Director

Summary:

The grounding of the *Natuna Sea* in the Singapore Strait resulted in a spill of some 7 000 tonnes of crude oil. The oil affected Singapore, Malaysia and Indonesia. It is not possible to predict the level of claims for compensation at this stage. Claims for pollution damage in Malaysia (Party to the 1969 Civil Liability Convention and the 1971 Fund Convention) have been settled within the limitation amount applicable to the *Natuna Sea* under the 1969 Civil Liability Convention and the 1971 Fund will not be called upon to make any payments in respect of this incident. The total claims for pollution damage in Singapore (Party to the 1992 Civil Liability Convention and the 1992 Fund Convention) and Indonesia (Party to the 1992 Civil Liability Convention) exceed the limit applicable to the vessel under the 1992 Civil Liability Convention. The 1992 Fund may therefore be required to make payments for pollution damage in Singapore.

Action to be taken:

Information to be noted.

1 The incident

- 1.1 On 3 October 2000 the Panamanian tanker *Natuna Sea* (51 095 GT) grounded in the Singapore Strait off Batu Berhanti, Indonesia. The vessel was carrying a cargo of 70 000 tonnes of Nile Blend crude oil at the time of the incident. An estimated 7 000 tonnes of crude oil was spilled as a result of the grounding. The vessel was lightened of its remaining cargo and refloated without significant further spillage on 12 October 2000.
- 1.2 The *Natuna Sea* is entered with the London Steam-Ship Owners' Mutual Insurance Association Ltd (London Club).

- 1.3 The IOPC Funds monitored the response to the spill through experts from the International Tanker Owners Pollution Federation Ltd (ITOPF), who arrived on site on 4 October 2000, and a network of local surveyors.
- 1.4 The oil oscillated with the tides, but with a slow overall movement to the east. On the Singapore side of the Strait a number of islands and the southeast coast of Singapore Island were polluted. A number of Indonesian islands in the Singapore Strait were also affected by oil. Oil also impacted the southeast tip of the Johore Peninsula, Malaysia.

2 Applicability of the Conventions

- 2.1 The *Natuna Sea* was registered in Panama, which at the time of the incident was a Party to the 1992 Civil Liability Convention and the 1992 Fund Convention.
- 2.2 Singapore is a Party to the 1992 Civil Liability Convention and to the 1992 Fund Convention. Indonesia is a Party to the 1992 Civil Liability Convention, but not a Party to the 1992 Fund Convention. Malaysia is a Party to the 1969 Civil Liability Convention and the 1971 Fund Convention, but not to the 1992 Conventions.
- 2.3 As a consequence of two different regimes being applicable to the incident, the shipowner may be required to establish two limitation funds, one in Malaysia and one in Singapore or Indonesia. The limitation amount applicable to the *Natuna Sea* under the 1992 Civil Liability Conventions is approximately 22.4 million SDR (£19 million) and under the 1969 Civil Liability Convention approximately 6.1 million SDR (£5.2 million).
- 2.4 Claims for pollution damage in Indonesia under the 1992 Civil Liability Convention will compete with claims for pollution damage in Singapore under the same Convention and could ultimately have a bearing on whether or not the 1992 Fund will be required to pay compensation for pollution damage in Singapore. If the total amount of claims for pollution damage in Malaysia were to exceed the limitation amount applicable to the *Natuna Sea* under the 1969 Civil Liability Convention, the 1971 Fund would be required to pay compensation.
- 2.5 At their October 2000 sessions the 1992 Fund Executive Committee and the 1971 Fund Administrative Council authorised the Director to make final settlements on behalf of the respective Funds of all claims arising out of the *Natuna Sea* incident to the extent that the claims did not give rise to questions of principle which had not been decided by any of the governing bodies of the 1971 Fund or 1992 Fund (documents 92FUND/EXC.9/12, paragraph 3.7.11 and 71FUND/AC.2/A.23/22, paragraph 17.14.12).

3 Claims for compensation

Singapore

- 3.1 A claim by East Asia Response Ltd (EARL), an oil spill response organisation, for US\$1.4 million (£900 000) was provisionally assessed by ITOPF at US\$400 000 pending further information in support of the claim. The claim was subsequently settled by the London Club for the amount claimed. The 1992 Fund was not party to the settlement. EARL has submitted a further claim for US\$16 000 (£10 000) in respect of damaged clean-up equipment. The London Club has argued that this claim should be met by the equipment insurers.
- 3.2 A claim for S\$3.8 million (£1.4 million) by the Maritime and Port Authority (MPA) of Singapore in respect of its own personnel and resources and those of contractors engaged by MPA to assist in clean-up operations has been settled for S\$2.8 million (£1.0 million). The IOPC Funds participated in the settlement negotiations.

- 3.3 A fish farm which was heavily impacted by the spill submitted a claim for S\$140 000 (£53 000). This claim was settled by the London Club for S\$95 000 (£35 000).
- 3.4 A claim by a Government Food and Veterinary Authority for S\$56 000 (£21 000) in respect of oiled fish cages has been provisionally assessed by ITOPF at S\$12 400 (£5 000).
- 3.5 The Sentosa Development Corporation has submitted a claim for S\$800 000 (£295 000) in respect of its involvement in shoreline clean-up operations, including the replacement of a damaged oil containment boom. The claim is being assessed.
- 3.6 The London Club has reimbursed the managers of the *Natuna Sea* US\$8.7 million (£5.6 million) in respect of payments made to various clean-up contractors in Singapore and Indonesia. The 1992 Fund has not received any documentation in support of these payments.

Indonesia

- 3.7 Local government authorities have submitted claims totalling Rp 21 000 million (£1.5 million) in respect of clean-up operations, waste disposal and the costs of collating fishery claims. The claim was assessed by ITOPF at Rp 1 073 million (£78 000).
- 3.8 The Director General of Sea Communications has submitted a claim for US\$700 000 (£450 000) in respect of clean-up operations at sea. This claim is being assessed.
- 3.9 A claim for Rp 811 million (£60 000) by an Indonesian oil company that participated in the clean-up has been assessed by the London Club at Rp 253 million (£19 000).
- 3.10 Fishery claims totalling US\$12.3 million (£7.9 million) have been assessed by ITOPF at US\$1.8 million (£1.2 million). In December 2000 the London Club made a partial payment of US\$1.5 million (£970 000) in respect of these claims.
- 3.11 The Indonesian authorities submitted claims totalling Rp 1 058 000 million (£114 million) for alleged damage to the coastal ecosystem including mangroves, corals and tourist beaches. These claims have been reduced to US\$16.7 million (£10.6 million). No documentation has been provided in support of these claims, but they appear to be based upon a quantification of the area of each resource affected by oil and estimates of their monetary value. A claim has also been submitted for US\$383 000 (£250 000) for the costs associated with determining these damages.
- 3.12 ITOPF conducted surveys of the affected areas in May 2002 and August 2002. During the second survey a small number of dead mangroves were observed. The London Club has engaged experts to advise on possible mangrove reinstatement projects in these areas.

Malaysia

- 3.13 Clean-up claims totalling RM 1.4 million (£240 000) were settled by the London Club for a total of RM 1.3 million (£220 000). Fishery claims totalling RM 905 000 (£180 000) were settled by the Club for the amount claimed. No further claims are anticipated.

4 Likelihood of involvement of the 1971 Fund and 1992 Fund

- 4.1 All claims for oil pollution damage in Malaysia have been settled at a total of some £420 000. The limitation amount applicable to the *Natuna Sea* under the 1969 Civil Liability Convention is estimated at £5.2 million. The 1971 Fund will therefore not be called upon to make any payments in respect of compensation or indemnification under Article 5.1 of the 1971 Fund Convention.
- 4.2 Claims have been settled in Singapore for a total of US\$10.1 million (£6.5 million) and S\$2.9 million (£1.6 million). Further claims totalling S\$856 000 (£324 000) are being assessed.

- 4.3 Claims in Indonesia total some Rp 21 800 million (£1.5 million) and US\$30.1 million (£19.0 million), although they have been assessed at around Rp 1 412 million (103 000) and US\$1.8 million (£1.2 million).
- 4.4 There therefore remains a possibility that the total admissible claims for pollution damage in Singapore and Indonesia will exceed the limitation amount applicable to the *Natuna Sea* under the 1992 Civil Liability Convention. Since Indonesia was not a Party to the 1992 Fund Convention, the 1992 Fund will not be liable for pollution damage in Indonesia, but may be called upon to make payments in respect of pollution damage in Singapore.

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 give the Director such instructions in respect of this incident as they may deem appropriate.
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