



## INCIDENTS INVOLVING THE 1992 FUND

### TWO KOREAN INCIDENTS

#### *Duck Yang and Kyung Won*

#### Note by the Director

**Summary:**

*Duck Yang*: The coastal tanker sank after dragging its anchor and striking a barge and a quay wall in the port of Pusan. A spill of approximately 300 tonnes of fuel oil became widely scattered within the confines of the port causing disruption to port operations and the contamination of the hulls of over 100 ships.

*Kyung Won*: The un-powered barge stranded on the breakwater of a small fishing port spilling about 100 tonnes of heavy fuel oil. About 17 km of shoreline were polluted to varying degrees impacting fisheries and mariculture. The barge did not have any liability insurance.

**Action to be taken:**

Decide whether to authorise the Director to settle claims arising from the *Duck Yang* and the *Kyung Won* incidents and to make payments in respect of the latter incident even if the shipowner does not make any payments.

### 1 *Duck Yang*

(12 September 2003)

#### 1.1 The incident

- 1.1.1 The Korean tanker *Duck Yang* (149 GT) dragged its anchor in the port of Busan (Republic of Korea), as a result of strong winds and heavy seas created by the typhoon 'Maemi'. The vessel struck a barge and the quay wall of the port's central pier before turning on its side and sinking. The ship's master and chief engineer were reported missing. An estimated 300 tonnes of heavy fuel oil was lost from two cargo tanks whose manhole covers were open and another cargo tank whose shell plating had punctured.
- 1.1.2 The shipowner engaged a local salvage company, which successfully lifted the vessel out of the water by means of floating cranes. The remaining oil on board was then transferred to another tanker.

1.1.3 The *Duck Yang* was insured for pollution liabilities with the Korea Shipping Association (KSA). The KSA agreed with the 1992 Fund's proposal to apply the Memorandum of Understanding signed by the 1992 Fund and the International Group of P&I Clubs whereby the two parties would jointly instruct surveyors and experts to monitor the clean-up and assist with the assessment of claims for compensation for pollution damage. A team of Korean surveyors and experts were appointed to undertake this work on behalf of the KSA and the 1992 Fund.

## 1.2 Clean-up operations

1.2.1 On 13 September 2003 the Marine Police, the Navy and several commercial contractors mobilised a fleet of 18 pollution response vessels to combat the oil that had escaped. The number of response vessels was increased to 27 on the following day.

1.2.2 On water clean-up operations were completed by 20 September 2003, but cleaning of piers, breakwaters and other man-made structures was not expected to be completed until mid-October.

1.2.3 As at 1 October 2003 a total of 502 vessel days, 6 245 mandays, 66 tonnes of sorbents and 79 000 litres of dispersant had been expended in clean-up. By the same date, a total of 165 tonnes of liquid oily waste and 730 tonnes of oily debris had been collected for eventual disposal.

## 1.3 Impact of the spill

1.3.1 The oil became widely scattered throughout the port of Busan as a result of which the hulls of over 100 vessels were contaminated. Cleaning the hulls of some vessels proved difficult due to restricted accessibility between vessels and quay walls and changes in vessels' freeboards as cargo was loaded or discharged.

1.3.2 A number of piers were so heavily contaminated that vessels were prevented from going alongside until they had been cleaned.

1.3.3 As a result of the confinement of the oil within the port areas impact on fisheries was minimal. However, a number of raw seafood restaurants that abstract seawater into their holding tanks suffered business interruption due to the presence of oil.

## 1.4 Claims for compensation

1.4.1 The limit applicable to the *Duck Yang* under the 1992 Civil Liability Convention is 3 million SDR (£3.4 million).

1.4.2 The aggregate clean-up costs, including the cleaning of hulls of vessels, incurred up to 1 October 2003 were estimated to be about Won 3 000 million (£1.6 million).

1.4.3 Claims are expected from stevedore companies, the pilot association and tug operators for loss of income due to interruption of the port during clean-up operations. Claims are also expected from the owners of raw seafood restaurants for loss of earnings.

1.4.4 It is too early to predict whether the total claims arising from this incident will exceed the limitation amount applicable to the *Duck Yang*. However, the Executive Committee may nevertheless wish to authorise the Director to settle claims arising from the incident to the extent that they do not give rise to issues of principle not previously considered by the Funds' governing bodies.

## 2 Kyung Won

(12 September 2003)

### 2.1 The incident

2.1.1 The Korean tank barge *Kyung Won* (144 GT), whilst moored near the port of Gwangyang, Namhae Island, Republic of Korea, stranded on the breakwater of the village of Yu Po during the passing of the typhoon 'Maemi'. Approximately 100 tonnes of heavy fuel oil escaped from a cracked cargo tank before a contractor was able to seal the cracks and transfer the remaining oil. On 14 September 2003 the barge was towed to a shipyard in Busan for repairs.

2.1.2 The 1992 Fund appointed a team of Korean surveyors and experts to monitor the clean-up operations and investigate the potential impact of the pollution on fisheries and mariculture.

2.2 Clean-up operations

- 2.2.1 On 13 September the Marine Police, a private clean-up contractor and the Korean Marine Pollution Response Corporation (KMPRC) deployed 31 response vessels to undertake clean-up operations at sea. These operations were terminated on 17 September, the remaining oil having stranded on shorelines.
- 2.2.2 The shipowner engaged a private clean-up contractor to organise shoreline clean-up operations. A further two contractors, working under the direction of KMPRC, also participated in shoreline clean-up operations. These operations were expected to take a minimum of two months to complete.

2.3 Impact of the spill

- 2.3.1 Approximately 14 km of shoreline, along which 17 fishing villages are located, were polluted by oil of which six km were heavily impacted. Shorelines consist of a mixture of sand, pebbles and rocks as well as breakwaters and sea walls.
- 2.3.2 Fishing and mariculture activities undertaken in the area include intertidal harvesting of marine products, inshore fishing with vessels, and set nets, shellfish culture farms and onshore hatcheries producing a range of marine products. Many of these activities also suffered the direct effects of the typhoon.

2.4 Claims for compensation

Although claims for the costs of clean-up operations and compensation claims in respect of losses in the fishery and mariculture sectors are anticipated, it not possible to estimate the magnitude of the claims at this stage.

2.5 Applicability of the 1992 Civil Liability Convention and the 1992 Fund Convention

- 2.5.1 The *Kyung Won*, which was built in 1986, was an un-powered sea going barge comprising six cargo tanks, one of which was fitted with heating coils, an aft deck house, two generators and a boiler. Each cargo tank has a separate manhole and cargo line.
- 2.5.2 It is understood that at the time of the incident the *Kyung Won* was not entered with any classification society and did not carry any liability insurance. It appears that liability insurance was terminated in May 2002 when the shipowner became bankrupt.
- 2.5.3 The Director is continuing his investigation into the operation of the *Kyung Won*. However, it appears that since the shipowner became bankrupt the former employees of the shipowner have been continuing to operate the vessel as a bunkering barge.
- 2.5.4 The 1992 Fund Executive Committee may wish to authorise the Director to settle claims for compensation arising out of the *Kyung Won* incident to the extent that they do not give rise to issues of principle not previously considered by the Funds' governing bodies.
- 2.5.5 The *Kyung Won* was not insured for pollution liabilities. It is unlikely that the shipowner will have the financial resources to make any significant compensation payments. For this reason the Director takes the view that the 1992 Fund should pay settled claims even if the shipowner has not made any payments.

3 Action to be taken by the Executive Committee

The Executive Committee is invited:

- a) to take note of the information contained in this document; and,
- b) to decide whether to authorise the Director to settle claims in respect of the *Duck Yang* incident and to settle and pay claims arising from the *Kyung Won* incident even if the shipowner has not made any payments.
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