



INCIDENTS INVOLVING THE 1992 FUND

VICTORIYA

Note by the Director

Summary:

The Russian river/sea-going tanker *Victoriya* suffered a fire and explosion at a terminal on the Volga river some 1 300 km inland from the Caspian Sea and the Sea of Azov. An unknown quantity of crude oil was spilled into the river, which impacted one bank of the river and a number of islands. Efforts are being made to clean up the remaining oil before the river freezes at the end of November.

Action to be taken:

Decide whether the 1992 Conventions apply to pollution damage from incidents occurring in rivers, and if so, decide whether to authorise the Director to settle claims arising from the incident.

1 The incident

- 1.1 On 30 August 2003 the Russian tanker *Victoriya* (2 003 GT) suffered a fire and explosion at the Octyabyrsk terminal near Syzran on the Volga River, Russian Federation. The tanker was loading crude oil at the time, a significant, but unknown quantity of which, was spilled into the river. One member of the crew was killed.
- 1.2 The *Victoriya* was insured for pollution liabilities with Terra Nova Protection and Indemnity (Terra Nova).
- 1.3 Although Terra Nova is not a member of the International Group of P & I Clubs, it agreed to follow the spirit of 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.
- 1.4 A representative of the International Tanker Owners Pollution Federation Limited (ITOPF) visited the spill location from 26 to 30 September 2003 and also attended a number of meetings in Moscow with

representatives of the State Maritime and State River Administrations of the Ministry of Transport of the Russian Federation.

2 Clean-up operations

- 2.1 The shipowner engaged a number of contractors to undertake clean-up operations and prevent the further escape of oil from the vessel including the transfer of all remaining cargo on board the vessel.
- 2.2 By the time of the arrival on-site of the ITOPF representative there was little free oil remaining on the river, although no secondary clean-up of stranded oil along the river banks and shores of islands had commenced. The ITOPF representative made a number of recommendations to the authorities on how to address clean-up in those areas that in his view merited further measures. It is expected that clean-up of the remaining accumulations of stranded oil will be completed before the river freezes over in late November.

3 Impact of the spill

- 3.1 One bank of the river Volga, which is some 10 km wide at the incident location, and a number of islands were oiled intermittently over a length of some 55 km downstream of the terminal. The level of contamination decreased with distance from the source with the heaviest oiling occurring within a distance of 15 km of the terminal. There are many charted and uncharted islands over this length of river, which are surrounded by marshes. Most of the marshes were not polluted by oil, although light staining of vegetation had occurred in some places. A few marsh areas were more severely impacted such that one month after the incident there remained traces of free oil floating between the plants.
- 3.2 A number of amenity areas in the vicinity of Syzran, including public and private beaches, slipways and piers of recreational boats clubs, were oiled either as a direct result of the spill or during the clean-up operations.
- 3.3 A local fishing and fish processing company that has exclusive commercial fishing rights in the waters downstream of the incident location may have suffered some interruption to its activities during the period that free oil was present on the river. There are also a number of full-time subsistence fishermen who operate in the affected area, although it is understood that they are not allowed to sell their catches.

4 Applicability of the Conventions

- 4.1 The *Victoriya* was registered by the Russian Maritime Register of Shipping for river and sea navigation and it appears that the vessel traded regularly in the Mediterranean, Black Sea and Baltic Sea areas. The *Victoriya* is therefore, in the Director's view, a 'ship' for the purpose of the 1992 Civil Liability Convention.
- 4.2 The incident took place on the Volga River some 1 300 km inland from the Caspian Sea and the Sea of Azov. The question arises as to whether the 1992 Conventions apply to pollution damage in the inland, non-tidal reaches of rivers. Article II (a) (i) of the 1992 Civil Liability Convention and Article 3 (a) of the 1992 Fund Convention provide that the Conventions shall apply exclusively to pollution damage caused in the territory, including the territorial sea, of a Contracting State. Under general principles of public international law, the concept of 'territory' of a State covers inland waters, including rivers. For this reason, the Director is of the view that, provided that the other criteria for applicability are fulfilled, the 1992 Conventions apply to pollution damage arising from the *Victoriya* incident.

5 Claims for compensation

The limit of liability applicable to the *Victoriya* under the 1992 Civil Liability Convention is 3 million SDR (£2.6 million). It is too early to predict whether the total claims arising from this incident will exceed this amount. 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.

5 Action to be taken by the governing bodies

The Executive Committee is invited:

- a) to take note of the information contained in this document;
 - b) to decide whether the 1992 Conventions apply to pollution damage arising from incidents occurring in rivers; and
 - c) to decide whether to authorise the Director to settle claims in respect of the *Victoriya*.
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