



EXECUTIVE COMMITTEE
4th session
Agenda item 4

92FUND/EXC.4/8
11 October 1999
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INCIDENTS INVOLVING THE 1992 FUND

MILAD 1

Note by the Director

Summary:	The 1992 Fund has made efforts to locate the <i>Milad 1</i> and to contact its owner, with a view to taking recourse action.
Action to be taken:	Decide whether the 1992 Fund should continue to pursue the shipowner.

1 The incident

1.1 On 5 March 1998 the coastal tanker *Milad 1* (801 GRT) was intercepted by a United States Coast Guard (USCG) contingent of the Multinational Maritime Interception Forces (MIF) in international waters some 25 nautical miles north-east of Bahrain.

1.2 The tanker, which was carrying 1 500 tonnes of mixed diesel/crude oil, was found by the USCG to have a crack in the hull approximately 20 cm long, allowing sea water to enter a ballast tank. The USCG considered that the *Milad 1* was in danger of sinking and that it posed a grave threat of pollution to the coast of Bahrain. The USCG placed crew on board to try and stabilise the tanker using pumps to counteract the flooding. The master of the *Milad 1* requested permission to off-load part of the cargo to bring the crack above the water line.

1.3 The Marine Emergency Mutual Aid Centre (MEMAC) contacted a ship repair company based in Bahrain, which agreed to provide a salvage tug and repair team to investigate the damage and undertake temporary emergency repairs.

1.4 On 8 March the ship repair company inspected the *Milad 1* and found that the crack had increased to 45 cm in length and was continuing to propagate, necessitating additional repair equipment. MEMAC made contact with a representative of the owner of the *Milad 1*, who was based in the United Arab Emirates at the time of the incident. The owner's representative agreed to the emergency repairs being undertaken and also offered to provide another tanker, the *Al-Mtama*, for lightering the *Milad 1*.

1.5 On 11 March the USCG reported that the crack in the hull of the *Milad 1* had increased to more than 3 metres. On 12 March, after consultation with the Bahrain Government and MEMAC, the USCG decided to tow the *Milad 1* to a more central location in the Persian Gulf, some 50 nautical miles to the north-east of Bahrain. The ship repair company was requested to escort the *Milad 1* and remain on standby during the lightering operation in case emergency repairs became necessary.

1.6 On 15 March the cargo on board the *Milad 1* was transferred to the *Al-Mtama*, and both vessels were allowed to sail. No oil was spilled at any time during the operations, and no emergency repairs were carried out at sea.

1.7 Although MEMAC received a hand written telefax from a representative of the shipowner agreeing to pay for any repair costs, MEMAC has subsequently been unable to recover any costs for the provision of the salvage vessel and a repair team. MEMAC has not been able to establish whether the *Milad 1* was insured for pollution liabilities.

2 Claims for compensation

2.1 In July 1998, the 1992 Fund received a claim for BD21 168 (£35 000) from MEMAC for the cost of providing a salvage tug and a repair team to attend the *Milad 1*.

2.2 At its 2nd session, the Executive Committee instructed the Director to discuss with MEMAC what course of action might be available to it to recover the costs incurred from the registered owner. The various options were reported to the Committee at its 3rd session in April 1999.

2.3 At its 3rd session, the Executive Committee considered the various steps that MEMAC could in principle take to trace the owner, with a view to recovering the costs incurred (document 92FUND/EXC.3/3/Rev.1, paragraphs 3 and 4). The Committee decided that, taking all factors into account, MEMAC had taken all reasonable steps to pursue the legal remedies available to it and that MEMAC's claim was therefore admissible (document 92FUND/EXC.3/7, paragraph 3.2.8).

2.4 Following that decision by the Executive Committee, the Director approved MEMAC's claim at BD21 168 (£35 000), and that amount was paid to MEMAC on 8 June 1999.

3 Investigation by the Director into the possibilities of taking recourse action against the shipowner

3.1 At the Committee's 3rd session, the Director was instructed to investigate the possibilities for the 1992 Fund to take recourse action against the shipowner. The Director was invited to contact those delegations that had suggested alternative steps that could be taken to trace the shipowner. The Director was instructed to present his findings to the Executive Committee at its 4th session on the prospects of a successful recourse action and the potential cost implications. It was recognised that the investigation necessary to make a report to the Committee would result in some costs being incurred (document 92FUND/EXC.3/7, paragraph 3.2.9).

3.2 The Director has received helpful advice from a number of delegations.

3.3 The *Milad 1* had on board at the time of the incident an expired Provisional Patent of Navigation issued by the International Merchant Marine Registry of Belize (IMMARBE). The Director has been in contact with IMMARBE. IMMARBE has informed the 1992 Fund that on learning that the *Milad 1* had been intercepted by the Multinational Interception Force, it immediately took steps to initiate punitive

action in the form of a Resolution by the Deputy Registrar for Belize based in Dubai (United Arab Emirates) fining the shipowner US\$30 000 (£19 000). IMMARBE has reported having had no contact with the owner or any knowledge of the ship since passing the Resolution.

3.4 The Director engaged an investigator with the task to locate the vessel, commencing his enquiries in Qatar, which was where the vessel was last sighted. In the first instance the fees of this investigator have been capped at £3 000.

3.5 The investigation has revealed that the *Milad 1* was laid up in Sharjah (United Arab Emirates) for about one month after the incident, and then sailed in a damaged condition to Basra (Iraq), the homeport of the ship and crew. The information available indicates that the vessel was laid up in Iraq due to lack of funds to undertake the necessary repairs to make it seaworthy. It is understood that repairs to the ship would cost some US\$25 000 (£16 000) and that its scrap value was about US\$65 000 (£41 000). It has not been possible to contact the shipowner. In view of the time that has elapsed since the incident, it is possible that the shipowner has already scrapped the vessel.

3.6 The Director has considered the result of the investigations carried out so far. He has noted that the estimated scrap value of the *Milad 1* is close to the amount that the 1992 Fund is seeking to recover. The Director believes that it would be very costly to pursue the investigation further, and that any recovery action would be costly and meet with great difficulty. In the Director's view the likelihood of recovering the amount paid by the 1992 Fund in compensation to MEMAC is extremely small. The Director takes the view therefore that further efforts to this end are not justified.

4 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 the 1992 Fund should continue to pursue the shipowner for the purpose of recovering the amount paid by the Fund in compensation.
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