



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1992

EXECUTIVE COMMITTEE  
4th session  
Agenda item 4

92FUND/EXC.4/9  
22 September 1999  
Original: ENGLISH

## INCIDENTS INVOLVING THE 1992 FUND

### THREE INCIDENTS IN THE PHILIPPINES

#### *Sea Brothers 1, DB 22 and Mary Anne*

#### Note by the Director

**Summary:**

*Sea Brothers 1*: Sank in Manila harbour, spilling approximately 280 tonnes of bunker fuel. Claims for pollution damage do not exceed the shipowner's limit under the 1992 Civil Liability Convention.

*DB 22*: Spilled around 16 tonnes of fuel oil during cargo loading operations after being struck by another vessel. Claims for pollution damage do not exceed the shipowner's limit under the 1992 Civil Liability Convention.

*Mary Anne*: Sank in the entrance to Manila Bay spilling an unknown quantity of intermediate fuel oil. Claims for pollution damage are unlikely to exceed the shipowner's limit under the 1992 Civil Liability Convention. However, the shipowner's P & I insurer has indicated that there may have been a breach of the insurance policy in respect of the vessel and that the insurer may not therefore cover the incident.

**Action to be taken:**

Information to be noted.

1 **Sea Brothers 1**  
(Philippines, 19 March 1999)

1.1 **The incident**

1.1.1 The fully laden bunkering tanker *Sea Brothers 1* (391 GRT), registered in the Philippines, capsized and sank in seven metres of water after striking a breakwater in Manila Harbour (Philippines). Approximately 85 tonnes of bunker fuel escaped from damaged tanks, the main part of the oil being confined to the harbour.

1.1.2 The *Sea Brothers 1* was entered in the Steamship Mutual Underwriting Association (Bermuda) Ltd.

## 1.2 Clean-up

1.2.1 The clean-up operations were led by the Philippine Coast Guard with the assistance of personnel from the Department of the Environment. Chemical dispersants were used initially, followed by containment and recovery after the oil had become weathered.

1.2.2 A team of divers sealed the vessel's tanks, and the shipowner appointed a salvage company to remove the remaining 90 tonnes of oil. This oil was pumped out and the vessel was refloated on 19 April 1999 without further spillage.

## 1.3 Claims for compensation

1.3.1 Claims by the Coast Guard and various contractors in respect of clean-up costs have been settled for US\$1.2 million (£750 000). The P & I Club does not anticipate any further claims for pollution damage arising from the incident.

1.3.2 The limitation amount applicable to the *Sea Brothers 1* is 3 million SDR (£3.6 million). It is highly unlikely, therefore, that the 1992 Fund will be called upon to pay any compensation as a result of this incident.

## 2 *DB 22* (Philippines, 21 May 1999)

### 2.1 The incident

2.1.1 The Philippines-registered dumb barge (1 343 GRT) was alongside a jetty of the National Power Corporation's Sucat terminal (Philippines) waiting to load a cargo of residual fuel oil, when it was struck by another barge. Later the same day the *DB 22* was loading heavy fuel oil when oil was observed escaping from a starboard wing tank. An estimated 16 tonnes of oil escaped before the leakage was stopped.

2.1.2 The *DB 22* was entered in the Steamship Mutual Underwriting Association (Bermuda) Ltd.

### 2.2 Clean-up operations

Immediately after the oil spill had been discovered, shore-based personnel and the *DB 22*'s crew took steps to contain the oil using booms permanently installed at the terminal. Some 12 tonnes of oil was recovered from the water and transferred to one of the cargo tanks of the *DB 22*.

### 2.3 Claims for compensation

2.3.1 Clean-up costs have been estimated to be in the region of £28 000 (£17 500). No other claims for pollution damage are anticipated.

2.3.2 The limitation amount applicable to the *DB 22* is 3 million SDR (£3.6 million). It is highly unlikely, therefore, that the 1992 Fund will be called upon to pay any compensation as a result of this incident.

## 3 *Mary Anne* (Philippines, 22 July 1999)

### 3.1 The incident

3.1.1 The Philippines-registered sea-going, self-propelled barge *Mary Anne* (465 GRT), en route from Subic Bay to Manila (Philippines), became swamped during strong winds and heavy seas and sank in

approximately 60 metres of water off the port of Mariveles at the entrance to Manila Bay. It was reported that the barge was carrying a cargo of 711 tonnes of intermediate fuel oil as well as some 2.5 tonnes of gas oil bunkers. The wreck leaked oil continuously over several days, but by 29 July the leakage was only about 1 to 5 tonnes per day and much of the surfacing oil dispersed naturally. Some oil apparently from the *Mary Anne* stranded on shorelines in the vicinity of Mariveles Harbour and on two islands in the entrance to Manila Bay.

3.1.2 The *Mary Anne* was entered with the Terra Nova Insurance Company Limited (Terra Nova).

3.1.3 Most ships are traditionally entered in so called Protection and Indemnity Associations (P & I Clubs) which are mutual insurers. Terra Nova is not such an insurer but a conventional insurance company which covers P & I risks at fixed premiums.

3.1.4 The 1992 Fund's co-operation with P & I Clubs in respect of the handling of incidents is governed by a Memorandum of Understanding signed in 1985 by the 1971 Fund and the International Group of P & I Clubs, which was extended in 1996 to apply also to the 1992 Fund. Since Terra Nova is not a member of the International Group, the Memorandum does not apply in this case. The Director proposed that Terra Nova and the 1992 Fund should co-operate in accordance with the Memorandum, which has been the case in the past in respect of incidents involving P & I Clubs outside the International Group, but the proposal was not accepted by Terra Nova. However, it was agreed that the 1992 Fund should receive copies of reports of the expert from the International Tanker Owners Pollution Federation Ltd (ITOPF) who attended the incident on behalf of Terra Nova to oversee operations and render advice in respect of clean-up operations.

### 3.2 Clean-up and other preventive measures

3.2.1 The clean-up operations were undertaken under the direction of the Philippines Coast Guard. The shipowner appointed a local salvage company to provide oil spill response services. Although these services included the provision of oil recovery equipment, rough sea conditions precluded its use and the offshore response was based upon dispersant spraying from tugs. Shoreline clean-up involved the manual collection of oil and oily debris by local labour recruited by the municipalities.

3.2.2 Terra Nova contracted an international salvage company, to work in collaboration with a local salvor, to locate the wreck and plug any leaks prior to removing the oil remaining onboard. The operations were initially hampered by bad weather, but diving surveys of the wreck and the sealing of vents and other openings were completed by the end of August. Diving inspections showed that there was no remaining oil in any of the cargo tanks, except for small quantities of clingage. The inspections also showed that the bunker tanks were free of oil.

### 3.3 Claims for compensation

3.3.1 Terra Nova has to date incurred expenditure of approximately US\$1 million (£625 000) in respect of the oil removal contract and the clean-up operations.

3.3.2 It has been indicated that some 4 000 fishermen operate out of the Mariveles district. It is not known whether the incident will give rise to claims for losses in the fishery sector.

3.3.3 The limitation amount applicable to the *Mary Anne* is 3 million SDR (£3.6 million). It is unlikely that the total amount of the established claims will exceed the maximum amount of compensation available under the 1992 Civil Liability Convention. However, Terra Nova has informed the 1992 Fund that it is investigating a number of apparent anomalies surrounding the incident which, if substantiated, could, in Terra Nova's view, put the shipowner in breach of the insurance policy in respect of the vessel. Although it is understood that the investigations are not yet completed, Terra Nova has informed the 1992 Fund of its intention to direct further claims arising from the incident to the shipowner, and that it may request the shipowner and/or the 1992 Fund to reimburse Terra Nova the amounts it has paid to claimants. It is not known whether the shipowner is financially capable of meeting its obligations under the 1992 Civil Liability Convention.

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 give the Director such instructions in respect of these incidents as it may deem appropriate.
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