

The P & I insurer of the BRADY MARIA, the British Marine Mutual Insurance Association, instituted recourse proceedings in Gibraltar against the owner of the WAYLINK, for the purpose of breaking the owner's right of limitation. The Gibraltar Court of first instance accepted jurisdiction in the case. The owner of the WAYLINK appealed against this decision, and the Court of Appeal in Gibraltar reversed the decision, declaring that the Courts in Gibraltar had no jurisdiction. The insurer of the BRADY MARIA decided not to pursue the litigation in Gibraltar any further.

9.10 TAKE MARU N°6

(Japan, 9 January 1986)

While loading cargo oil at a refinery in Sakai-Senboku Port, Japan, the Japanese tanker TAKE MARU N°6 (83 GRT) spilled some of her cargo. The oil escaped from a manhole in a port-side tank, because its valve had not been tightly closed. It is estimated that 0.1 tonnes of cargo oil escaped on to the deck, and some of the oil spilled into the sea because of the heavy rolling of the vessel.

The claims for clean-up costs and costs of replacing severely damaged booms totalled ¥3 088 770 (£13 545). The Director agreed in July 1986 to settle these claims at ¥3 012 479 (£13 210). There were no fishery claims.

It was not possible to make an exact calculation of the limitation amount due to lack of some data in the tonnage certificate, until the tonnage could be measured when the vessel was next dry-docked. In order to avoid undue delay in payment to claimants, the Director agreed with the shipowner's P & I insurer, the Japan Ship Owners' Mutual Protection and Indemnity Association (JPIA), that the latter should pay the accepted amount of the claims. That amount was paid to the claimants in July 1986. The IOPC Fund undertook to reimburse its share of that amount to JPIA when the figure for the owner's liability under the Civil Liability Convention has been established.

On the basis of the measurement of the vessel's tonnage, which was made in July 1987, the limitation amount was fixed at ¥3 876 800 (£17 000), ie at an amount exceeding the aggregate amount of the claims as settled, ¥3 012 479 (£13 210). The IOPC Fund was thus not obliged to pay any compensation under Article 4 of the Fund Convention in respect of this incident.

The indemnification of the shipowner amounted to ¥104 987 (£446). This sum was paid by the IOPC Fund in September 1987.

9.11 OUED GUETERINI

(Algeria, 18 December 1986)

The Algerian tanker OUED GUETERINI (1 576 GRT) was unloading bitumen in the port of Algiers, when part of the cargo was spilt onto

the deck of the vessel. From there, some bitumen escaped into the water in the port area.

There was no pollution damage in the port itself. However, a considerable quantity of bitumen (approximately 15 tonnes) entered the sea-water intake of a power station, necessitating a shut-down of the station for a short period of time. Some equipment at the power station was polluted and had to be cleaned.

In September 1987, the owner of the power station brought legal action in the Court of Algiers against the shipowner's P & I insurer, the UK Club, and the IOPC Fund. Since there is some uncertainty as to the procedure to be followed, the limitation fund has not yet been established. The limit of the shipowner's liability is approximately 1.1 million Algerian Dinars (£125 000).

The claim of the owner of the power station totals 4 902 579 Algerian Dinars (£561 580) and relates to damage to equipment and loss of profit as a result of the closure of the station. The IOPC Fund and the UK Club, with the assistance of external experts, are considering how to assess this loss of profit, which constitutes the main part of the claim.

A claim has also been presented by the owner of the OUED GUETERINI in the amount of 5 650 Algerian Dinars (£650) in respect of costs for clean-up operations.

9.12 THUNTANK 5

(Sweden, 21 December 1986)

The Swedish vessel THUNTANK 5 (2 866 GRT), carrying 5 024 tonnes of heavy fuel oil, ran aground in very bad weather outside Gävle, on the east coast of Sweden, 200 kilometres north of Stockholm. The tanker was severely damaged, and there was a considerable risk that the ship would break up. However, after about half the cargo had been transferred to another vessel, the THUNTANK 5 was refloated. Most of the remaining cargo was then transferred to the other vessel and the THUNTANK 5 was towed to a safe port. It is estimated that 150-200 tonnes of oil escaped as a result of the incident.

The official investigation into the cause of the incident has shown that the grounding was due to an error by the master of the THUNTANK 5 in the navigation of the ship.

Due to the difficult weather conditions, with very strong winds, snow and ice, no major clean-up operations could be carried out until the spring of 1987. On-shore operations were started at the beginning of April 1987. By then, the oil had affected various areas along a 150 kilometres stretch of coast around Gävle, including a number of small islands. The polluted areas were very difficult to clean, since they consisted mainly of small stones and rough rocks. The oil had to