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Oil Pollution Claims

On 27 May 1997, a huge oil spillage occurred from a tanker, *Plate Princess* at Venezuelan, which caused damage to financial security of local fishermen. A local trade union ('SUP') representing fishermen, lodged a claim against the owner of Plate Princess before Venezuelan authorities. In order to get sufficient compensation in such cases, the trade union also brought the action against the International Fund for Compensation for Oil pollution Damage (the Fund).

Trade Union won the case in Venezuela including a sum of 51 million British pounds against the Fund. But this judgment against the Fund was to be enforced in England. An English judge allowed the registration of the award almost six years later, on 18 March 2015.

In a recent case from the above facts *Sindicato Unico de Pescadores del Municipio Miranda deal Estado Zulian v International Fund for Compensation for Oil pollution Damage [2015] EWHC 2476(QB)*, the IOPC Fund 1992 applied to the court seeking :

- a declaration that the Registration Order did not apply to it, or
- alternatively that the Registration Order shall be set aside on the basis that the IOPC Fund 1992 was immune from jurisdiction pursuant to the article of this Fund, that makes it a legal personality unless some exception is applicable, which is not in this case

The Court gave the final judgment in favor of the Fund, and further explained that: for the 1992 Fund Protocol to operate in Venezuela, it has to be ratified, accepted, approved or acceded by that country based on article 28 of the 1992 Fund Protocol, and merely Venezuela being a signatory prior to the incident was not sufficient.

For Andrew Liu's clients, the FDD team based out of Shanghai recommends the following:

- a) A serious oil pollution claim can lead to various claims from the port authority, fishermen, hotel industry, other vessels affected by pollution etc.
- b) If there is an oil pollution case, then there is a primary liability of shipowners under the International Convention on Civil Liability for Oil Pollution Damage 1992 in the first tier compensation that is covered by the P and I club
- c) There is supplementary compensation fund that is available under the new IOPC Fund 1992. Predecessor of the current fund IOPC 1971 has ceased to exist.

- d) In any case of pollution, inform the Andrew Liu team based in Hong Kong to guide you with the steps that you need to take to protect your interest. This team has saved many millions of dollars for shipowners in pollution claims by advising them in time as to how to preserve the evidence and in confidence. In addition, negotiated well with the Clubs on behalf of the clients.
- e) Many jurisdictions are now-a-days making Charterers jointly and severally responsible for such claims.

Source of Information: Andrew Liu & Co., Ltd www.andrewliu.com.hk

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