



PRESS RELEASE

For Immediate Release

IOJI Appreciates Indonesia's Joint Team in Handling Raw Asphalt Spills from MT AASHI Ship in Nias Waters

Jakarta, 28 February 2023 - The Indonesia Ocean Justice Initiative (IOJI) appreciates the efforts by the Joint Team of the Government of the Republic of Indonesia (consisting of the Ministry of Marine Affairs and Fisheries/MMAF, Ministry of Environment and Forestry, Ministry of Transportation, Indonesian Navy/TNI AL, National Search and Rescue Agency/BASARNAS, and local government) in dealing with marine pollution caused by spilled asphalt from the MT AASHI ship that occurred in North Nias waters in North Sumatera Indonesia. As previously reported, the MT AASHI had run aground since February 11, 2023 after its porous hull was hit by waves.

The MMAF Director General of Maritime and Fishery Resources Supervision Laksda TNI Dr. Adin Nurawaluddin, M.Han on 27 February 2023 mentioned four follow-up actions that would be taken after visiting the MT AASHI sinking and pollution site. The four steps namely are cleaning the asphalt-contaminated area, taking samples, calculating losses due to the damage to fish resources and the environment, and conducting investigation to hold the ship owners accountable in the form of financial compensation. The Director General also stated that the ship owner's representative had appointed PT Nusantara Salvage Indonesia to carry out the cleaning activities. It should be remembered that in addition to lifting the hull of a sunken ship, the ship owner is also responsible for the environmental pollution that occurs. It is not certain whether PT. Nusantara Salvage Indonesia will also clean up the oil spill which has even polluted the Sawo-Laweha conservation area.

The steps described by the Director General are appropriate for tackling the pollution that occurred in Tugala Oyo, Nias Island. There are two international legal instruments that can be used as the basis for compensation, namely the International Convention on Civil Liability for Oil Pollution Damage 1992 and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992.

There are at least two important things that can be learned from this incident, namely Port State Control and Flag State Responsibility. The hull of the MT AASHI ship which was found to be porous indicated that the condition of the ship was not seaworthy. Article 219 of the UN Convention on the Law of the Sea (United Nations Convention on the Law of the Sea/UNCLOS) stipulates that port states, at their

own request or initiative, are obliged to take administrative action so that ships whose conditions are not seaworthy and have the potential to damage the marine environment do not go to sea. The said ship can be allowed to sail only for the sake of repairs to the nearest shipyard so that the problem of unseaworthiness of the ship can be resolved. The ship in question can be allowed to sail if it has been repaired. Furthermore, Article 94 paragraph (3) of UNCLOS stipulates that the ship's flag state is obliged to ensure, among other things, the seaworthiness of the ship.

In relation to these two things, before concluding that MT AASHI sank due to natural factors, several validation steps are needed. *First*, ascertain whether when leaving the port of Khor Fakkan in the United Arab Emirates, the MT AASHI vessel has been inspected and the results of the inspection show that the ship is seaworthy; *Second*, ascertain whether the flag state of the ship, in this case Gabon, has implemented effective control over the seaworthiness of MT AASHI; *Third*, ascertain whether the height of the sea waves in Nias waters from 9 to 11 February 2023 is in the low, medium or high category to find out whether claims for ship damage due to waves are reasonable or not.

In relation to the flag state of the ship, this incident also provides an important lesson about threats to the marine environment due to *the flag of convenience*. Flag of convenience is a designation for countries that provide their flags for ship owners to be able to register their ships in that country with certain requirements to obtain certain conveniences. Various conveniences are provided, including the ship registration process with lighter, faster and cheaper rates and conditions (even without the need for inspection in order to reduce operating costs), confidentiality of beneficial owner identity, and ship owners are not required to have genuine links with flag countries, as well as control which are generally relatively weak.

Gabon is one of the flag of convenience countries as this country does not strictly control ships carrying its flag. The Gabonese state ship registration administration is even carried out by a private third party, namely Intershipping Services L.L.C. With all these facts, it is important to ensure the authenticity of the ship's certificate of registry.

With regard to the confidentiality of the beneficial owner of the ship. Based on data from the International Maritime Organization Global Integrated Shipping Information System/IMO-GISIS, it is known that the owner of the MT AASHI ship is AASHI Shipping Inc. whose address is at 80 Broad Street, Monrovia, Liberia. After further investigation, this address was also used by dozens of other companies, some of which were mentioned in the offshore leaks document. Prior to AASHI Shipping Inc., this ship was found to be owned by Aurum Ship Management FZC, an entity sanctioned by the US OFAC (the United States Office of Foreign Assets Control) for supporting political-armed movement groups that emerged in Yemen in the 1990s.

Furthermore, it is worth noting that this particular ship has changed its name several times and often turns off its Automatic Identification System in the past 4.5 months. Before bearing the name of MT AASHI, it is previously called Rising Phoenix, Reem 6, Onyx 7, Ace Bitumen 1, Suria Maju, and

Arcturus. With regard to the ship insurance, Lloyds Intelligence stated that this ship was last insured by British Marine. However, a search on the British Marine website shows that this ship is not covered by British Marine insurance.

With the afore mentioned facts, the Government of Indonesia must be more aware and cautious of the process of handling MT AASHI. Considering that handling this matter will take time, the Government of Indonesia needs to correspond directly with the owner of the ship apart from the owner representative. This is important so that the ship owner will continue to be responsible until the entire process is completed. *

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IOJI is a think-tank and policy advocacy institution that supports Indonesia, as the largest archipelagic country in the world, to realize its marine governance based on the principles of effective protection, sustainable use, and equitable welfare. IOJI builds collaborations with state and non-state actors to influence decision-making processes at national, regional and international levels by providing various scientific evidence-based policy proposals. IOJI also conducts assistance and empowerment program for ocean-dependent people, such as small-scale fishermen, coastal communities and fishery migrant workers, in defending and fighting for their basic rights.