



INCIDENTS INVOLVING THE 1992 FUND

SHOSEI MARU

Note by the Director

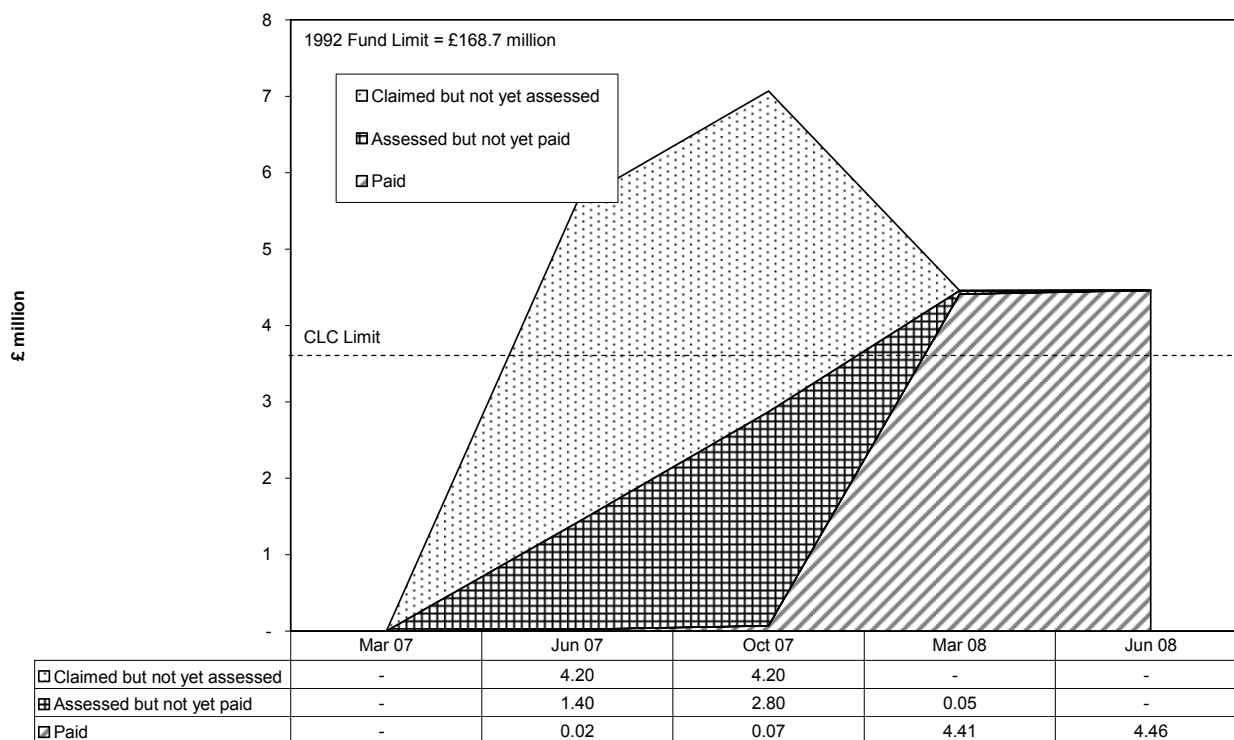
Objective of document:	To inform the Executive Committee of the latest developments regarding this incident.
Summary of the incident so far:	<p>On 28 November 2006 the Japanese tanker <i>Shosei Maru</i> (153 GT) collided with the Korean cargo vessel <i>Trust Busan</i> (4 690 GT) three kilometres off Teshima, in the Seto Inland Sea in Japan. About 60 tonnes of heavy fuel oil and bunker diesel oil escaped into the sea from the <i>Shosei Maru</i>.</p> <p>The limitation amount applicable to the <i>Shosei Maru</i> under the 1992 Civil Liability Convention (1992 CLC) is 4.51 million SDR (£3.7 million)^{<1>}. The ship was not entered into the Small Tanker Owners Pollution Indemnification Agreement (STOPIA 2006).</p>
Recent developments:	<ol style="list-style-type: none">1. All claims submitted with regard to this incident have been assessed jointly by the Fund and the Japan P&I Club and have been paid by the Japan P&I Club (section 6).2. The owner of the <i>Shosei Maru</i> has commenced limitation proceedings in accordance with the 1992 Civil Liability Convention (section 8.2).3. The total cost of all claims paid by the Japan P&I Club (£4.5 million) exceeds the limitation amount applicable to the <i>Shosei Maru</i>. The 1992 Fund will be called upon to pay compensation in respect of this incident for the balance between the limitation amount and the total amount provided in compensation.
Action to be taken:	Information to be noted.

<1> In this document conversion of currencies has been made on the basis of the exchange rate as at 13 May 2008, i.e. £1 = ¥ 202.219 and £1 = SDR 1.2027.

1 Summary of incident

Ship	<i>Shosei Maru</i>		
Date of incident	28.11.06		
Place of incident	Seto Inland Sea, Japan		
Cause of incident	Collision		
Quantity of oil spilled	Approximately 60 tonnes of heavy fuel oil		
Area affected	Shodoshima, Japan		
Flag State of ship	Japan		
Gross tonnage (GT)	153 GT		
P&I insurer	Japan Ship Owners' Mutual Protection and Indemnity Association		
CLC Limit	£3.7 million		
STOPIA/TOPIA applicable	No		
Compensation (£ million):	Claimed but not yet assessed	Assessed but not yet paid	Paid
Property damage	-	-	0.05
Clean up/preventive measures	-	-	3.11
Fisheries	-	-	1.30
Tourism	-	-	-
Miscellaneous	-	-	-
TOTAL	-	-	4.46
Notes:	No further claims are expected.		

2 Development of claims



3 The incident

- 3.1 On 28 November 2006, the Japanese tanker *Shosei Maru* (153 GT) collided with the Korean cargo vessel *Trust Busan* (4 690 GT) three kilometres off Teshima, in the Seto Inland Sea in Japan. About 60 tonnes of heavy fuel oil and bunker diesel oil escaped into the sea from a damaged cargo tank and from the bunker oil tank of the *Shosei Maru*. The remaining oil on board was transferred to another vessel. The *Shosei Maru* was subsequently towed to the port of Tonosho in Shodoshima.
- 3.2 The *Shosei Maru* is insured with the Japan Ship Owners' Mutual Protection and Indemnity Association (Japan P&I Club).
- 3.3 The 1992 Fund and the Japan P&I Club appointed a team of Japanese surveyors to monitor the clean-up operations and investigate the potential impact of the pollution on fisheries and mariculture.

4 Clean-up operations

- 4.1 The owner of the *Shosei Maru* requested the Japanese Maritime Disaster Prevention Center to organise clean-up operations by using a number of private contractors. The Kagawa Prefectural Government and several local authorities also participated in the operations. Several vessels were deployed to apply chemical dispersants on the oil in the water.
- 4.2 Onshore clean-up operations were carried out in four locations in Shodoshima, Kagawa Prefecture. Private contractors were appointed by the shipowner to undertake shoreline clean-up operations using predominantly manual methods to remove bulk oil, followed by high-pressure water washing to remove oil stains. Several oil-stained piers, wharves and seawalls were cleaned by means of high-pressure hot water guns using chemical solvents. The clean-up operations were concluded by 31 January 2007.

5 Impact of the spill

Approximately five kilometres of shoreline composed of rocks, boulders and pebbles, as well as port installations, were polluted to varying degrees. Drifting oil at sea contaminated the hulls of a number of commercial and fishing vessels, including those engaged in the clean-up operations. The oil also affected a number of seaweed cultivation farms as it passed through the supporting structures, contaminating buoys, ropes, nets and the seaweed growing on the nets, which had to be replaced and/or destroyed.

6 Claims for compensation

- 6.1 All the claims submitted with regard to this incident have been assessed jointly by the 1992 Fund and the Japan P&I Club at a total amount of ¥899 693 953 (£4 450 908). These claims have been paid by the Japan P&I Club.
- 6.2 No further claims are expected.

7 Applicability of the 1992 Conventions and STOPIA 2006

- 7.1 The limitation amount applicable to the *Shosei Maru* under the 1992 Civil Liability Convention (1992 CLC) is 4.51 million SDR or ¥738 629 760 (£3.7 million).
- 7.2 The ship is not covered by STOPIA 2006. As a consequence, the Fund will be liable to pay the difference between the total amount paid in compensation and the limitation amount, ie ¥161 064 193 (£800 000).

8 Legal proceedings

8.1 Investigation into the cause of the incident

In November 2007 the Kobe Marine Accident Inquiry Agency delivered its judgement in which it held that the collision occurred mainly because the *Trust Busan* failed to maintain a proper lookout and turned to port contrary to the regulation under which she was required to alter her course to starboard. However, the *Shosei Maru* also failed to take early action to alter her course to starboard. No decision has yet been made as to the apportionment of liabilities between the *Shosei Maru* and the *Trust Busan*.

8.2 Limitation proceedings of the *Shosei Maru*

8.2.1 On 31 March 2008 the owner of the *Shosei Maru* established a limitation fund in the Takamatsu District Court in accordance with the 1992 Civil Liability Convention.

8.2.2 The Court commenced the limitation proceedings in respect of the *Shosei Maru* on 1 April 2008. Potential claimants against the *Shosei Maru* were required to file their claims in the Court by 10 June 2008.

8.2.3 The Director instructed the Fund's Japanese lawyers to take steps for the Fund to intervene in the limitation proceedings with respect to the *Shosei Maru*. The application for intervention was filed in court on 7 April 2008.

8.3 Limitation proceedings of the *Trust Busan*

8.3.1 In November 2007 the bareboat charterer of the *Trust Busan* made an application to the Okayama District Court for the commencement of the limitation proceedings in order to limit his liability to the applicable limit in accordance with Japanese law, ie 2 076 000 SDR (£1.67 million).

8.3.2 The Court commenced the limitation proceedings in respect of the *Trust Busan* on 27 December 2007. According to Japanese law, any person who is expected to acquire claims by subrogation in future may participate in the limitation proceedings. Potential claimants against the *Trust Busan* were required to file their claims in the Court by 26 March 2008.

8.3.3 The Director instructed the 1992 Fund's lawyers to take steps for the Fund to intervene as a claimant in the limitation proceedings in respect of the *Trust Busan* in order to recover, to the extent possible, the sums the Fund will have to pay in compensation for this incident.

8.3.4 By the end of the designated period, three claims had been made against the limitation fund of the *Trust Busan* by the owner of the *Shosei Maru*, the 1992 Fund and Sompo Japan Insurance Inc., the underwriters of the cargo onboard the *Shosei Maru* at the time of the incident, for a total of ¥1 349 120 495 (£6.7 million).

8.3.5 The first creditors' meeting was held on 22 April 2008 at the Okayama District Court. The next meeting will be held on 24 October 2008.

9 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 such instructions with regard to this incident as it may deem appropriate.
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