



## INCIDENTS INVOLVING THE 1992 FUND

### HEBEI SPIRIT

#### Note by the Director

<b>Objective of document:</b>	To inform the Executive Committee of the latest general developments in respect of this incident. A separate document will be issued dealing with the latest developments on specific issues.
<b>Summary of the incident so far:</b>	<p>On 7 December 2007 the China (Hong Kong Special Administrative Region) flag tanker <i>Hebei Spirit</i> (146 848 GT) was struck by the crane barge <i>Samsung N°1</i> while at anchor about five miles off Taean on the west coast of the Republic of Korea. About 10 900 tonnes of crude oil escaped into the sea from the <i>Hebei Spirit</i>.</p> <p>The oil polluted, in varying degrees of contamination, three of the four provinces along the western coast of the Republic of Korea. Clean-up operations have been finalised in most affected areas, but in some they are still being carried out.</p> <p>The <i>Hebei Spirit</i> is insured for pollution risks by China Shipowners Mutual Insurance Association (China P&amp;I) and by Assurancéföreningen Skuld (Gjensidig) (Club).</p> <p>The Club and the 1992 Fund have opened a Claims Office (the <i>Hebei Spirit</i> Centre) in Seoul to assist claimants in the presentation of their claims for compensation and have also appointed a number of Korean and international experts to assess claims in the property damage, clean up, fisheries/mariculture and tourism sectors.</p> <p>In July 2008 the shipowner, the Club and the Korean Government (Ministry of Land, Transport and Maritime Affairs (MLTM)) concluded a Second Cooperation Agreement, under which the Club undertook to pay claimants 100% of the assessed amounts up to the shipowner's limit of liability under the 1992 Civil Liability Convention (1992 CLC), namely 89.8 million SDR (£92.7 million). Details of the second cooperation agreement are contained in document 92FUND/EXC.44/7.</p>

The losses arising out of this incident are expected to exceed the limitation amount applicable to the *Hebei Spirit* under the 1992 CLC, ie 89.8 million SDR (£92.7 million)<sup><1></sup>.

In January 2009, the owners and insurers of the *Hebei Spirit* and the Fund commenced recourse action against Samsung C&T Corporation and Samsung Heavy Industries (SHI), the owner and operator/bareboat charterer of the two towing tugs, the anchor boat and the crane barge, in the Court of Ningbo in the People's Republic of China.

***Recent developments***

The latest claim situation is that as of 26 May 2009, at which date 4 830 claims totalling KRW 571 996 million (£283.8 million) have been submitted. Five hundred and seventy five claims have been assessed at a total of KRW 63 753 million (£31.6 million). Six hundred and forty nine claims have been rejected. The Skuld P&I Club has made payments to 164 claimants totalling KRW 44 292 million (£22 million). The remaining claims are being assessed or additional information has been requested from the claimants. Further claims are expected (section 11).

*Criminal proceedings*

In April 2009, the Korean Supreme Court annulled the Court of Appeal's decision to imprison the crew members of the *Hebei Spirit*. The Supreme Court however upheld the decision to imprison the Masters of one of the towing tugs and of the crane barge and confirmed the fines imposed by the Court of Appeal.

*Limitation proceedings by the owners of the Hebei Spirit*

In February 2009, the Limitation Court rendered an order for the commencement of the limitation proceedings of the owner of the *Hebei Spirit* and decided that claims against the limitation fund of the *Hebei Spirit* should be registered with the Court by 8 May 2009, by which date 125 885 claims were submitted to the Limitation Court.

*Limitation proceedings by the owner and operator/bareboat charterer of the two towing tugs and of the crane barge*

In March 2009, the Limitation Court rendered an order for the commencement of the limitation proceedings of the owner and operator/bareboat charterer of the two towing tugs, the anchor boat and the crane barge and set the limitation fund which, together with legal interests, amounted to KRW 5 600 million (£2.8 million). The Limitation Court also decided that claims against the limitation fund should be registered with the Court by 19 June 2009.

***Action to be taken:***

Information to be noted.

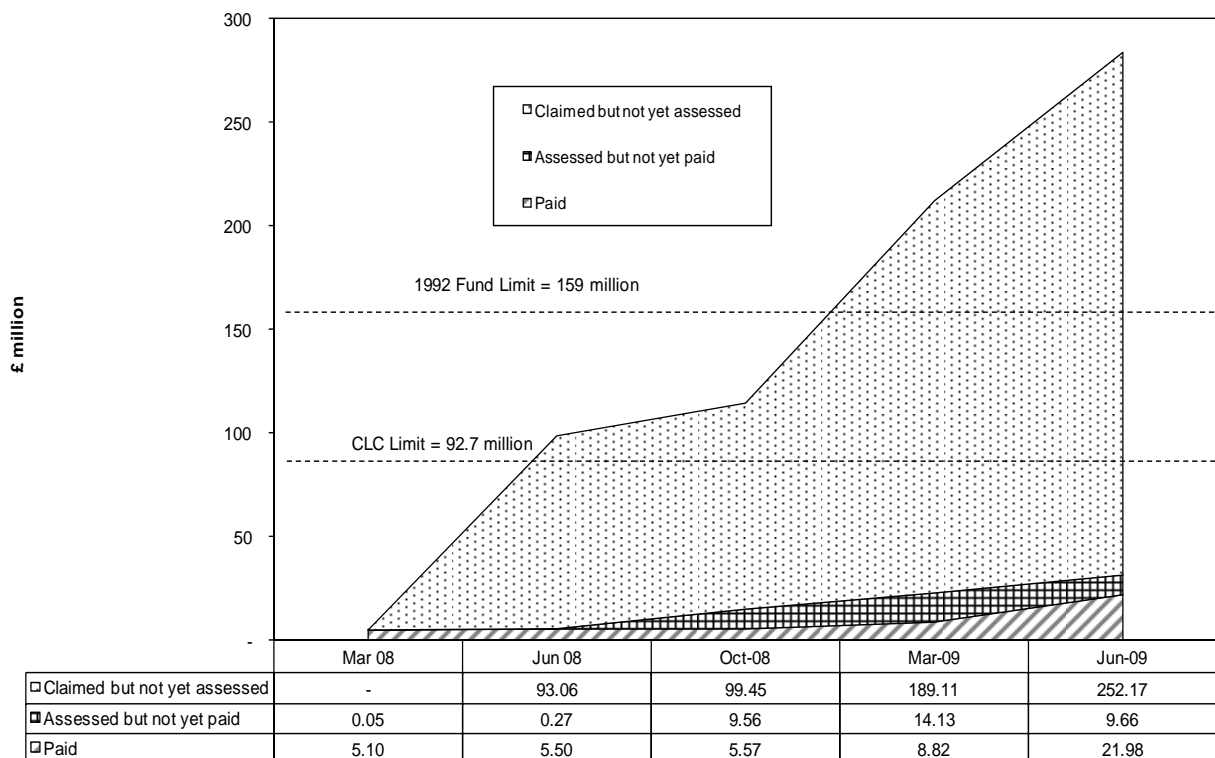
<1>

In this document conversion of currencies has been made on the basis of the exchange rates as at 25 May 2009 (£1 = KRW 2 015.46 and SDR 1 = £1.0329), except in respect of payments made by the Fund where the conversion has been made at the rate of exchange on the date of payment.

## 1 Summary of incident

Ship	<i>Hebei Spirit</i>		
Date of incident	07.12.07		
Place of incident	Taean, Republic of Korea		
Cause of incident	Collision		
Quantity of oil spilled	Approximately 10 900 tonnes of crude oil		
Area affected	The three southerly provinces on the west coast of the Republic of Korea		
Flag State of ship	China (Hong Kong Special Administrative Region)		
Gross tonnage (GT)	146 848 GT		
P&I insurer	China Shipowners Mutual Insurance Association (China P&I)/Assuranceforeningen Skuld (Gjensidig) (Club)		
CLC Limit	89.8 million SDR (£92.7 million)		
STOPIA/TOPIA applicable	No		
Compensation (£ million):	Claimed but not yet assessed	Assessed but not yet paid	Paid
Clean up/preventive measures	69.21	4.53	21.33
Property damage	1.24	0.07	0.08
Fisheries/mariculture	124.39	4.04	0.38
Tourism and other economic damage	56.24	1.01	0.18
Environmental damage	1.09	-	-
<b>TOTAL</b>	<b>252.17</b>	<b>9.66</b>	<b>21.98</b>
Notes:	Further claims are expected.		

## 2 Development of claims



### **3 The incident**

The China (Hong Kong Special Administrative Region) (China (HKSAR)) flag tanker Hebei Spirit (146 848 GT) was struck by the crane barge *Samsung N°1* while at anchor about five miles off Taean on the west coast of the Republic of Korea. The crane barge was being towed by two tugs (*Samsung T-5* and *Samho T-3*) when the tow line broke. As a result of the collision an estimated total of 10 900 tonnes of crude oil (a mix of Iranian Heavy, Upper Zakum and Kuwait Export) escaped into the sea. Details on the incident can be found in document 92FUND/EXC.44/7, section 3.

### **4 Impact of the spill**

Much of the Republic of Korea's western coast has been affected to varying degrees. Details of the impact of the spill can be found in document 92FUND/EXC.44/7, section 5.

### **5 Claims handling**

- 5.1 The Club and the Fund appointed a number of Korean and international surveyors to monitor the clean-up operations and investigate the potential impact of the pollution on fisheries, mariculture and tourism activities.
- 5.2 The Club and the Fund opened a Claims Office, the Hebei Spirit Centre (HSC) in Seoul to assist claimants in the presentation of their claims for compensation. HSC has a manager and four supporting staff members. The office became fully operational on 22 January 2008.

### **6 Clean-up operations**

- 6.1 The Korea National Coast Guard Agency, a department of the Ministry of Maritime Affairs and Fisheries (MOMAF), has overall responsibility for marine pollution response in the waters under the jurisdiction of the Republic of Korea. By the first quarter of 2008, responsibility for overseeing onshore clean up had been passed on to the affected local governments, following a restructuring of the Korean Government.

#### **6.2 At-sea clean up**

The Korean Coast Guard coordinated the response at sea. The government-led response at sea was completed within two weeks although a large number of fishing vessels were still deployed in the following weeks to tow sorbent booms and collect tar balls. Some were used to transport manpower and materials to offshore islands in support of clean-up operations until spring 2008.

#### **6.3 Onshore clean up**

- 6.3.1 The Korean Coast Guard tasked a total of 21 licensed clean-up contractors, supported by local authorities and fisheries cooperatives to undertake shoreline clean-up operations. Onshore clean-up operations were carried out at numerous locations along the western coast of Republic of Korea. In excess of one million man-days were worked during the first two months by local villagers, army and navy personnel and volunteers.
- 6.3.2 The removal of the bulk oil was completed by the end of March 2008. The major part of secondary clean-up operations, involving, among other techniques, surf washing, flushing and hot water high-pressure treatment, was completed by the end of June 2008. Some clean-up operations in remote and sensitive areas have been resumed in spring 2009.

## **7 The 1992 Civil Liability and Fund Conventions**

- 7.1 The Republic of Korea is a Party to the 1992 Civil Liability Convention (1992 CLC) and a Member State of the 1992 Fund, but not a Member State of the Supplementary Fund.
- 7.2 As a consequence, since it is almost certain that the total amount of damages will exceed the limitation amount applicable under the 1992 CLC, the 1992 Fund will be liable to pay compensation to the victims of the spill.
- 7.3 The tonnage of the *Hebei Spirit* (146 848 GT) is in excess of 140 000 GT. The limitation amount applicable is therefore the maximum under the 1992 CLC, namely 89.8 million SDR (£92.7 million).
- 7.4 At its March 2008 session, the Executive Committee decided that the conversion of 203 million SDR into South Korean Won (KRW) should be made on the basis of the value of that currency *vis-à-vis* the SDR on the date of the adoption of the Executive Committee's Record of Decisions of its 40th session, ie 13 March 2008 at the rate of 1 SDR = KRW 1 584.330. The conversion on the basis of the rate applicable on that day gives 203 million SDR = KRW 321 618 990 000 (£159 million) (document 92FUND/EXC.40/11, paragraph 3.7.7).

## **8 Level of payments**

The latest estimate on the total amount of the losses arising as a result of the incident and the level of payments proposed by the Director is contained in a separate document (92FUND/EXC.45/6/Add.1).

## **9 Actions by the Korean Government**

### **9.1 Hardship payments made by the Korean Government**

The Korean Government has informed the Fund that payments totalling KRW 117.2 billion (£58 million) have been made to residents in the affected areas and that these payments were made as donations to the affected residents. The payments therefore did not constitute payment of compensation of pollution damage and would not fall within the scope of Article 9.3 of the 1992 Fund Convention.

### **9.2 Payments by Taean County and Boryeong City Governments**

It is understood that the Taean County and Boryeong City Governments have made payments totalling KRW 4 421 million (£2.2 million) to 14 claimants in the clean-up sector in respect of the cost of villagers' labour in January and February 2008, corresponding to the difference between the amount claimed and the amount assessed. Further payments totalling KRW 9 740 million (£4.8 million) have been made by the same local authorities to 18 claimants for similar costs incurred during the period March to June 2008 corresponding to the amounts claimed against the Club and Fund. Taean County and Boryeong City Governments have submitted claims in respect of these payments.

### **9.3 Special Law for the Support of the Victims of the *Hebei Spirit* Oil Pollution Incident**

- 9.3.1 In June 2008 the Korean Government informed the Executive Committee that a special law for the support of the victims of the *Hebei Spirit* incident had been approved by the National Assembly in March 2008. A detailed description of the contents of the Special Law can be found in document 92FUND/EXC.44/7, section 9.3.

9.3.2 As of 26 May 2009 the Korean Government had made payments totalling KRW 20 632 million (£10.2 million) to 82 claimants in the clean-up and tourism sectors based on assessments provided by the Club and Fund and has claimed part of these payments. The Club has paid the Government KRW 16 132 million (£8 million) in respect of 30 of these claims.

9.3.3 The Korean Government has, under the Special Law, set up a scheme to provide loans to victims of pollution damage for an amount fixed in advance if they have submitted a claim to the Club and Fund but have not received an offer of compensation within six months. As of 26 May 2009, the Korean Government had granted loans totalling KRW 29 million (£1.4 million) to five claimants.

#### 9.4 Other loans granted by the Korean Government

As a measure to assist victims of pollution damage, the Korean Government has also granted loans totalling KRW 1 330 million (£660 000) to 16 clean-up contractors. It is understood that these loans will be refunded by the clean-up contractors and will not be claimed from the Club and Fund.

#### 9.5 Korean Government's decision to 'stand last in the queue'

9.5.1 At the June 2008 session of the Executive Committee the Korean Government informed the Committee of its decision to 'stand last in the queue' in respect of compensation for clean-up costs and other expenses incurred by the central and local governments.

9.5.2 In March 2009 the Korean Government has informed the Fund that the amounts for which the Government intended to 'stand last in the queue' would total some KRW 88 700 million (£44 million) corresponding to costs incurred by the Government in respect of clean up and preventive measures, environmental studies, restoration, marketing campaigns, tax relief and other expenses incurred to deal with the pollution and that this figure was likely to increase as the Government continued to pay costs to regenerate the local economy and promote consumer spending.

9.5.3 The Club and Fund maintain frequent contacts with the Korean Government to ensure a coordinated system for the exchange of information regarding compensation in order to avoid duplication of payments.

### **10 Cooperation Agreements between the owners/Club, KMPRC and MOMAF**

10.1 In January 2008, discussions took place on compensation issues which resulted in the First Cooperation Agreement concluded between the shipowner, Club, Korean Marine Pollution Response Corporation (KMPRC) and MOMAF. The 1992 Fund was consulted during the negotiations but is not a party to the Agreement. Details of the First Cooperation Agreement can be found in document 92FUND/EXC.40/9, section 3.

10.2 In July 2008 a second Cooperation Agreement was concluded between the shipowner, Club and the Korean Government (Ministry of Land, Transport and Maritime Affairs (MLTM), which had incorporated part of the functions of MOMAF). Details of the Second Cooperation Agreement can be found in document 92FUND/EXC.44/7, section 10.

10.3 In accordance with the Second Cooperation Agreement the Club has made payments totalling KRW 44 291 million (£22 million) in respect of 164 claims.

## 11 Claims for compensation

11.1 The table below provides an update of the claims situation as at 26 May 2009:

Category of claim	Number of claims	Claimed amount (KRW million)	Claims assessed	Assessed amount (KRW million)	Claim paid	Paid amount (KRW million)	Claim rejected
Clean up and preventive measures	243	191 615	138	52 126	100	42 988	6
Property damage	17	2 808	7	305	1	167	-
Fisheries and mariculture	519	259 608	138	8 912	1	764	41
Tourism and other economic damage	4 050	115 770	292	2 410	62	373	602
Environmental damage	1	2 195	-	-	-	-	-
<b>Total</b>	<b>4830</b>	<b>571 996</b>	<b>575</b>	<b>63 753</b>	<b>164</b>	<b>44 292</b>	<b>649</b>
<b>Total (£ million)</b>		<b>283.8</b>		<b>31.6</b>		<b>22</b>	

### 11.2 Clean up

11.2.1 As of 26 May 2009, 243 claims totalling KRW 191 615 million (£95.1 million) have been submitted for clean-up activities carried out as a result of the incident. One hundred and thirty eight have been assessed at a total of KRW 52 126 million (£25.9 million). The Club has made payments for a total amount of KRW 42 988 million (£21.3 million) in respect of 100 of these claims which include payments to the Korean Government totalling 16 132 million (£8 million) in respect of 30 of these claims paid under the Special Law. The rest of the claims are being assessed or are awaiting further supporting documentation.

11.2.2 Further claims are expected.

### 11.3 Property damage

As of 26 May 2009 seventeen claims totalling KRW 2 808 million (£1.4 million) have been submitted for damages to fishing boat hulls, nets and other structures. Seven claims have been assessed at a total of KRW 305 million (£151 000). One claim has been paid for KRW 167 million (£80 000). The rest of the claims are being assessed.

### 11.4 Fisheries and mariculture

11.4.1 As of 26 May 2009, 519 claims totalling KRW 259 608 million (£128.8 million) have been submitted for losses incurred in the fisheries and mariculture sectors. One hundred and thirty eight claims have been assessed at KRW 8 912 million (£4.4 million). One claim has been paid for KRW 764 million (£370 000). Forty one claims have been rejected. The remaining claims are being assessed.

11.4.2 The experts appointed by the Club and the Fund have been informed that a number of fisheries cooperatives and private surveyor companies are preparing claims on behalf of some 100 000 capture fishermen and hand gatherers. The experts engaged by the Club and Fund have been interviewing some 26 000 capture fishermen and hand gatherers to determine whether they have a valid claim and the amount of the losses suffered.

### 11.5 Tourism and other economic damage

11.5.1 As of 26 May 2009, 4 050 claims totalling KRW 115 770 million (£57.4 million) have been submitted for losses in the tourism sector and other economic damage. Two hundred and ninety two claims have been assessed at KRW 2 410 million (£1.2 million). The Club has made payments for a total amount of KRW 373 million (£185 000) in respect of 62 of these claims. Six hundred and two

claims have been rejected, the majority of which due to the lack of supporting information. The rest of the claims submitted are being assessed. A significant number of claims are further expected from the tourism sector.

- 11.5.2 The experts engaged by the Club and Fund are examining the other 3 000 claims many of which are poorly documented and would in normal circumstances be rejected. The experts have informed the Fund that one of the reasons for this poor documentation is that small businesses with annual revenue below KRW 24 million (£12 000) are exempted from VAT and business tax in Korea and keep either very limited or no records of revenues and/or costs. The Fund is aware that many of these businesses may have suffered losses as a result of the pollution, however, it is very difficult to determine their amounts.
- 11.5.3 The experts are considering different ways to assess these claims where information is very poor or inexistent, such as by applying methods similar to those used to assess claims for subsistence and artisanal fisheries, using statistical information and general data on tourism activities in the affected areas and in other areas of Korea.
- 11.5.4 The experts have informed the Fund that after April 2008 there is evidence of a downward trend in spending for leisure and tourism in the Republic of Korea. It is not clear yet whether or not this is due to the contamination caused by the *Hebei Spirit*. The experts are reviewing the information available and will report to the Club and Fund once they have completed their work.
- 11.6 Environmental studies
- 11.6.1 In February 2008 MOMAF submitted a claim totalling KRW 2 195 million (£1.1 million) for the costs of a study on the marine pollution impact and the ecological restoration of the area affected by the contamination. The claim is being examined.

## **12 Investigations into the cause of the incident**

### **12.1 Investigation in the Republic of Korea**

An investigation into the cause of the incident was initiated soon after the incident by the Incheon District Maritime Safety Tribunal in the Republic of Korea. Details of the results of the investigation, and of the decisions taken by the Incheon Maritime Safety Tribunal in September 2008 and by the Central Maritime Safety Tribunal in December 2008 can be found in documents 92FUND/EXC.42/11/Add.1, section 1 and document 92FUND/EXC.44/7, paragraph 12.1.4 respectively.

### **12.2 Investigation in China (Hong Kong Special Administrative Region) (China (HKSAR))**

An investigation into the cause of the incident has also been initiated by the ship's flag state administration in China (HKSAR). The investigation is still ongoing.

## **13 Recourse action against Samsung C&T Corporation and Samsung Heavy Industries**

- 13.1.1 In December 2008 the Club approached the 1992 Fund's Director, stating that investigations into the cause of the incident indicated that a number of seriously negligent acts or omissions on the part of the crane barge, the two towing tugs and the anchor boat (the Marine Spread) was the substantive cause of the collision and that there might be grounds to deny the owner and/or operator/bareboat charterer of the Marine Spread, Samsung and Samsung Heavy Industries (SHI) the right to limit their liability for the incident.
- 13.1.2 The Club also provided the 1992 Fund with advice it had obtained from lawyers in various jurisdictions as to the possibility of bringing recourse action against Samsung and SHI and informed the Director that, on the basis of the legal and technical advice received, it had decided to bring



recourse proceedings in the People's Republic of China against Samsung and SHI as soon as possible. The Club also invited the 1992 Fund to study the legal and technical advice provided with a view to joining the shipowner, its local insurer and the Club in a recourse action in the People's Republic of China and to bringing its own legal proceedings.

- 13.1.3 The Director investigated the advice provided, with a view to determining whether recourse action could be taken against the owner and operator/bareboat charterer of the *Marine Spread*, whether their rights to limit liability could be successfully challenged, and if so, where such action should be taken. The Director also sought legal advice in the Republic of Korea and in the United Kingdom. Details of the Club's considerations and of the legal advice received by the Director can be found in document 92FUND/EXC.44/7, section 13.3.
- 13.1.4 The Director considered that the Fund's policy with regard to recourse actions was:
- 'to take recourse action whenever appropriate and [that the 1992 Fund should] in each case consider whether it would be possible to recover any amounts paid by it to victims from the shipowner or from other parties on the basis of the applicable national law. If matters of principle were involved, the question of costs should not be the decisive factor for the Fund when considering whether to take legal action. The Committee's view has been that the IOPC Fund's decision of whether or not to take such action should be made on a case by case basis, in the light of the prospect of success within the legal system in question' (cf document FUND/EXC.42/11, paragraph 3.1.4).
- 13.1.5 Following the Fund's policy on taking recourse action and taking into account the circumstances of the case in so far as these are known at the moment, the Director analysed whether it would be possible to recover, on the basis of the applicable national law, any amounts paid (or to be paid) to victims, in the light of the prospect of success of such action within the legal system in question as well as the likely costs of such action.
- 13.1.6 The Director considered that based on the legal advice provided, only in the People's Republic of China did there appear to be both a good prospect of the Court assuming jurisdiction and a reasonable prospect of successfully challenging the right of the owner and/or operator/bareboat charterer of the *Marine Spread* to limit liability.
- 13.1.7 The Director further considered that the costs of legal fees, fees for technical opinions and assistance, Court costs etc would inevitably be considerable in a complicated case such as this, but that these costs would be outweighed by the very large financial interest at stake for the 1992 Fund. The *Hebei Spirit* incident will exhaust the full limit of the 1992 Fund and, in addition, the costs to the Fund of the handling of the incident will be considerable as well.
- 13.1.8 The Director finally considered that commencing a recourse action in the Republic of Korea, being the Member State where the damage occurred and where the defendants have their main seat, could be considered by some a more appropriate course of action for the Fund. He believed, however, that the legal advice received on the possibility and chances of a recourse action in the Republic of Korea made it clear that such course of action would only lead to the Fund incurring considerable costs without a realistic prospect of success, which would, in principle, be inconsistent with the Fund's policy on taking recourse action as set out in paragraph 13.1.4 above.
- 13.1.9 On the basis of these considerations, and presented, in December 2008, with a clear statement by the owner and the Club that they would in any event commence recourse action in the People's Republic of China as soon as possible, the Director decided to protect the interests of the Fund and commence the Fund's own recourse action.
- 13.1.10 On 20 January 2009, the Ningbo Maritime Court accepted the two recourse actions filed by the owner/Club and the Fund. The total amount claimed by the Fund is RMB 1 367 million (£125.5 million) and the claim filed by the owner and the Club is for approximately the same

amount. The Fund's recourse action will be dealt with by the Ningbo Maritime Court in conjunction with the recourse action by the owner and the Club. The Court also accepted the two corresponding applications for attachment of SHI's shares in the shipyards. The Club has arranged for the deposit of the required countersecurity on behalf of the owners, itself and the Fund.

- 13.1.11 In its session in March 2009, the Executive Committee endorsed the decision taken by the Director in January 2009 to commence recourse action against Samsung C&T Corporation and Samsung Heavy Industries (SHI) in the Ningbo Maritime Court in China at the same time as the owner and the insurer of the *Hebei Spirit*. The Committee also decided that the Fund should continue the recourse action.

## **14 Legal proceedings**

### **14.1 Criminal proceedings**

#### *Court of First Instance*

- 14.1.1 In January 2008, the Public Prosecutor of the Seosan Branch of the Daejeon District Court (Seosan Court) brought criminal charges against the Masters of the crane barge and the two tugs. Criminal proceedings were also brought against the Master and Chief Officer of the *Hebei Spirit*. Details of the criminal charges and of the subsequent judgment of the Seosan Court in June 2008 can be found in document 92FUND/EXC.44/7 paragraph 13.1.1 to 13.1.3.

#### *Court of Appeal*

- 14.1.2 In December 2008, the Criminal Court of Appeal (Daejeon Court) rendered its judgement. Details of the judgment can be found in document 92FUND/EXC.44/7, paragraph 13.1.4 and 13.1.5.

#### *Supreme Court*

- 14.1.3 In April 2009, the Korean Supreme Court overturned the decision by the Court of Appeal, which had held that the Masters of one of the towing tugs and of the crane barge and the Master and Chief Officer of *Hebei Spirit* were liable for the destruction of *Hebei Spirit*, and sent back the case to the Court of Appeal for a retrial. The Supreme Court in its judgement also annulled the Court of Appeal's decision to imprison the crew members of the *Hebei Spirit*. The Supreme Court, however, upheld the decision to imprison the Masters of one of the towing tugs and of the crane barge and confirmed the fines imposed by the Court of Appeal.

### **14.2 Civil Proceedings**

#### *Limitation proceedings by the owners of the Hebei Spirit*

- 14.2.1 In February 2008, the owners of the *Hebei Spirit* made an application to commence limitation proceedings before the Seosan Branch of the Daejeon District Court (Limitation Court).
- 14.2.2 In February 2009, the Limitation Court rendered an order for the commencement of the limitation proceedings. According to the Limitation Order, the persons who have claims against the owners of the *Hebei Spirit* shall have to register their claims by 8 May 2009, failing which the claimants will lose their rights against the limitation fund.
- 14.2.3 By 8 May 2009, 125 885 claims had been submitted to the Limitation Court. The 1992 Fund's Korean lawyer is following the developments taking place in the limitation proceedings.

*Limitation proceedings by the owner of the two towing tugs and the owner of the crane barge (Marine Spread)*

- 14.2.4 In December 2008, Samsung and SHI, the owner and operator of the Marine Spread filed a petition requesting the Seoul Central District Court to issue an order granting the right to limit their liability in the amount of 2.2 million SDR (£2 million).
- 14.2.5 In March 2009, the Limitation Court rendered the order for the commencement of the limitation proceedings and set the limitation fund which, together with legal interests, amounted to KRW 5 600 million (£2.8 million). The Limitation Court also decided that claims against the limitation fund should be registered with the Court by 19 June 2009.

*Injunction against the experts engaged by the Club and the Fund*

- 14.2.6 In March 2008, three fishermen and two owners of raw-fish restaurants filed an application for an injunction with the Seoul Central District Court. This was aimed at preventing the experts appointed by the Club and the Fund from carrying out the assessments on the grounds that they were not qualified under Korean Law to carry out such work.
- 14.2.7 In April 2008, the Court dismissed the application on the grounds that the claimants still had the right to bring the claims into court if they did not agree with the assessment. The Court stated that under Korean law the experts engaged by the Club and the Fund were authorised to carry out the investigation and assessment of damages arising from an oil pollution incident. The claimants appealed against the decision.
- 14.2.8 In March 2009, the Seoul Court of Appeal rejected the appeal and confirmed the decision by the Seoul Central District Court.

**15 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 the handling of this incident as it may deem appropriate.
-