



THIRD INTERSESSIONAL
WORKING GROUP
Agenda item 2

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REVIEW OF THE INTERNATIONAL COMPENSATION REGIME

INCREASE IN THE LIMITATION AMOUNTS UNDER THE 1992 CIVIL LIABILITY CONVENTION AND THE 1992 FUND CONVENTION

Submitted by the Republic of Korea

Summary:	The Republic of Korea opposes any changes in the current limits for the 1992 Civil Liability Convention and the 1992 Fund Convention
Action to be taken:	The Working Group is invited to take note of the observations made in this document.

1 General Remarks

- 1.1 The Republic of Korea recognises the necessity for the IOPC Fund to change. Like any other institution, it must be subject to criticisms and must be faced with changing circumstances. No doubt, the Fund now has many defects in its structure and operations. For this reason, the Republic of Korea welcomes the measures taken so far by the Working Group to remedy and improve the current system.
- 1.2 It is rather easy to find the defects lying behind such criticisms and to detect the changes in the environment. It is more difficult to find the right solutions acceptable to all the Member States.
- 1.3 The Republic of Korea thinks that, with this difficult task, the Working Group has so far achieved remarkable results. Such results could not have been possible if not for the able leadership of Mr Popp, to whom we offer our sincere thanks. We are also indebted to many other Member States whose invaluable contributions and co-operation have been vital.
- 1.4 We believe that, in the course of the deliberations, many Member States have had to accept the terms with pains and to endure hardships. So far, the Republic of Korea has also endeavoured, to the extent possible, to be cooperative and conducive to the measures designed to ensure the rapid evolution of the Fund. Like many other Member States, Korea has also had to accept many hard terms and conditions. Faced with strong resistance at home, it has always tried to persuade critics to go along with the proposals and the IOPC Fund's well-known spirit of cooperation. In doing so, the Republic of Korea tried as far as possible to contain its difficulties locally and tried not to reveal its predicament to the other Member States.

1.5 The Republic of Korea was, however, alarmed by certain recent moves which would affect its vital interest and eventually threaten its continuing existence as a Member. Therefore, the Republic of Korea has come to the conclusion that it is appropriate at this stage to state its position on one important point.

2 A point in issue with vital interest

2.1 When the Legal Committee a few years ago decided to increase the CLC liability limit and the 1992 Fund's compensation limit, the Republic of Korea was under strong pressure from its shipping industry, and encountered strong resistance from its oil industry against any move to increase these limits.

2.2 Many Korean shipowners with small ships could not afford to take out insurance for the increased amount, and Korean oil companies were not prepared to put up more funds without a clear and more convincing reason to support it.

2.3 When they finally agreed to increase the limits, the Republic of Korea was well aware that they had gone as far as they could and they were stretched to their limit. The Government persuaded them with the argument that the limits were set in practice 20 years ago, implying that for 20 years to come there would be no change in the limits. The industries still believe this commitment.

2.4 The Republic of Korea is also conscious of inequality and inequity in the current contribution system. Under the current contribution system, contributions for oil received in any nation are calculated on an equal basis for each ton, whereas the amounts of compensation differ depending on the level of income in each nation. This leads to inequality, penalizing less developed nations. For this very reason, a few nations quite rightly still hesitate to join the 1992 Fund.

2.5 If the 1992 Fund's limit were to increase, the situation would become worse, and it would aggravate the already inequitable system. We are, however, fortunate enough to have a new Supplementary Fund which would enable us to compensate for the damages exceeding the limit set in the current 1992 Fund.

2.6 Victims in developed nations with huge amounts of damage would be well protected by this Supplementary Fund. By a combination of these two Funds, a balance, though precarious, was struck and equity was to some extent accomplished between developed nations and developing nations. If the Working Group were to choose to increase the 1992 Fund's limit thereby reducing the amount covered by the Supplementary Fund, the burden would be shifted from contributors in developed nations to contributors in developing nations.

2.7 As was explained above, there is already inequality and inequity in the contributing system between developed nations and developing nations. By shifting the burden as such, the situation would become much worse. The result of such a change is unjust and against common sense. The Republic of Korea cannot accept the modification intended to achieve that end.

2.8 The spirit of equal sharing between the shipping industry and the oil industry for Member States of the Supplementary Fund must be sought within the framework of the Supplementary Fund.

2.9 In any event, solutions should be sought between the shipping industry and the oil industry in Member States of the Supplementary Fund.

3 Conclusions

3.1 The Republic of Korea strongly opposes, for the reasons exposed above, any change in the limits of compensation for the CLC and 1992 Fund. It is prepared to consider all other changes.

- 3.2 It considers that the change in the CLC limit is unnecessary at least for many years to come and the limit for the 1992 Fund should remain as it is unless a solution is found to achieve equity between developed nations and developing nations.
- 3.3 The Republic of Korea still regrets the fact that the Diplomatic Conference for the Supplementary Fund refused the Korean proposal to remedy this inequity.

4 Action to be taken

The Working Group is invited to take note of the observations made in this document.
