INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS

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1992 Fund Executive Committee	**92EC66**	●
Supplementary Fund	**SA12**	

INCIDENTS INVOLVING THE IOPC FUNDS – 1992 FUND

HEBEI SPIRIT

Note by the Secretariat

Objective of document:	To inform the 1992 Fund Executive Committee of the latest developments regarding this incident.
Summary of the incident so far:	On 7 December 2007, the *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. About 10 900 tonnes of crude oil escaped into the sea from the *Hebei Spirit*. The three southerly provinces on the west coast of the Republic of Korea were affected to various degrees. *Limitation proceedings by the owner of the Hebei Spirit* The limitation proceedings started in February 2009 and by August 2012, a total of 127 483 claims totalling KRW 4 227 billion (£2 428 million) had been submitted. On 15 January 2013, the Limitation Court issued its judgment, awarding some KRW 738 billion (£424 million) [<1>] in respect of 63 213 claims and rejecting 64 270 claims. Some 87 000 claimants filed objections against the Limitation Court's decision in the Seosan Court. The 1992 Fund filed some 63 000 objections. The hearings started in July 2013. *Legal proceedings against the 1992 Fund* By 7 December 2013, 117 504 separate legal actions against the 1992 Fund had been filed in the Seosan Court and the claimants had therefore protected their rights against the 1992 Fund. The Court decided not to progress the separate lawsuits pending the outcome of the objection proceedings which were dealing with the same claims.
Recent developments:	*Claims situation* The Skuld Club had paid KRW 186.8 billion[<2>] (£107 million) in compensation by June 2015. The 1992 Fund has paid KRW 33.4 billion (£19.1 million) to the Korean Government in respect of 22 390 subrogated claims, at a level of payments of 50%.

[<1>] The exchange rate used in this document (as at 16 February 2016) is £1 = KRW 1740.8352.

[<2>] The amount for which the owner of the *Hebei Spirit* is liable has not yet been established. The Skuld Club is basing its calculation of the limitation amount on the exchange rate at 18 November 2008, the date on which the Letter of Undertaking was deposited into the Limitation Court.

	Limitation proceedings by the owner of the Hebei Spirit As at March 2016 of the 127 483 claims submitted in the limitation proceedings 119 026 claims (93% of the total) have been resolved by judgments, mediation or have been withdrawn and the Korean Courts have awarded a total of KRW 362 billion (£208 million). The majority of the 36 714 judgments issued by the Courts agreed with the 1992 Fund's assessment of those claims. A total of 8 797 claims are still pending either at the Seosan Court or at the Court of Appeal. *Global settlement* The Director will report on the discussion of a global settlement with the Korean Government in an addendum to this document.
Action to be taken:	1992 Fund Executive Committee Information to be noted.

1 Summary of incident

Ship	*Hebei Spirit*
Date of incident	07.12.2007
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
Gross tonnage	146 848 GT
P&I insurer	China Shipowners Mutual Insurance Association (China P&I)/ Assuranceföreningen Skuld (Gjensidig) (Skuld Club)
CLC limit	89.8 million SDR (approximately KRW 186.8 billion)
STOPIA/TOPIA applicable	No
CLC + Fund limit	203 million SDR or KRW 321.6 billion
Standing last in the queue (SLQ)	A number of central and local government agencies are 'standing last in the queue' with regard to their claims totalling KRW 611.7 billion (£351 million).
Legal proceedings	(i) Limitation proceedings on the liability of the owner of the *Hebei Spirit* (section 4.1); (ii) Proceedings in the Court of First Instance (Seosan Court) with regard to the objections to the decision of the Limitation Court, including judgments in respect of 32 249 claims (section 4.2); (iii) Proceedings in the Court of Appeal in Daejoen (Appeal Court) and, including judgments in respect of 4 666 claims (section 4.3) (iv) Proceedings in the Supreme Court in Seoul (Supreme Court), (section 4.4) (v) Legal proceedings against the 1992 Fund (section 5)

2 Background information

The background information to this incident is summarised above and provided in more detail in the Annex I. Annex II contains a summary of the main judgments so far rendered in the limitation proceedings by the Korean Courts.

3 Claims for compensation

3.1 As at 24 March 2016, a total of 128 406 claims were submitted to the 1992 Fund and the Skuld Club, totalling KRW 2 776 billion. Of these, 41 221 claims had been accepted and 87 185 claims had been rejected. Further claims are being reassessed as a result of the review of additional information submitted by the claimants during the court proceedings. The Skuld Club has paid KRW 186.8 billion in compensation to 32 665 claims.

3.2 A Special Law for the support of the affected inhabitants and the restoration of the marine environment in respect of the *Hebei Spirit* incident was approved by the National Assembly in March 2008 and entered into force on 15 June 2008. Under the provisions of the Special Law, the Korean Government was authorised to make payments in full to claimants based on the assessments made by the Skuld Club and the 1992 Fund. If the 1992 Fund and the Skuld Club paid claimants compensation on a *pro-rata* basis, the Korean Government would pay the claimants the remaining percentage so that all claimants would receive 100% of the assessment. The Korean Government has made payments of compensation to the claimants in accordance with the Special Law.

3.3 The Korean Government continues making payments of compensation to claimants at 100% of the established amount and is being reimbursed by the 1992 Fund up to the level of payments established by the 1992 Fund Executive Committee, currently set at 50%. The 1992 Fund has made payments totalling KRW 33.4 billion (£19.1 million) to the Korean Government in respect of 22 390 subrogated claims.

4 Limitation proceedings

4.1 Proceedings in the Limitation Court by the owner of the *Hebei Spirit*

4.1.1 On 27 August 2012, the Limitation Court received 127 483 claims totalling KRW 4 227 billion (£2 422 million).

4.1.2 In January 2013, the Court rendered its decision, assessing the losses arising out of the *Hebei Spirit* incident at a total of KRW 738 billion (£424 million) and rejecting 64 270 claims. In its decision, the Court stated that it did not consider itself bound by the 1992 Fund's Claims Manual in determining the scope of compensation for damages arising from the *Hebei Spirit* incident, although it made clear that the claimants would still have to prove a link of causation between the damage and the incident for their claim to be considered admissible for compensation.

4.1.3 Under Korean law, the assessment decision by the Limitation Court can be objected to by referring the matter to a Court of First Instance. Any decision of the Court of First Instance in Seosan (Seosan Court) may be appealed to the Court of Appeal in Daejeon High Court (Appeal Court) and, in certain circumstances, a decision of the Appeal Court may be appealed to the Supreme Court in Seoul (Supreme Court).

4.1.4 Any decision by the Seosan Court would be directly enforceable only upon the shipowner or its insurer, since the liability being decided in the limitation proceedings is that of the owner/insurer.

4.1.5 Any decision on quantum would only be enforceable on the 1992 Fund if the claimant filed a separate lawsuit against the 1992 Fund to seek compensation for the Limitation Court's decision.

4.1.6 Some 149 922 objections to the Limitation Court were filed in the Seosan Court, 86 759 of which were filed by the claimants and 63 163 by the Club/1992 Fund. The Seosan Court grouped the objections filed by the claimants into 126 cases and the objections filed by the Club/1992 Fund into 54 cases.

4.2 Proceedings in the Court of First Instance (Seosan Court)

4.2.1 The Seosan Court and the Appeal Court have been seeking to encourage out-of-court settlements by proposing mediation to the parties in cases where matters of principle were not under discussion. As a

result of the Court's action, as at 23 February 2016**,** a total of 118 686 claims had been resolved. None of these reconciliations involved matters of principle. A total of 8 797 claims are still pending.

4.2.2 The Seosan Court has rendered judgments in respect of 32 249 claims. The judgments which had become final before the October 2015 meeting of the 1992 Fund Executive Committee were reported in document IOPC/OCT15/3/6.

4.2.3 Since October 2015, 16 judgments rendered in respect of 2 602 claims which have not been appealed are now final. In the same period, 33 judgments covering 14 656 claims have been appealed either by the claimants or the 1992 Fund. The summary of the judgments rendered by the Seosan Court is contained in Annex II to this document.

4.2.4 This document contains information in respect of judgments which the 1992 Fund appealed on matters of principle.

Two judgments on the claims by two Korean Government Agencies for VAT costs

4.2.5 In May 2015, the Seosan Court rendered two judgments on claims by the Korean Navy and the Korean Naval Operation Command related to costs incurred during the response to the spill.

4.2.6 The 1992 Fund had assessed the claim by the Korean Navy at KRW 975.8 million (£560 000) and the claim by the Naval Operation Command at KRW 298.3 million (£171 000).

4.2.7 In the judgments, the Court accepted the 1992 Fund's assessment of both claims. However, the Court also held that the VAT paid to external contractors in the amount of KRW 1 million (£596) and KRW 1.4 million (£776) respectively, was recoverable.

4.2.8 The 1992 Fund objected to these judgments since, even though the claimant's payment to the contractors company included VAT, the claimant was in fact the party imposing the VAT, and therefore the payment of such VAT could not constitute a loss to the claimant. The 1992 Fund maintained the appeals to determine the position of the Courts in Korea on the issue. The decision by the Appeal Court is expected during the spring of 2016.

Judgment on the claim by the Republic of Korea for costs incurred in relation to repairs to an aircraft

4.2.9 In July 2015, the Seosan Court rendered a judgment in respect of the claim by the Korean Coast Guard with respect to the costs incurred in clean-up operations. In its judgment, the Court awarded a total of KRW 4.9 billion (£2.8 million). The 1992 Fund had originally assessed the claim at a total of KRW4.6 billion (£2.6 million). In its judgment, the Court allowed for a number of items, which the 1992 Fund had originally rejected since they were not sufficiently documented.

4.2.10 The Court also accepted costs for, among other things, the repair to an aircraft, which had been damaged on landing after clean-up operations. The 1992 Fund's experts were able to review the evidence submitted to the Court and advised the 1992 Fund that the majority of the Court's assessment was technically reasonable.

4.2.11 The 1992 Fund has however appealed this part of the Court judgment since it considered that the repair costs were not due to the contamination. At the time this document was issued it was not known when the Appeal Court would hear this case.

Judgment on a claim by the Republic of Korea for costs related to environmental health surveys

4.2.12 In July 2015, the Seosan Court rendered a judgment in respect of a claim by the Korean Ministry of Environment totalling KRW3.8 billion (£2.2 million), for costs related to conduct surveys on the short-term effect of the oil spill on the villagers and people who were engaged in clean-up activities and the costs for the operation of an environment health centre established in the affected area after the incident. The 1992 Fund had rejected the claim since the claimant had failed to prove a link of causation between the contamination and the studies carried out, as well as to prove the reasonableness of the

environmental health centre. In its judgment, the Court awarded the Republic of Korea the full amount of the claim.

4.2.13 The 1992 Fund appealed the judgment, since the claimant had failed to prove a link between the contamination and the studies carried out, or to prove the reasonableness of the environmental health centre. At the time this document was issued it was not known when the Appeal Court would hear this case.

Judgment on 41 claims for accommodation business, restaurant, karaoke bars and other claims from Boryeong

4.2.14 In January 2016, the Seosan Court rendered a judgment with respect to 40 claims for accommodation business, restaurant, karaoke bars and employee claims from Boryeong. The Court dismissed most of the claims on the grounds that the claimants did not hold a license.

4.2.15 In its judgment, the Court awarded compensation to four claimants working for a number of restaurants in Boryeong, who were either laid off or had their wages reduced in the months following the incident. The Court considered that, in view of the location of the restaurant, it was inevitable for the restaurant owners to lay off their employees as a result of the incident.

4.2.16 The 1992 Fund appealed the judgment since it considered that the claimants' damages resulting from the layoff was directly due to the restaurant owners' business decision to terminate the employment or to reduce the salary of their employees. The fact that other businesses in the area did not act in the same way further demonstrated that the loss suffered by the claimants was not due to the incident but to the decision of the restaurant owners. Therefore, the owner's decision to layoff employees should be considered a wrongful termination under Korean law and the 1992 Fund should not be liable for the damages arising from this termination of employment.

4.2.17 At the time this document was published, the Court of Appeal had not yet set a date for the hearing.

Judgment on 145 claims for accommodation business, restaurant, karaoke bars and other claims from Boryeong

4.2.18 In February 2016, the Seosan Court rendered a judgment with respect to 145 claims for accommodation business, restaurant, karaoke bars and employee claims from Boryeong.

4.2.19 The Court dismissed most of the claims for restaurant and accommodation. However, the Court awarded compensation to one restaurant claim on the ground that, although the claimant had not provided any evidence in support of its claim, the location of the business in an area frequented by tourists indicated that it may cater to tourists. The 1992 Fund appealed the judgment, based on information obtained from the claimant himself during surveys. The claimant had stated that his main customer base was construction workers, and no evidence was provided to prove a link of causation with the contamination.

4.2.20 The Court also awarded compensation to a number of employees of restaurants and resorts in Boryeong, who were either laid off or had their wages reduced in the months following the incident. The Court considered that, in view of the location of the restaurant, it was inevitable for the restaurant owners to lay off their employees as a result of the incident.

4.2.21 The 1992 Fund appealed the judgment since it considered that the claimants' damages resulting from the redundancy was directly due to the restaurant owners' business decision to terminate the employment or to reduce the salary of their employees. Since it did not meet the requirements under Korean law, the 1992 Fund should not be liable for the damages arising from the termination of employment.

4.2.22 At the time this document was published, the Court of Appeal had not yet set a date for the hearing.

Judgment in respect of claims by three local authorities and two ministries

4.2.23 In February 2016, the Seosan Court rendered a judgment in respect of the claims by two local authorities and two ministries totalling KRW 33.1 billion (£19 million) having accepted the 1992 Fund's assessment for the majority of the claims. The claims, totalling KRW 496.6 billion (£285.2 million), had been assessed by the Limitation Court at KRW176.6 billion (£101.4 million). The 1992 Fund and its experts reviewed the additional supporting information provided by the Court and considered the judgment reasonable for the main part.

4.2.24 The 1992 Fund appealed the judgment with respect to costs incurred by a local authority for running of an environment health centre established in the affected area after the incident. In its judgment, the Court awarded that local authority the full amount of the claim. The 1992 Fund appealed the judgment, since the claimant had failed to establish a link between the contamination and the costs incurred, and to substantiate the reasonableness of having the environmental health centre.

4.2.25 The 1992 Fund also appealed the judgment with respect to the claim for costs incurred by a local authority for the running of a promotional festival to mitigate economic losses in the affected area since, whilst analysing the supporting information provided in Court it was found that part of the costs had been incurred by a different agency.

4.2.26 At the time this document was issued it was not known whether the claimants appealed the judgment or when the Appeal Court would hear this case.

4.3 Proceedings in the Daejon Court of Appeal (Appeal Court)

4.3.1 The Appeal Court has rendered judgments in respect of 4 666 claims. The judgments which had become final before the October 2015 meeting of the 1992 Fund Executive Committee were reported in document IOPC/OCT15/3/6.

4.3.2 Since October 2015, three judgments became final and another three were appealed by the claimants. The 1992 Fund did not appeal any of these judgments. Details on all the judgments issued by the Appeal Court may be found in Annex II to this document.

4.4 Proceedings in the Seoul Supreme Court (Supreme Court)

4.4.1 In October 2015, the Supreme Court rendered a judgment on the claim by a Compensation Committee. The claim was for costs incurred by the Committee in engaging the services of a loss adjuster to prepare the claims of the Committee's members. In the judgment, the Court of Seosan had dismissed the claims on the basis that the Committee had not proven that it had incurred this costs. The claimant had appealed the judgment to the Appeal Court.

4.4.2 In May 2015, the Appeal Court dismissed the appeal. The claimant further appealed the judgment to the Supreme Court in June 2015, but permission to appeal was refused.

5 Civil Proceedings

5.1 Legal proceedings against the 1992 Fund

5.1.1 At the time of the October 2013 session of the 1992 Fund Executive Committee, some 86 758 claimants had filed objections against the Limitation Court judgment on the liability of the owner of the *Hebei Spirit* in the Seosan Court. However, only four legal actions had been commenced by 53 claimants against the 1992 Fund.

5.1.2 According to Korean law, the Limitation Court's judgment can become binding upon the 1992 Fund only with regard to the admissibility and quantum of the loss and would not be directly enforceable on the 1992 Fund. However, although a decision on the quantum of claims taken by the limitation proceedings would have an impact on a subsequent civil action against the 1992 Fund, if actions against

the 1992 Fund had been commenced after 7 December 2013, such claims would have been time barred under the 1992 Fund Convention (Article 6 of the 1992 Fund Convention).

5.1.3 In November 2013, a note by the Director was sent to all those claimants who had not submitted an action in court against the 1992 Fund to inform them of the forthcoming time bar. The Korean Government also sent a note to all claimants to inform them of the time bar provision in the 1992 Fund Convention and the local authorities also ensured that the information regarding time bar was publicised in all affected areas.

5.1.4 By 7 December 2013, 117 504 claimants had filed legal actions against the 1992 Fund in the Seosan Court and had therefore protected their rights against the 1992 Fund. The Court decided not to progress the separate lawsuits for the time being, since the same claims were being dealt with in the objection proceedings.

5.2 Legal proceedings by a claimants' committee against the owner of the *Hebei Spirit* and the 1992 Fund

5.2.1 In April 2013 a claimants' committee filed a lawsuit against the owner of the *Hebei Spirit* and the 1992 Fund, requesting them to pay a total of KRW 110 million (£5 700) in compensation for two claims for economic losses plus interest, which the committee had settled with two abalone farmers. The committee was exercising its subrogation rights over those claims.

5.2.2 In October 2013, the Court decided to stay the proceedings until the objection proceedings involving the claimants were finalised.

6 Action to be taken

1992 Fund Executive Committee

The 1992 Fund Executive Committee is invited to take note of the information contained in this document.

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ANNEX I

BACKGROUND INFORMATION—HEBEI SPIRIT

1 Incident

1.1 On 7 December 2007, the Hong Kong registered tanker *Hebei Spirit* (146 848 GT) was struck by the crane barge *Samsung Nº1* while at anchor about five nautical miles off Taean on the west coast of the Republic of Korea. The crane barge was being towed by two tugs (*Samsung Nº5* and *Samho T3*) when the tow line broke. Weather conditions were poor and it was reported that the crane barge had drifted into the tanker, puncturing three of its port cargo tanks.

1.2 The *Hebei Spirit* was laden with about 209 000 tonnes of four different crude oils. Due to inclement weather conditions, repairs of the punctured tanks took four days to complete. In the meantime, the crew of the *Hebei Spirit* tried to limit the quantity of cargo spilled through holes in the damaged tanks by making it list and transferring cargo between tanks. However, as the tanker was almost fully laden, the possibilities for such actions were limited. As a result of the collision, a total of 10 900 tonnes of oil (a mix of Iranian Heavy, Upper Zakum and Kuwait Export) escaped into the sea.

1.3 The *Hebei Spirit* was owned by Hebei Spirit Shipping Company Limited. It was insured by China Shipowners Mutual Insurance Association (China P&I) and Assuranceföreningen Skuld (Gjensidig) (Skuld Club) and managed by V-Ships Limited. The crane barge and the two tugs were owned and/or operated by Samsung Corporation and its subsidiary Samsung Heavy Industries (SHI) which belong to the Samsung Group, the Republic of Korea's largest industrial conglomerate.

1.4 Shortly after the incident, the Korean Government declared it a national disaster and on 24 December 2007 the *Hebei Spirit* was arrested.

2 Impact

2.1 Large parts of the Republic of Korea's western coast were affected to varying degrees. The shoreline, composed of rocks, boulders and pebbles as well as long sand amenity beaches and port installations in the Taean peninsula and in the nearby islands, was polluted. Over a period of several weeks, mainland shorelines and islands further south also became contaminated by emulsified oil and tar balls. A total of some 375 kilometres of shoreline was affected along the west coast of the Republic of Korea. A considerable number of commercial vessels were also contaminated.

2.2 The west coast of the Republic of Korea hosts a large number of mariculture facilities, including several thousand hectares of seaweed cultivation. It is also an important area for shellfish cultivation and for large-scale hatchery production facilities. The area is also exploited by small and large-scale fisheries. The oil affected a large number of these mariculture facilities as it passed through the supporting structures, contaminating buoys, ropes, nets and produce. The Korean Government financed the removal operations of the most affected oyster farms in two bays in the Taean peninsula. The removal operations were completed in early August 2008.

2.3 The oil also impacted amenity beaches and other areas of the Taean National Park.

3 Response operations

3.1 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.

3.2 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 later in the year.

3.3 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 the Republic of Korea. Local villagers, army and navy cadets and volunteers from all over the Republic of Korea also participated in the clean-up operations.

3.4 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, were completed by the end of June 2008. Some clean-up operations in remote areas continued until October 2008.

4 Applicability of the Conventions

4.1 The Republic of Korea is a Party to the 1992 Civil Liability Convention (1992 CLC) and the 1992 Fund Convention but, at the time of the spill, had not ratified the Supplementary Fund Protocol.

4.2 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 89.77 million SDR. The total amount available for compensation under the 1992 CLC and the 1992 Fund Convention is 203 million SDR.

5 Level of payments

5.1 At its March 2008 session, the 1992 Fund Executive Committee authorised the Director to settle claims arising from this incident to the extent that they did not give rise to questions of principle not previously decided by the Executive Committee. The Executive Committee also decided that the conversion of 203 million SDR into Korean won (KRW) would be made on the basis of the value of that currency against the SDR on the date of the adoption of the Executive Committee's Record of Decisions of its 40th session, i.e. 13 March 2008, at the rate of 1 SDR = KRW 1 584.330, giving a total amount available for compensation of KRW 321 618 990 000.

5.2 At the same session, the 1992 Fund Executive Committee noted that, based on a preliminary estimation by the Fund's experts, the total amount of the losses arising as a result of the *Hebei Spirit* incident was likely to exceed the amount available under the 1992 Civil Liability and Fund Conventions. In view of the uncertainty as to the total amount of the losses, the Executive Committee decided that payments should for the time being be limited to 60% of the established damages.

5.3 In June 2008, the 1992 Fund Executive Committee took note of new information which indicated that the extent of the damage was likely to be greater than initially estimated in March 2008. At that session, the Executive Committee decided that, in view of the increased uncertainty as to the total amount of the potential claims and the need to ensure equal treatment of all claimants, payments made by the 1992 Fund should, for the time being, be limited to 35% of the established damages.

5.4 The 1992 Fund Executive Committee decided to maintain the level of payments at 35% of the established damages at its subsequent sessions in October 2008, March, June and October 2009, and June and October 2010.

5.5 In March 2011, the 1992 Fund Executive Committee authorised the Director to increase the level of payments to 100% of the established claims, subject to a number of safeguards being in place before the 1992 Fund commenced making payments. It was decided that if these safeguards were not provided, the level of payments should be maintained at 35% of the established losses and that this should be reviewed at the next session of the Executive Committee.

5.6 In August 2011, the Korean Government informed the Director that, in view of the significant administrative burden that the safeguards determined by the 1992 Fund Executive Committee at its March 2011 session would place on the Korean Government, it did not intend to set up the guarantee as determined by the Executive Committee, with the understanding that this would likely result in the 1992 Fund not increasing the level of payments to 100% of the established claims.

5.7 At each of its sessions from October 2011 to April 2015, the 1992 Fund Executive Committee reviewed the level of payments but decided to maintain it at 35%. However, at its October 2015 session, the 1992 Fund Executive Committee noted that more than 70% of the claims had been resolved with the Korean courts applying a similar approach to claim assessment as the Fund, that the Korean Government was standing last in the queue for its claims and was also compensating claimants the full amount awarded by the Courts, and subrogating its rights *vis-à-vis* the 1992 Fund. Taking the aforementioned into account, the Executive Committee decided that there were sufficient safeguards in place to increase the level of payments to 50% of the amount of the established losses in respect of the *Hebei Spirit* incident and to review this decision at its next session.

6 Actions by Government

Special Law for the support of the victims of the Hebei Spirit incident

6.1 A special law for the 'Support of affected inhabitants and the restoration of the marine environment in respect of the *Hebei Spirit* oil pollution incident' was approved by the Korean National Assembly in March 2008 and entered into force on 15 June 2008. Under the provisions of the Special Law, the Korean Government was authorised to make payments in full to claimants based on the assessments made by the Skuld Club and the 1992 Fund within 14 days of the date they submitted proof of assessment to the Government. If the Fund and the Skuld Club paid claimants compensation on a *pro-rata* basis, the Korean Government would pay the claimants the remaining percentage so that all claimants would receive 100% of the assessment.

6.2 As at October 2015, the Korean Government had made payments in respect of claims in the clean up, tourism and fisheries and aquaculture sectors based on assessments provided by the Skuld Club and the 1992 Fund or based on the national Courts' decisions, and submitted subrogated claims against the Skuld Club and the 1992 Fund.

6.3 Under the Special Law, the Korean Government set up a scheme to provide loans to victims of pollution damage for an amount fixed in advance if they had submitted a claim to the Skuld Club and the 1992 Fund but had not received an offer of compensation within six months.

Decision of the Korean Government to 'stand last in the queue'

6.4 At the June 2008 session of the 1992 Fund Executive Committee, the Korean Government informed the 1992 Fund Executive 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.

6.5 In August 2011, the Secretariat examined the claims submitted by the Korean authorities and identified 71 such claims submitted by 34 separate government agencies and local authorities, totalling some KRW 444 800 million. The claims corresponded to costs incurred by the Government and local authorities in respect of clean up and preventive measures, environmental studies, restoration, marketing campaigns, tax relief and other expenses incurred in dealing with the pollution.

6.6 Cooperation between the Korean Government and the Skuld Club

First Cooperation Agreement between the Korean Government, the shipowner and the Skuld Club

6.6.1 In January 2008, discussions took place on compensation issues which resulted in the First Cooperation Agreement concluded between the shipowner, Skuld Club, the Korean Government and Stands for Korean Marine Pollution Response Corporation (KMPRC)[<1>]. The 1992 Fund was consulted during the negotiations but was not a party to the Agreement. In accordance with the Agreement, in exchange for the Club's expedited payment to large numbers of individuals engaged by clean-up contractors, the Korean Government undertook to facilitate cooperation with the experts

[<1>] Korean Marine Pollution Response Corporation (KMPRC) now goes under the name of Korean Marine Environment Management Corporation (KOEM).

appointed by the Club and the 1992 Fund, and KMPRC undertook to request the release of the *Hebei Spirit* from arrest.

Second Cooperation Agreement between the Korean Government, the shipowner and the Skuld Club

6.6.2 To address the concerns of the Skuld Club that Korean courts dealing with the limitation proceedings might not fully take into account payments made by the Club and that the Club could therefore run the risk of paying compensation in excess of the limitation amount, in July 2008, a Second Cooperation Agreement was concluded between the shipowner, Skuld Club and the Korean Government (Ministry of Land, Transport and Maritime Affairs, which had incorporated part of the functions of MOMAF). Under this Agreement, the Skuld Club undertook to pay claimants 100% of the assessed amounts up to the shipowner's limit of liability under the 1992 CLC, namely 89.77 million SDR. In return, to ensure that all claimants would receive compensation in full, the Korean Government undertook to pay in full all claims as assessed by the Club and 1992 Fund once the 1992 CLC and 1992 Fund Convention limits were reached, as well as all amounts awarded by judgments under the 1992 CLC and 1992 Fund Convention in excess of the limit. The Korean Government further undertook to deposit the amount already paid out by the Skuld Club to claimants in court should the Limitation Court order a deposit of the limitation fund.

7 Investigation into the cause of the incident

7.1 Investigation in the Republic of Korea

7.1.1 An investigation into the cause of the incident was initiated soon after the incident by the Incheon District Maritime Safety Tribunal (Incheon Tribunal) in the Republic of Korea.

7.1.2 In September 2008, in a decision rendered by the Incheon Tribunal, both tugs and the *Hebei Spirit* were considered at fault for causing the collision. The Incheon Tribunal found that the master and the duty officer of the *Hebei Spirit* were also partly liable for the collision between the crane barge and the *Hebei Spirit*. A number of defendants, including SHI, the masters of the tugboats and the master and duty officer of the *Hebei Spirit* appealed against the decision to the Central Maritime Safety Tribunal.

7.1.3 In December 2008, the Central Maritime Safety Tribunal delivered its decision. The decision of the Central Tribunal was similar to that of the Incheon Tribunal in that the two tugs were found mainly responsible and the master and the duty officer of the *Hebei Spirit* were also found partly liable for the collision between the crane barge and the *Hebei Spirit*.

7.2 Investigation in China

An investigation into the cause of the incident was also carried out by the ship's flag State administration in China. The investigation found that the decision by the operator of the tugboats and of the crane barge (the Marine Spread), to undertake the towing voyage when adverse weather had been forecast was the main contributory factor to this accident. Moreover, the delay by the Marine Spread in notifying the Vessel Traffic Information Station and other ships in the vicinity resulted in insufficient time being given to the *Hebei Spirit* to take all necessary actions to avoid the collision. The investigation further indicated that the actions taken by the master and the crew of the *Hebei Spirit* after the collision had fully complied with the provisions as set out in the ship's Shipboard Oil Pollution Emergency Plan.

8 Claims for compensation

8.1 Some 127 483 claims, totalling KRW 4 023 billion, were submitted to the limitation proceedings and the Limitation Court appointed a court administrator to deal with them. As a matter of Korean law and practice, no further claims could be registered nor changes be made to the amounts claimed.

8.2 The 1992 Fund and the Skuld Club opened a claims handling office (*Hebei Spirit* Centre) in Seoul to assist claimants in the presentation of their claims for compensation and appointed a team 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.

8.3 As at October 2015, the 1992 Fund and the Skuld Club had received 128 406 claims. All claims were assessed except for a number of claims for interest which will be assessed by the Korean courts based on national law. The difference between the number of claims submitted to the Limitation Court and to the Skuld Club and 1992 Fund is due to the fact that a number of claims were submitted in groups. The lawyers engaged by the 1992 Fund are examining both lists of submitted claims in order to reconcile the information.

9 Criminal proceedings

9.1 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. The masters of the two tugs were arrested. Criminal proceedings were also brought against the master and chief officer of the *Hebei Spirit* who were not arrested, but were not permitted to leave the Republic of Korea.

9.2 In June 2008, the Seosan Court delivered its judgment to the effect that:

(i) the master of one of the tugboats was sentenced to three years imprisonment and a fine of KRW 2 million;
(ii) the master of the other tugboat was sentenced to one year imprisonment;
(iii) the owners of the two tugboats (SHI) were sentenced to a fine of KRW 30 million;
(iv) the master of the crane barge was found not guilty; and
(v) the master and chief officer of the *Hebei Spirit* were also found not guilty.

9.3 The Public Prosecutor and the owners of the tugboats appealed against the judgment.

9.4 In December 2008, the Criminal Court of Appeal (Daejeon Court) rendered its judgment. In its judgment, the Court reduced the sentence against the masters of the two tugboats. The judgment overturned the not guilty judgments for the master of the crane barge and the master and chief officer of the *Hebei Spirit*. The owner of the *Hebei Spirit* was also given a fine of KRW 30 million and the master and chief officer of the *Hebei Spirit* were arrested. The *Hebei Spirit*'s interests appealed to the Supreme Court.

9.5 In April 2009, the Korean Supreme Court annulled the Court of Appeal's decision to arrest the crew members of the *Hebei Spirit* and they were allowed to leave the Republic of Korea. The Supreme Court, however, upheld the decision to arrest the masters of one of the towing tugs and of the crane barge and confirmed the fines imposed by the Court of Appeal.

9.6 In June 2009, the master and chief officer of the *Hebei Spirit* were released from arrest and left the Republic of Korea.

10 Limitation proceedings

10.1 Limitation proceedings by the bareboat charterer of the Marine Spread

10.1.1 In December 2008, the bareboat charterer of the Marine Spread (the crane barge, the two tugs and the anchor boat), SHI, filed a petition requesting the Seoul Central District Court to issue an order granting the right to limit its liability in the amount of 2.2 million SDR.

10.1.2 In March 2009, the Limitation Court rendered the order for the commencement of the limitation proceedings. The Court decided to grant SHI the right to limit its liability and set the limitation fund at KRW 5 600 million including legal interest. SHI deposited this amount in court. The Limitation

Court also decided that claims against the limitation fund should be registered with the Court by 19 June 2009.

10.1.3 In June 2009 a number of claimants appealed to the Seoul Court of Appeal against the decision of the Limitation Court to grant to the bareboat charterer the right to limit its liability. In January 2010, the Court of Appeal dismissed the appeal and confirmed the Limitation Court's decision. The claimants appealed to the Supreme Court. In April 2012 the Supreme Court dismissed the appeal.

10.2 Limitation proceedings by the owner of the *Hebei Spirit*

10.2.1 In February 2008, the owner of the *Hebei Spirit* made an application to commence limitation proceedings before the Seosan District Court (Limitation Court).

10.2.2 In February 2009, the Limitation Court rendered an order for the commencement of the limitation proceedings. According to the Limitation Order, the persons who had claims against the owner of the *Hebei Spirit* had to register their claims by 8 May 2009, failing to do so, claimants would lose their rights against the limitation fund. A number of claimants appealed to the Daejeon Court of Appeal against the decision of the Limitation Court to commence limitation proceedings but the appeal was dismissed. A number of claimants appealed to the Supreme Court, which was also unsuccessful. Consequently, the Limitation Court's decision for the commencement of the limitation proceedings for the owner of the *Hebei Spirit* became final.

10.2.3 In February 2011, the Court appointed a court expert to review the evidence filed by both sides, and in August 2012, the Limitation Court held a hearing. At the hearing, the Court listed the claims which had been submitted. A total of 127 483 claims totalling KRW 4 023 billion had been submitted. As a matter of Korean law and practice, no further claims could be registered nor could changes to the amount claimed be accepted.

10.2.4 In January 2013, a judgment was rendered by the Limitation Court granting KRW 736 billion in compensation to victims of the *Hebei Spirit* incident. The amount decided by the Court is significantly less than the amount claimed in court (some KRW 4 227 billion).

10.2.5 In accordance with Korean law, once proceedings started, claimants had two weeks to submit objections to the Limitation Court's decision. Some 149 714 objections to the Limitation Court's decision were filed in the Seosan Court within that deadline (86 578 by the claimants and 63 163 by the Club/1992 Fund). A number of objections were subsequently withdrawn.

10.2.6 The objections filed by the claimants were allocated to 126 cases and the objections filed by the Club/1992 Fund were allocated to 54 cases. By July 2013, the Seosan Court had consolidated them into some 90 cases. In the same month, the Seosan Court commenced preliminary hearings for three of these cases.

10.2.7 In May 2013 the National Assembly of the Republic of Korea passed a number of amendments to the Special Law which required the Seosan Court to take a decision on the Limitation Court decision within ten months of the date of entry into force of the amendments, and that a second or third appeal should be issued within five months of the previous decision. The amendments entered into force in July 2013.

Judgments rendered by the Seosan Court

10.2.8 The Seosan Court has sought to encourage out-of-court settlements by proposing mediation settlement to the parties in cases where matters of principle were not under discussion. As a result of the Court's action, as at 21 July 2015, a total of 80 285 claims had been resolved by reconciliation between the parties. None of these reconciliations involved matters of principle.

10.2.9 The Seosan Court has issued judgments in respect of 34 728 claims.

10.2.10 Annex 2 contains a summary of the main judgments so far rendered in the limitation proceedings by the Korean Courts.

11 Civil proceedings

11.1 Time bar

11.1.1 The six-year anniversary of the date of the incident fell on 7 December 2013. In accordance with Articles 6 and 7.6 of the 1992 Fund Convention and its application under Korean law, in order for the victims to preserve their right to claim compensation from the 1992 Fund, they must bring a legal action against the 1992 Fund within three years from the date of the damage or six years from the date of the incident.

11.1.2 By October 2013 four legal actions against the 1992 Fund had been commenced by 53 claimants, one of which had recently been discontinued.

11.1.3 The Director held consultations with the Korean Government in order to explore practical ways, compatible with Korean law, to ensure that the claimants did not lose their right to receive compensation from the 1992 Fund due to their claims becoming time-barred. In order to clarify the interpretation of Articles 6 and 7.6 of the 1992 Fund Convention and its application under Korean law, the Director and the Korean Government agreed to jointly appoint a former Supreme Court Judge to issue an opinion on the matter and to abide by his opinion.

11.1.4 The former Supreme Court Judge supported the Director's view that in order for the victims to preserve their right to claim compensation from the 1992 Fund, they should bring a legal action against the 1992 Fund within six years from the date of the incident.

11.1.5 The Korean Government held consultations with the representatives of private claimants and the local authorities in order to inform them that, if no settlement was reached before December 2013, i.e. six years from the date of the incident, they needed to file an action in court against the 1992 Fund.

11.1.6 By 7 December 2013, 117 504 claimants had filed legal actions against the 1992 Fund in the Seosan Court and had therefore protected their right against the 1992 Fund. The Court decided not to progress the separate lawsuits for the time being, since the same claims were being dealt with in the limitation proceedings.

11.2 Claim by a clean-up company against the Republic of Korea

11.2.1 In July 2008, following the *Hebei Spirit* incident, a clean-up company which had been involved in clean-up operations at the instruction of the Incheon Coast Guard took action in the Incheon District Court (Court of First Instance) against the Republic of Korea, claiming costs for KRW 727 578 150.

11.2.2 In early 2010, the Court of First Instance decided that there was no service contract between the company and the Republic of Korea but accepted that the latter was still liable to compensate the company for the clean-up costs. The Court ordered the Republic of Korea to pay a sum of KRW 674 683 401 as reasonable compensation. Both parties appealed against the decision of the Court.

11.2.3 In January 2012, the Court of Appeal issued a judgment to the effect that, whilst the assessment made by the Club and the 1992 Fund was considered reasonable, the amount recognised by the Court was KRW 318 450 947. The amount assessed by the Club and the 1992 Fund totalled KRW 304 177 512, which was paid to the clean-up company in September 2011. The Court ordered the Korean Government to pay the clean-up company the difference plus interest, equivalent to KRW 24 429 768. Both parties appealed to the Supreme Court. As at April 2015, the case was pending at the Supreme Court.

11.3 Claim by a clean-up company against the Club and the 1992 Fund

11.3.1 In November 2010, a contractor who was engaged in clean-up operations after the *Hebei Spirit* incident filed a claim against the owners and insurers of the *Hebei Spirit* and the 1992 Fund in the Seoul Central District Court.

11.3.2 The contractor had submitted a claim totalling KRW 889 427 355 for costs incurred in clean-up operations from January to June 2008. The Club and the 1992 Fund assessed the claim for the period January to March 2008 at KRW 233 158 549. The Club and the 1992 Fund rejected the claim for costs for part of March 2008 and the remaining period, since the area in which the claimant operated was cleaned by mid-March 2008 and therefore further clean-up operations were not considered necessary.

11.3.3 In November 2011, the Court dismissed the company's lawsuit against the 1992 Fund. The Court ruled that the claim against the 1992 Fund was groundless since:

> '…unless and until the total amount of oil pollution claims was confirmed, the claim against the 1992 Fund could not be specified and the 1992 Fund's liability could therefore not be determined; and in any event, the company's reasonable costs were KRW 233 158 549 and this amount had already been paid by the Club.'

11.3.4 The clean-up company appealed against the judgment to the Court of Appeal. Further hearings took place in October 2012, at which further information was requested.

11.3.5 In its judgment in March 2013, the Court of Appeal dismissed the appeal. The Court also made it clear that all the legal costs incurred after the appeal was filed should be borne by the claimant. The claimant appealed the judgment to the Supreme Court. As at October 2015, a judgment by the Supreme Court is expected soon.

12 Recourse actions

12.1 Recourse action by the 1992 Fund against Samsung C&T Corporation (Samsung C&T) and SHI

12.1.1 The owner and insurer of the *Hebei Spirit* commenced a recourse action in January 2009 against Samsung C&T and SHI, the owner and operator/bareboat charterer of the Marine Spread, in the Court of Ningbo in the People's Republic of China, combined with an attachment of SHI's shares in shipyards in the People's Republic of China as security.

12.1.2 In January 2009, the Director decided that in order to protect the interests of the 1992 Fund, the Fund should also commence its own recourse action against Samsung C&T and SHI in the Court of Ningbo in the People's Republic of China, combined with an attachment of SHI's shares in the shipyards in the People's Republic of China as security.

12.1.3 In January 2009, the Ningbo Maritime Court accepted the two recourse actions filed by the owner/Skuld Club and the 1992 Fund. The total amount claimed in each action was RMB 1 367 million or US$ 200 million. The Court also accepted the two applications for attachment of SHI's shares in the shipyards and issued orders accordingly.

12.1.4 In relation to the attachment of SHI's shares, the 1992 Fund arranged for the deposit of the required countersecurity, corresponding to 10% of the amount claimed by a letter of undertaking issued by the Skuld Club.

12.1.5 At its session in March 2009, the 1992 Fund Executive Committee endorsed the decision taken by the Director in January 2009 to commence recourse action against Samsung C&T and SHI in the Ningbo Maritime Court in China at the same time as the owner and the insurer of the *Hebei Spirit*. The Executive Committee also decided that the 1992 Fund should continue the recourse action.

12.1.6 The 1992 Fund then signed an agreement with the ship's interests in connection with the recourse action under which the 1992 Fund and the ship's interests would continue their actions separately,

sharing the costs of the recourse actions and the proceeds of any recovery by court judgment or settlement on a 50/50 basis.

12.1.7 Service of proceedings on both Samsung C&T and SHI was effected in September 2009 but both filed applications objecting to the jurisdiction of the Court of Ningbo and, in the case of SHI, objecting to the attachment. Submissions in response to the applications were lodged on behalf of the 1992 Fund.

12.1.8 In September 2010, the Ningbo Maritime Court dismissed the applications. In October 2010, Samsung C&T and SHI lodged an appeal against the decision of the Ningbo Maritime Court.

12.1.9 In February 2011, the Court of Appeal issued its decision. In the decision the Court of Appeal accepted the appeal by Samsung C&T and SHI that the Court of Ningbo was a *forum non-conveniens* and that a recourse action should be pursued in a Korean Court.

12.1.10 In March 2011, both the 1992 Fund and the owner and insurers of the *Hebei Spirit* lodged separate applications for retrial with the Supreme Court in Beijing. The Supreme Court agreed to hear the applications and the Court documents were served on Samsung C&T and SHI. The Court ordered an adjournment of any application to set aside the attachment order pending the hearing of the application for a retrial.

12.1.11 In July 2011, the Supreme Court held a reconciliation hearing with the parties, with the aim of exploring a possible settlement of their dispute. The 1992 Fund took part in the hearing. In December 2011, the Supreme Court dismissed the 1992 Fund's application for retrial on the grounds of *forum non-conveniens*.

12.1.12 In December 2011, the owner and the insurer of the *Hebei Spirit* concluded a settlement agreement under which Samsung C&T and SHI would pay the amount of US$10 million to the shipowner and its insurer.

12.1.13 In accordance with the agreement in which the 1992 Fund and the ship's interests would share the legal costs and recover any proceeds under a court judgment or settlement on a 50/50 basis, the 1992 Fund recovered US$5 million from the Skuld Club, and reimbursed the Skuld Club and the China P&I Club for their share of the legal costs incurred in bringing the recourse action.

* * *

ANNEX II

HEBEI SPIRIT – LIMITATION PROCEEDINGS
JUDGMENTS BY THE KOREAN COURTS

1 Judgments rendered by the Court of First Instance (Seosan Court)

2014

Judgment on the claim by a water park and spa owner

1.1 In April 2014, the Seosan Court rendered a judgment on the claim by a water park and spa business owner. The claimant filed a claim in the amount of KRW14 754 389 000. Since the claimant did not prove that he had suffered a loss as a consequence of the spill, the Limitation Court rejected the claim. The Seosan Court upheld the Limitation Court's decision. The claimant has not appealed. The judgment is now final.

Two judgments on the claims by 111 individuals in Seocheon-gun

1.2 In July 2014, the Seosan Court rendered two judgments in respect of claims by 111 claimants in Seocheon-gun and Dangjin. In its judgment in respect of the claims by 110 of the claimants, the Court upheld the decision of the Limitation Court and rejected the claims on the grounds that the claimants had failed to prove that they actually fished for a living in the affected area. In one of the cases, the Court found that the oil pollution had not affected the fishing area used by the claimant and did not cause the damages claimed. All the claimants appealed the judgment. In May and June 2015, the Appeal Court dismissed all the appeals. The judgment is now final.

Judgment on the claim by a fish seller

1.3 In July 2014, the Seosan Court rendered a judgment on the case of one fish seller who alleged losses due to lack of supply of oysters as a consequence of the incident. The claim, totalling KRW 12 069 420, consisted of economic losses in the amount of KRW 10 972 200 plus damage assessment fees in the amount of KRW 1 097 220. The Limitation Court had rejected the claim as the claimant had failed to provide sufficient information in support of his claim. The Seosan Court argued that, as the claimant had submitted to the Court additional information on his link with suppliers who were found to have been affected by the contamination, it was likely that the claimant had suffered a loss. The Seosan Court did not uphold the decision of the Limitation Court and awarded to the claimant the full amount of losses.

1.4 The 1992 Fund appealed the judgment, since, although the claimant may have proved that he purchased part of his supply from businesses that were affected by the incident, the information he had provided in support of the claim did not show that he had suffered a loss or that the loss was the same amount as claimed. At the time this document was issued, the Appeal Court had yet to make a decision.

Judgment on the claim by a number of handgatherers and retail businesses

1.5 In July 2014, the Seosan Court rendered a judgment on the claims submitted by one compensation committee on behalf of 247 handgatherers and fish retail business entrepreneurs. The Limitation Court had rejected their claim on the grounds that the items of claim had no causal relationship with the incident and/or were time-barred. In its judgment, the Court of Seosan upheld the decision of the Limitation Court and rejected the claim. All the claimants have appealed the judgment.

Judgment on the claim by one individual alleging health problems following the incident

1.6 In August 2014, the Court of Seosan rendered a judgment on the case of a claimant alleging to have suffered a number of ailments since having participated in the clean-up operations of the *Hebei Spirit* incident. The Seosan Court upheld the decision of the Limitation Court and decided that the claimant

had failed to prove the causal relationship between the oil pollution and the conditions he had developed. The claimant has appealed the judgment.

Judgment on the claim by a shrimp and sea cucumber farm owner

1.7 In August 2014, the Court of Seosan rendered a judgment on the case of a claimant alleging to have suffered a loss in the amount of KRW 1 734 716 000 in respect of the mortality of shrimps and sea cucumbers in his farm caused by oil contamination in the waters caused by the *Hebei Spirit* incident. The Limitation Court rejected the claim as the claimant could not prove the mortalities actually occurred due to the spilled oil. The Seosan Court upheld the decision of the Limitation Court. The claimant has appealed the judgment.

Judgment on the claim by a flatfish farm owner

1.8 In August 2014, the Court of Seosan rendered a judgment on the case of a claimant alleging to have suffered a loss in the amount of KRW173 553 000 in respect of loss of market confidence suffered as a consequence of the spill. The Limitation Court rejected the claim since the claimant could not prove that the losses actually occurred due to the contamination. The Seosan Court upheld the decision of the Limitation Court. The claimant has not appealed the judgment, which is now final.

Judgment on the claim by 247 handgatherers and retail businesses

1.9 In July 2014, the Seosan Court rendered a judgment on the claims submitted by one compensation committee on behalf of 247 handgatherers and fish retail business entrepreneurs. The Limitation Court had rejected their claim on the grounds that the items of claim had no causal relationship with the incident and/or were time barred. In its judgment, the Seosan Court upheld the decision of the Limitation Court and rejected the claim. The claimants have appealed the judgment.

Six judgments on the claims by 2 559 individuals in Seosan

1.10 In September 2014, the Seosan Court rendered six judgments in respect of claims by 2 559 claimants. In the judgments, the Court upheld the decision of the Limitation Court and rejected the claims, since it found that the claimants had not proven to be genuine handgatherers.

1.11 The claimants appealed the judgments. At the time this document was issued, the Appeal Court had yet to make a decision.

Nine judgments on the claims by 2 559 handgatherers in Yeonggwang, Gochang and Sinan

1.12 In October 2014, the Seosan Court rendered judgments on the claims by 2 559 handgatherers in Yeonggwang, Gochang and Sinan. In its judgments, the Court considered that, despite the fact that there was no fishing ban, the handgatherers would have suffered a total loss during a period of two to four months due to the incident and awarded a loss of KRW 11 216 759 760.

1.13 The 1992 Fund appealed the judgments, since it found that the Court had allowed for 100% losses even in the absence of a fishing ban for the entirety of that period, when a number of individuals had submitted evidence showing fishery activity during the same period.

1.14 In October 2015, the Appeal Court issued a reconciliation decision which was accepted by the parties and this judgment is therefore now final.

Judgments on the claims by 6 843 handgatherers in Boryeong and Hongseong

1.15 In October 2014, the Seosan Court rendered judgments on the claims by 6 843 handgatherers in Boryeong and Hongseong. In its judgments, the Court considered that the claims were admissible and awarded them a total of KRW 7 702 227 002.

1.16 The 1992 Fund appealed the judgments, since it found that the Court had allowed for 100% losses even in the absence of a fishing ban for the entirety of that period, when a number of individuals had submitted evidence showing fishery activity during the same period. At the time this document was issued, the Appeal Court had yet to make a decision.

Judgment on the claim by four individuals engaged in clean-up activities

1.17 In November 2014, the Seosan Court rendered a judgment on the claims presented by four individuals alleging to have been involved in clean-up activities in the Bakripo beach area from March to June 2008. The 1992 Fund had rejected their claims considering the action was not reasonable. In its judgment, the Court rejected their claims since the claimants had failed to show that they had actually performed clean-up activities during the alleged period and that such activities, if carried out, were reasonably required. The claimants appealed the judgment.

1.18 At the time this document was issued, the Appeal Court had yet to make a decision.

Two judgments on the claims by handgatherers, village fisheries, and salt farmers from Hampyeong and Muan

1.19 In December 2014, the Seosan Court rendered two judgments covering claims presented by handgatherers, village fisheries and salt farmers from Hampyeong and Muan. In its judgments, the Court upheld the 1992 Fund's assessment of some claims but rejected the ones it considered unsubstantiated. However, it awarded more than the 1992 Fund's assessment to a number of claimants.

1.20 The claimants appealed the judgments. The 1992 Fund also appealed the judgments in respect of those claims for which the Court awarded an amount that the 1992 Fund considered excessive based on the evidence submitted. At the time this document was issued, the Appeal Court had yet to make a decision.

Judgment on the claims by 2 056 handgatherers from Muan and Sinan

1.21 In December 2014, the Seosan Court rendered a further judgment on 142 claims by handgatherers from Muan and Sinan. In its judgment, the court held that, regardless of the fact that there was no official fishing ban in the area, the claimants had still suffered losses for a period corresponding to that of the fishing ban in other areas.

1.22 The claimants appealed the judgment. The 1992 Fund has also appealed the judgment, arguing that unsubstantiated losses had been allowed. The Appeal Court is expected to make a decision in the first half of 2016.

2015

Judgment on the claims by 478 non-fishery claimants and grass eel catchers

1.23 In February 2015, the Seosan Court rendered a judgment on the claims by 478 non-fishery claimants and grass eel catchers. The 1992 Fund had rejected the claims since the claimants had failed to prove that they had suffered a loss as a consequence of the contamination and they had failed to provide a valid license to exercise the activity. In its judgment, the Seosan Court upheld the 1992 Fund's assessment of these claims and rejected all the claims.

1.24 The claimants appealed the judgment. The Appeal Court is expected to issue a decision in the first half of 2016.

Judgment on the claims by 1 577 handgatherers

1.25 In February 2015, the Seosan Court rendered a judgment on the claims by 1 577 handgatherers in Buan-gun and Gunsan. The 1992 Fund had rejected the claims since the claimants had not proven to

have been engaged in the handgathering activities at the time of the incident or that they had suffered a loss as a consequence of the contamination. In its judgment, the Court upheld the 1992 Fund's view that the claimant had not proven to be engaged in handgathering activities or that they had suffered a loss as a consequence of the contamination.

1.26 The claimants appealed the judgment. At the time this document was issued, the Appeal Court had yet to make a decision.

Judgment on the claims by 470 individuals for economic losses

1.27 In May 2015, the Seosan Court rendered a judgment with respect to the claims of 470 individuals operating in various businesses including, *inter alia*, a taxi business, comic book rental shop, newspaper delivery business and boiler sales. The 1992 Fund had originally rejected the claims since the claimants had not submitted sufficient information to support their claims. In its judgment, the Court rejected the claims since it found that there was no evidence supporting that the claimants' business losses had been due to the incident.

1.28 The claimants appealed the judgment. At the time this document was issued, the Appeal Court had yet to make a decision.

Judgment on the claims by 196 handgatherers

1.29 In July 2015 the Seosan Court rendered a judgment in respect of 196 handgatherer claimants from Yeongwang-gun. The 1992 Fund had rejected the claims since it had found that the claimants had not suffered a loss because of the contamination. In its judgment, the Court found that the claimants were not genuine handgatherers and therefore dismissed the claimants' claim.

1.30 The claimant appealed the judgment. The decision by the Court of Appeal Court is expected in the first half of 2016.

Judgment on the claims by two aquaculture operators

1.31 In July 2015 the Seosan Court rendered a judgment in respect of two aquaculture operators claiming for economic losses suffered as a consequence of the contamination. The 1992 Fund had rejected the claims since they claimants had not provided sufficient information to prove that they had suffered a loss. In its judgment, the Court determined that the claimants had failed to prove their alleged damages with sufficient evidence and therefore rejected their claims. One of the claimants filed an appeal to the Appeal Court, but the appeal was dismissed for passing the deadline for appeal. This judgment is now final.

Judgment on the claims by three handgatherers in Hongseong

1.32 In August 2015, the Court of Seosan rendered a judgment in respect of three handgatherer claimants from Hongseong. The 1992 Fund had originally assessed the claims at the aggregate amount of KRW 510 000. During the Court proceedings, and after additional information was submitted by the claimant in court, the Court awarded damages to the claimants totalling KRW 1 019 780. The 1992 Fund's experts reviewed the submitted information as well as the judgment, and the 1992 Fund considered the judgment to be reasonable. This judgment is now final.

Judgment on the claims by 28 handgatherers

1.33 In August 2015, the Court of Seosan rendered a judgment on the claims by 28 handgatherers. In its judgment, the Court rejected 27 claims since the claimants failed to prove that they were genuine handgatherers. One claimant submitted additional information and the Court assessed the claim at KRW 236 456. The 1992 Fund's experts reviewed the submitted information as well as the judgment, and the 1992 Fund considered the judgment as reasonable. This judgment is now final.

Judgment on the claim by a Village Fishery Association

1.34 In August 2015, the Seosan Court rendered a judgment is in respect of a claim by a Village Fishery association. The Court adopted the 1992 Fund's calculation of losses and assessed the claim at KRW 16 094 764. The claimant appealed the judgment. At the time this document was issued it was not known when the Appeal Court would hear this case.

Judgment on the claims by two local authorities in Boryeong and Chungcheongnamdo

1.35 In October 2015, the Seosan Court rendered a judgment in respect of subrogated claims by two local authorities in Boryeong and Chungcheongnamdo for, respectively, costs related to villagers' labour costs during the clean up operations after the spill and costs incurred to provide transport and sustenance to students, teachers, city officials and others to various parts of Taean and offshore Islands to assist the clean-up operation.

1.36 In its judgment, the Seosan Court upheld the decision made by the Limitation Court awarded respectively, KRW 894 965 000 and KRW 4 357 600 to the two local authorities.

1.37 The 1992 Fund appealed the judgment with respect to the claim for villagers costs, since the reasons provided by the Court for establishing the award were considered unreasonable. With regard to the transport and sustenance cost claim, the 1992 Fund considered the Court's judgment reasonable.

1.38 The Appeal Court is expected to make a decision on this case in the first half of 2016.

Judgment on the claims by 605 various non-fisheries businesses in Taean

1.39 In October 2015, the Seosan Court rendered a judgment in respect of 605 non-fishery claims in Taean. In its judgment, the Court upheld the 1992 Fund's assessment and rejected the claims, since the claimants could not substantiate their alleged loss. The claimants appealed the judgment.

Judgment on the claim by one handgatherer

1.40 In November 2015, the Seosan Court rendered a judgment is in respect of a claim by one handgatherer. The Court rejected the claim for lack of evidence. The judgment is now final.

Judgment on the claims by seven handgatherers

1.41 In November 2015, the Seosan Court rendered a judgment in respect of the claims by seven handgatherers. The Court dismissed the claims, as the claimants failed to submit evidence of the alleged damages.

1.42 At the time this document was issued, one of the seven claimants had appealed the judgment. The judgment is final for the other six claimants.

Judgment on the claims by 40 handgatherers

1.43 In November 2015, the Seosan Court rendered four judgments in respect of the claims by 40 handgatherers. In its judgment, the Court dismissed 15 of the claims, since it found that the claimants failed to prove that they had been engaged in the business of hand gathering at the time of the incident. The Court awarded a total of KRW 15 045 420 to the remaining 25 claimants. The 1992 Fund considered the awarded amount reasonable.

1.44 At the time this document was issued, two of the 40 claimants had appealed the judgment. The Appeal Court is expected to take a decision on their case in the first half of 2016. The judgment is final for the remaining 38 claims.

Judgment on six laver aquaculture and manufacturing businesses in Seocheon

1.45 In November 2015, the Seosan Court rendered a judgment in respect of six claims by laver aquaculture and manufacturing businesses in Seocheon. The Court dismissed all the claims, as the claimants failed to prove that they had suffered a loss as a consequence of the incident. The claimants have appealed.

Judgment on the claim by the cargo underwriter of the Hebei Spirit

1.46 In December 2015, the Soesan Court rendered a judgment in respect of a subrogated claim filed by cargo underwriters for the shortage of crude oil at the time of the incident.

1.47 The Limitation Court has assessed the claimant's claim at KRW2 259 601 474 (£1.3 million). The 1992 Fund filed an objection to the grounds that cargo shortage is not "pollution damage".

1.48 The Seosan Court held that the damage alleged by the claimant was shortage of cargo rather than damages resulting from the oil pollution and was not subject to compensation pursuant to the Korean Compensation for Oil Pollution Damage Guarantee Act and CLC. The Seosan Court dismissed the claim and the claimant did not appeal. The judgment is now final.

2016

Judgment on five claims by five coastal fishermen

1.49 In January 2016, the Seosan Court rendered a judgment with regard to five individuals engaged in coastal fisheries in Seocheon and Hongseong. In its judgments, the Court rejected all the claims since it found that the claimants had not suffered a loss as a consequence of the incident. The claimants did not appeal the judgment, which is now final.

Five judgments on the claims by 62 fishing boat owners

1.50 In February 2016, the Seosan Court rendered four judgments with regard to 62 fishing boat owners. The Court rejected 60 claims since it found that the claimants had not suffered a loss as a consequence of the incident. The Court awarded damages to two claimants totalling KRWW 439 722. The 1992 Fund's experts reviewed the judgments, and the 1992 Fund considered the judgments reasonable.

1.51 At the time this document was issued, three of the claimants had appealed the judgment. The judgments became final with respect to the remaining 59 claimants.

Judgment on 110 claims from individual businesses in Dangjin

In January 2016, the Seosan Court rendered a judgment in respect of claims by 110 non-fishery related businesses in Dangjin. The Court dismissed 109 claims as the claimants did not hold licenses or permits for their business trade. In one additional case, the Court found that the claimant, although in possession of a license, failed to submit sufficient evidence of his loss and dismissed the claim. This judgment is now final.

Judgment on 17 claims from individual businesses in Taean-eup

1.52 In January 2016, the Seosan Court rendered a judgment in respect of claims by 110 non-fishery related businesses in Dangjin. The Court dismissed 109 claims as the claimants did not hold licenses or permits for their business trade. In one additional case, the Court found that the claimant, although in possession of a license, failed to submit sufficient evidence of his loss and dismissed the claim. This judgment is now final.

1.53 In January 2016, the Seosan Court rendered a judgment in respect of 17 non-fishery claimants from Taean-eup. The Court dismissed 16 of the claims for lack of evidence. Additionally, one of the

individuals failed to substantiate his claim and the Court dismissed it. The claimants appealed the judgment.

Judgment in respect of claims by five claimants engaged in restaurant or retail businesses.

1.54 In March 2015, the Seosan Court rendered a judgment in respect of five claimants engaged in restaurant or retail business. In its judgment, the Court confirmed the amount already assessed by the 1992 Fund for the claimant engaged in restaurant business. The Court assessed the other claims on the basis of the information provided in Court. The 1992 Fund and its experts reviewed the information provided and considered the Court's decision reasonable. At the time this document was published, it was not known whether the claimants have appealed the judgment.

2 Proceedings in the Daejon Appeal Court (Appeal Court)

Judgment on the claims by 72 fishermen

2.1 In May 2015, the Appeal Court rendered a decision in respect of the Assessment Decision by the Seosan Court in January 2013 in respect of 72 fishermen who were operating without license. In its judgment, the Court found that the claimants' unlicensed fishing operations were seriously illegal, and the income originated from such actions could not be taken into account when assessing compensable damages. The Court therefore rejected the claim. The claimants appealed the judgment.

Judgment on the claim by two handgatherers in Boryeong

2.2 In February 2015, the Seosan Court rendered two judgments on the claims by two handgatherers in Boryeong. The 1992 Fund had rejected the claims since the claimants had failed to protect their claims in court and had therefore become time barred. In its judgment, the Seosan Court upheld the 1992 Fund's rejection of the claim.

2.3 The claimants appealed the judgment. In November 2015, the Appeal Court dismissed the appeal. The claimants appealed to the Supreme Court. At the time this document was published, the Supreme Court had not issue a decision.

Judgment on the claims by six central and local authorities

2.4 In February 2015, the Seosan Court rendered a judgment on the claims by six local authorities in respect of transportation costs and other expenses incurred for volunteers' clean-up activities, totalling KRW 2 757 572 430. In its judgment, awarding KRW 31 001 690, the Court upheld the 1992 Fund's position in respect of the transportation costs and other expenses incurred for the volunteers' clean-up activities. The Seosan Court held that:

(i) the transportation costs of the volunteers to the gathering points was not reasonable; and

(ii) the expenses incurred after 1 January 2008 were not recoverable either, unless it was established that the clean-up activities involving those volunteers were technically reasonable.

2.5 Two of the claimants appealed the judgment. In November 2015, the Appeal Court dismissed the claimants' appeal. This judgment is now final.

Five judgments on the claim by 3060 fishermen in Seocheon-gun and Dangjin-Gun

2.6 In May 2014, the Seosan Court rendered five judgments in respect of claims by 4 658 claimants in Seocheon-gun and Dangjin. In the judgments, the Seosan Court upheld the decision of the Limitation Court and rejected the claims on the basis that the level of oil pollution was minimal and therefore it could not have affected the area and caused the alleged damages. The judgments are now final.

Judgment on the claims by three local authorities claims for costs incurred in relation to clean-up operations and economic losses

2.7 In July 2015, the Seosan Court rendered a judgment in respect of the claims by three local and central government authorities for clean-up-related costs and economic losses for costs incurred to minimise losses in the area. The 1992 Fund had originally only partially accepted the claims, since the claimants had not submitted sufficient information in support of their claim. Further information was submitted during the legal proceedings and the 1992 Fund and its experts were able to review it. The 1992 Fund agreed with the judgment, however the claimants appealed it.

2.8 In November 2015, the Appeal Court dismissed the appeal. This judgment is now final.

Judgment on a claim by one handgatherer

2.9 In January 2016, the Appeal Court rendered a judgment in respect of a claim by one handgatherer. The Seosan Court had originally dismissed the claim on the grounds that the claimant failed to submit sufficient evidence to prove that he was engaged in handgathering at the time of the incident. The claimant appealed and the Seosan Court's decision was upheld. This judgment is now final.