



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUNDS

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1992 Fund Assembly	92AES17	
1992 Fund Executive Committee	92EC55	•
1971 Fund Administrative Council	71AC28	
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1992 Fund Working Group 7	92WG7/1	

## INCIDENTS INVOLVING THE IOPC FUNDS – 1992 FUND

### HEBEI SPIRIT

Submitted by the Republic of Korea

<b>Summary:</b>	This document contains information on the status of compensation for damages incurred by the <i>Hebei Spirit</i> incident, which took place off the west coast of the Republic of Korea.
<b>Action to be taken:</b>	<u>1992 Fund Executive Committee</u>  Information to be noted.

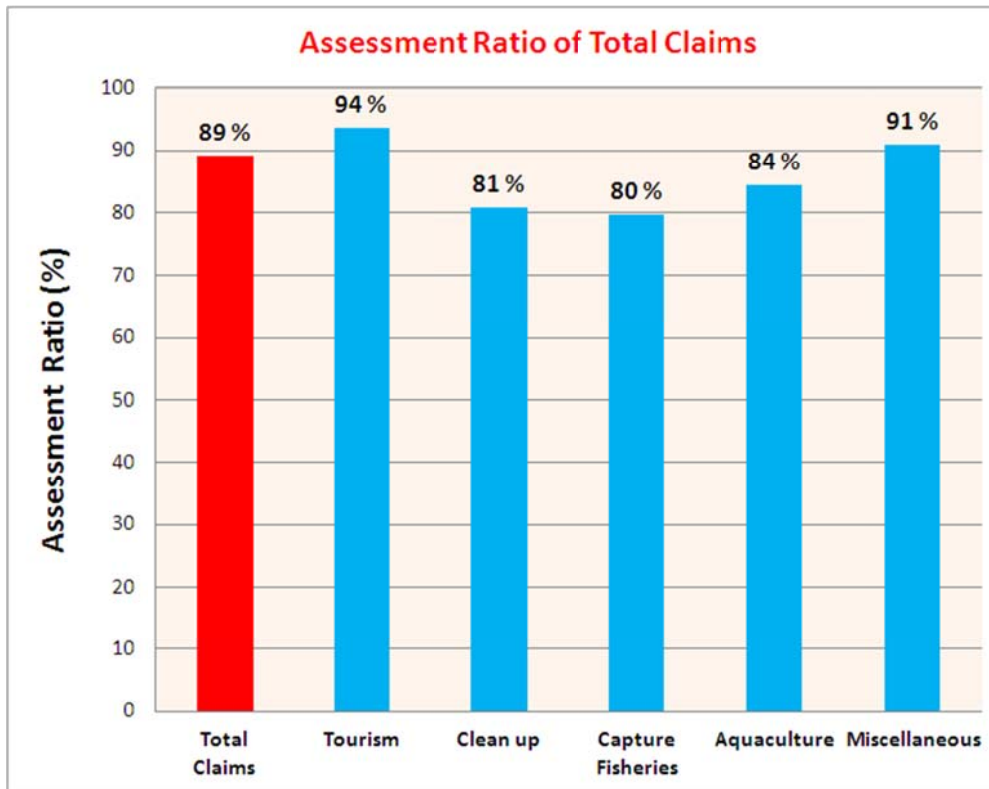
#### 1 Introduction

This document is submitted to explain the status of compensation and relevant issues for the *Hebei Spirit* incident, which took place off the west coast of the Republic of Korea on 7 December 2007, following the collision between a crane barge being towed by a fleet of tugboats and the oil tanker *Hebei Spirit*, and to enhance the overall understanding of Member States regarding measures taken by the Korean Government for residents of the affected areas and to urge prompt assessment of claims to ensure speedy compensation for victims.

#### 2 Request for prompt assessment

- 2.1 As at 26 March 2012, four years and three months after the occurrence of the *Hebei Spirit* incident, a total of 28 869 claims (number of claimants: 128 385) have been registered at the *Hebei Spirit* Centre (HSC), a claims office set up by Skuld P&I Club and the 1992 Fund. Out of the total number of claims submitted, 25 748 claims (89.2%) have been assessed and as illustrated by Chart 1 on the next page, the assessment ratios for the tourism sector, clean-up operations, capture fisheries, aquaculture and others are 94%, 81%, 80%, 84% and 91% respectively.

&lt; Chart 1 Assessment Ratios of Total Claims &gt;



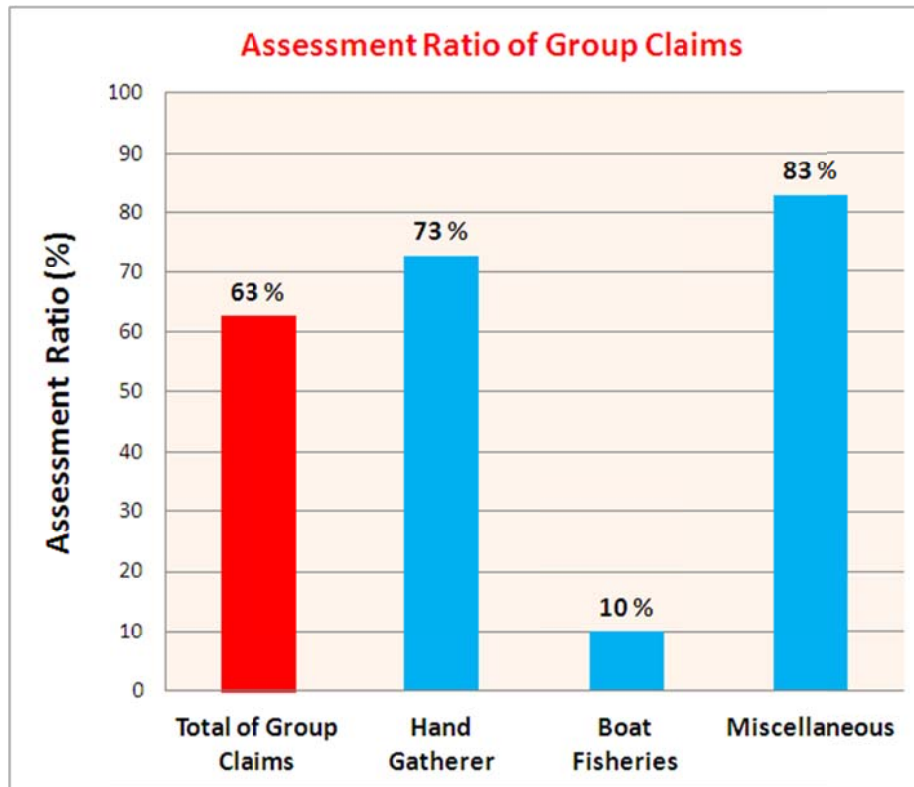
- 2.2 However, for group fisheries claims, which account for 77.7% (number of claimants: 99 800) of a total of 128 385 claimants, the assessment ratios remain at 62.7% in terms of the number of claims and 82.8% based on the number of claimants, which fall short of the assessment ratio of total claims (89.2 %) that includes the fisheries and non-fisheries sectors.

&lt; Table 1 Assessment and Approval Status of Group Fisheries Claims &gt;

	Number of Claims <Number of claimants>	Number of Claims Assessed (%) < Number of claimants >	Number of Claims Approved < Number of claimants>
<b>Total</b>	<b>284</b> <99 800>	<b>178 (62.7%)</b> <82 677>	<b>71</b> <41 323>
<b>Hand Gatherers</b>	<b>205</b> <88 744>	<b>149 (72.7%)</b> <79 959>	<b>62</b> <39 231>
<b>Boat Fisheries</b>	<b>50</b> <9 136>	<b>5 (10%)</b> <1 884>	<b>5</b> <1 884>
<b>Others</b>	<b>29</b> <1 920>	<b>24 (82.8%)</b> <834>	<b>4</b> <208>

- 2.3 According to Chart 2 which displays the assessment ratios of group fisheries claims by type of fisheries, hand gatherers and boat fisheries record relatively low assessment ratios of 73% and 10% respectively based on the number of claims submitted, with boat fisheries registering a mere 4% increase compared to the 6% in August last year.

< Chart 2 Assessment Ratios of Group Fisheries Claims >



- 2.4 Moreover, in terms of the number of claimants, 17 123 and 7 252 claimants in the categories of hand gatherers and boat fisheries each, which represent 19% of a total of 128 385 claimants, have not had their claims assessed and suffer from difficult economic conditions.
- 2.5 Since the Seosan Branch of the Daejeon District Court (the Limitation Court) has set the next hearing date at 27 August 2012 for the *Hebei Spirit* incident, the 1992 Fund is requested to make every effort necessary to complete assessment of all claims and submit relevant assessment documents (assessment reports) by the end of June this year to enable the Court to promptly carry out compensation procedures.

### 3 Limitation proceedings

- 3.1 The Seosan Branch of the Daejeon District Court decided to open the limitation proceedings filed by the shipowner on 9 February 2009. Some claimants filed an appeal to the decision which was later dismissed by the Supreme Court. As at the end of February 2012, the total number of claims filed in the Limitation Court is approximately 127 000 (KRW 4.07 trillion).
- 3.2 Meanwhile, the competent courts decided to open the limitation proceedings filed by the tugboats' fleet, but the claimants' representatives and the Korean Government have appealed that decision to the Supreme Court.
- 3.3 For the limitation proceedings, after forming an expert group to investigate the claims filed at the Limitation Court, the competent court has initiated verification of the claims since November 2011 and set the investigation deadline at 27 August 2012. If any objections are raised about the damage amount presented by the legal representative at the time of the investigation, the assessment ruling will be rendered at the end of 2012.

#### **4 Major actions taken by the Korean Government**

##### **4.1 Support based on the Special Law**

4.1.1 The Special Law prescribes that in case the amount assessed (approved) by the 1992 Fund is in excess of the amount available under the 1992 Fund Convention, the Korean Government will make full payment of the exceeding amount. As such, the Korean Government and the P&I Club concluded the Second Cooperation Agreement by which the P&I Club directly pays the full amount assessed by the 1992 Fund to the claimants up to its limit of liability.

4.1.2 Under the Special Law, when a claimant who has received the assessment results from the 1992 Fund applies for an advance payment to the Korean Government, the Government makes full payment of the amount assessed on condition of exercising its subrogation right to the particular claim. As at the end of February 2012, a total of 614 applications (KRW 35.4 billion) submitted by claimants had been paid out.

4.1.3 Also, the Special Law stipulates that when a claimant who has not received the assessment results from the 1992 Fund within six months of filing a claim, applies to the Korean Government for a loan, the Government extends an interest-free loan in the range of KRW 1.5 million to KRW 8.5 million per person. The total number of loans executed was 21 288 (KRW 50.6 billion) as at the end of February 2012.

##### **4.2 Marine environment monitoring and restoration**

4.2.1 In November 2009 the Government, in collaboration with relevant ministries, established a special marine environment restoration plan to monitor and restore the areas affected by the incident. In November 2010, local residents of the affected areas were briefed by the Government on the results of the secondary oil pollution impact study (April 2009 - September 2010).

4.2.2 The oil pollution impact study by the Ministry of Land, Transport and Maritime Affairs (MLTM) through its annual monitoring and study (investigation of the dispersion of oil indications along the coasts of 12 regions near Tae-an and ten severely polluted islands in Chung-nam and Jeonla-do) revealed that traces of stranded oil from the incident were still being found off the coast of many regions. Since the incident on 7 December 2007, the MLTM has been conducting a study and monitoring the marine environment on a yearly basis for the past five years.

4.2.3 The Korean Government made one addition to the list of designated coasts and islands where the marine environment or the ecosystem have been damaged or changed as a result of the incident and need to be restored, and made the announcement on 31 December 2010.

4.2.4 According to the special plan, the Korean Government will continue to monitor and evaluate the changes in the marine environment and the ecosystem, and take necessary measures for environmental restoration. The study of the MLTM is scheduled to last until March 2019.

##### **4.3 Measures to improve the image of the affected areas**

4.3.1 Since 2008, the Korean Government and local authorities have organised various events to improve the image of the affected areas, including international open water swimming and deep sea fishing contests, in an effort to help boost marine tourism and revitalise local economies. The central government spent a total budget of KRW 790 million to support these events from 2008 to 2011.

4.3.2 These events will be held with the government budget of KRW 300 million in 2012, as tourism activities are not considered to have fully recovered yet.

#### 4.4 Support for fisheries activities

- 4.4.1 On the day of the incident (7 December 2007), the Korean Government restricted all harvest and capture of marine products from the affected areas in order to protect public health against any potential negative effects from sales and distribution of contaminated fishery products. As of 18 April 2008, in consideration of the progress of the clean-up operations undertaken in the affected areas, and the results of the marine environment study and fishery products safety tests, the Government initially lifted the restrictions on boat fisheries, and later on 3 September 2008, all types of fishery operations were resumed in all the affected waters and coasts.
- 4.4.2 In order to prevent secondary pollution, the removal of oyster cultivation facilities started in May 2008 and was completed by 24 July 2008 prior to the opening of the recreational beaches in the summer peak season. For the activity, the Korean Government injected KRW 12.61 billion and succeeded in preventing secondary pollution.
- 4.4.3 In order to restore the contaminated fishing grounds as early as possible, the Government has been working with experts from the National Fisheries Research and Development Institute (NFRDI) to survey the status of contamination in the affected areas and to draw up a restoration plan with the government budget of KRW 1.7 billion, under which projects had been conducted on a yearly basis for three years since 2008.
- 4.4.4 Furthermore, a 2009 supplementary budget of KRW 2 billion was earmarked for restoration in the affected fishing grounds, with which environment improvement projects were carried out such as tilling and dredging of the fishing grounds. The Government will provide an additional budget of KRW 157.7 billion for ten years starting from 2010 for the same purpose. An additional budget of KRW 21.6 billion was already injected in 2010 and another KRW 20.5 billion was injected in 2011, with the same amount set to be spent for 2012.

#### 5 Collaboration with the 1992 Fund

- 5.1 The Korean Government is continuously collaborating with the 1992 Fund Secretariat and the HSC to share major and minor issues that arise in the process of completing damage compensation claims and to seek prompt and reasonable solutions.
- 5.2 Since the last Executive Committee meeting in October 2011, the Director and Claims Managers have visited Korea and met with the Vice Minister of MLTM and had a meeting with government officials to discuss various issues such as the current status and prospects for compensation and adjustment of recognised fisheries restriction periods for certain affected areas.
- 5.3 Also, since the last Executive Committee meeting, the Korean Government and the HSC have held two meetings to discuss major pending issues, including the Korean Government's confirmation of 'standing last in the queue' (SLQ) claims and review of tourism claims in the affected areas, and to share compensation-related information.
- 5.4 In particular, as assessment of compensation claims is nearing its end this year, the Korean Government expects that the P&I Club will complete its payment of compensation up to the 1992 Civil Liability Convention (CLC) limit and the 1992 Fund will also begin making compensation payments, while the Limitation Court is expected to render assessment rulings through verification of claims on 27 August 2012, all of which is likely to require consultation with the 1992 Fund.
- 5.5 To facilitate compensation for victims and promptly proceed with confirmation of the claims filed to the Limitation Court, the Korean Government will work closely with the 1992 Fund and the P&I Club and seek active cooperation on the part of the 1992 Fund and the P&I Club as well.

**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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