



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUNDS

Agenda item: 3	IOPC/OCT14/3/8/2	
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1992 Fund Assembly	92A19	
1992 Fund Executive Committee	92EC62	•
Supplementary Fund Assembly	SA10	
1971 Fund Administrative Council	71AC33	

INCIDENTS INVOLVING THE IOPC FUNDS – 1992 FUND

HEBEI SPIRIT

Submitted by the Republic of Korea

Summary:	This document provides information on the state of compensation provided for the <i>Hebei Spirit</i> incident, which took place in the waters off the western coast of the Republic of Korea.
Action to be taken:	<u>1992 Fund Executive Committee</u> The 1992 Fund Executive Committee is kindly invited to take note of the information in this document and raise the level of payment to compensate the damages for this incident.

1 Summary

This document is being submitted to request to raise the level of payment by the IOPC Funds for the oil pollution incident that occurred on 7 December 2007 in the waters off Taean-gun, Chungcheongnam-do, Republic of Korea, because of a collision between an oil tanker *Hebei Spirit* and a marine crane barge.

2 State of litigations

- 2.1 Of the total 122 552 litigations as at 19 September 2014, for which both the claimants and the IOPC Funds have presented their objections to the decision made by the Limitation Court of the Seosan Court of the Daejeon District Court (16 January 2013), 55 366 (45.2%) cases have been closed with Withdrawn, Reconciliation, Rejection and Judgement. As at 19 September 2014, 72 157 (58.9%) litigations including 4 971 cases re-appealed are still pending.

State of litigations (as at 19 September 2014 (Unit: KRW 1 million))

Category	Sub-category		Amount decided by the Limitation Court	No. of Litigation/Amount confirmed or decided by the first court					Appealed (amount by Limitation Court)	
				Withdrawn (final amount) (a)	Reconciliation (final amount) (b)	Rejected (final amount) (c)	Ruled (judged) (d)	Closed (a+b+c+d)		Under progress (amount decided by Limitation Court)
Fisheries	Fishing by hand gatherers	Number of claims	86 276	8 327	29 518	1	7 064	44 910	41 366	4 527
		Amount claimed	238 469	0	54 884	0	0	54 884	123 684	0
	Others	Number of claims	15 807	2 690	1 237	0	434	4 361	11 446	434
		Amount claimed	64 806	511	4 721	0	0	5 232	55 676	2 292
Non-fisheries	Number of claims	20 469	4 188	1 893	2	12	6 095	14 374	10	
	Amount claimed	388 994	2 012	1 693	0	11	3 716	384 819	0	
Total	Number of claims	122 552	15 205	32 491	3	7 510	55 366	67 186	4 971	
	Amount claimed	692 270	2 523	61 120	0	11	63 832	564 180	2 292	

- 2.2 Initially, the judgment of the first trial was supposed to be made in May 2014 in accordance with the Special Act on Assistance to Residents Suffering Damage from the *Hebei Spirit* Oil Spill Incident. However, because of the large number and complicated types of bonds, the court hearing was delayed, and it was impossible to rule all at once. Hence, the court plans to rule in consecutive order by dividing the bonds by region and field until the end of the year, following the first trial judgment made on 21 May 2014.
- 2.3 The court mainly proceeded with the bond ruling for the Dangjin, Seosan, and Seocheon regions, whose damages were lowly recognised by the Limitation Court. Of the total 7 510 litigations (as of 19 September 2014), it recognised damages only for one litigation case (KRW 11 million, 0.1% of the amount decided by the Limitation Court).

State of litigation rulings (as at 19 September 2014 (Unit: KRW 1 million))

Category	Sub-category		Litigation (number and amount)			Amount of Request	Amount of Decision by Limitation Court	Ratio	
			Total	> KRW 0	= KRW 0			Request	Limitation Court
Fisheries	Fishing by hand gatherers	Number of claims	7 064	0	7 064	113 758	5 472	0	0
		Amount claimed	0	0	0				
	Others	Number of claims	434	0	434	16 915	3	0.1	419.2
		Amount claimed	0	0	0				
Non-fisheries	Number of claims	12	1	11	16 875	0	0.1	-	
	Amount claimed	11	11	0					
Total	Number of claims	7 510	1	7 509	149 210	7 754	0	0.1	
	Amount claimed	11	11	0					

- 2.4 As at 19 September 2014, a total of 32 648 litigations were agreed upon according to the Court's recommendation for reconciliation, and the amount agreed upon was KRW 61 298 million which is tantamount to 52.0% of the amount decided by the Limitation Court.

*State of agreed litigations, for which reconciliation was recommended (as at 19 September 2014)
(Unit: KRW 1 million)*

Category	Sub-category		No. and amount of reconciliation			Amount of Request	Amount of Decision by Limitation Court	Amount of Approved by Fund	Ratio	
			Total	> KRW 0	= KRW 0				Request	Limitation Court
Fisheries	Fishing by hand gatherers	Number of claims	29 518	11 756	17 762	332 528	109 313	12 459	16.5	50.2
		Amount claimed	54 884	54 884	0					
	Others	Number of claims	1 237	136	1 101	56 889	6 327	423	8.3	75.1
		Amount claimed	4 721	4 721	0					
Non-fisheries		Number of claims	1 893	94	1 799	33 879	2 161	206	5.0	78.3
		Amount claimed	1 693	1 693	0					
Total		Number of claims	32 648	11 986	20 662	423 305	117 801	13 088	14.5	52.0
		Amount claimed	61 298	61 298	0					

3 State of paid compensation

- 3.1 After the Limitation Court ruled in January 2013, compensation payment stopped. However, the payment of compensation by the shipowner's insurance company recommenced at the end of July 2014. As of 15 September 2014, a total of KRW 185 559 million (4 375 claims) has been paid to claimants.

State of compensation paid by shipowner's insurance company and the IOPC Funds (as at 15 September 2014) (Unit: KRW 1 million)

	Claimed	Assessed		Approved		Compensation paid		
	Bonds	No.	Ratio	Bonds	Ratio	Total	Club	Government
No. of cases	128 404 (Individual) (29 017) (Group)	128 393 (29 006)	99.9%	57 028 (4 859)	44.4%	32 303 (4 418)	32 260 (4 375)	43 (43)
Amount	2 775 997			199 910	7.2%	190 241	185 559	4 682

- 3.2 As of late September 2014, once the shipowner's insurance company has paid the full amount of its limitation liability of KRW 186 827 million, the IOPC Funds shall pay compensation thereafter. In this case, the claimants can choose one of the following two options:

- (i) the claimants can directly request compensation from the IOPC Funds and receive some of the compensation (35% of the confirmed monetary value of damages plus midterm payment) from the IOPC Funds in accordance with the 1992 Fund's payment rate (35%) and receive the remaining 65% from the Korean Government in proxy; or
- (ii) they can receive all of the confirmed monetary value of damages from the government. When the government has paid compensation in proxy, the Fund will reimburse the compensation made by Korea according to the Fund's payment rate upon the request of the Korean Government.

4 Opinion of the Korean Government and corrective measures

- 4.1 As shown in the table in paragraph 2.1, about 40% of bonds have been concluded according to the litigation rulings. By the end of the year when the first trial judgment will have been completed, over 50% of all the bonds are expected to be processed. Accordingly, the problem of uncertainty of the final amount to compensate, which the IOPC Funds has claimed so far as worrisome, will be solved to some extent.
- 4.2 In addition, as shown in the table in paragraph 2.4, the amount recommended for reconciliation has been maintained at around 52% of the amount decided by the Limitation Court (KRW 117 374 million); that is, the final amount to be ruled is also expected to be around 50–55% of the amount decided by the Limitation Court or around KRW 369 223 million –KRW 406 147 million.
- 4.3 Therefore, as the fluctuation risk of compensation for claimants has been solved to some extent, even if it exceeds the total compensation limit (KRW 321 619 million) of the shipowner's insurance company and the IOPC Funds, the Korean government would like to request a raise of the compensation payment rate to an appropriate level of 70–80%.

5 Action to be taken1992 Fund Executive Committee

The 1992 Fund Executive Committee is kindly invited to refer to the information in this document and raise the payment rate during the meeting as requested by the Korean Government.
