



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUNDS

Agenda item: 3	IOPC/OCT14/3/8/1	
Original: ENGLISH	7 October 2014	
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

Note by the Secretariat

Objective of document:	To inform the 1992 Fund Executive Committee of the latest developments regarding this incident. <i>Level of payments</i> In June 2008 the 1992 Fund Executive Committee decided, in view of the uncertainty as to the total amount of the admissible claims, to set the level of payments at 35% of the established claims. This decision was maintained at subsequent meetings of the Executive Committee. In view of the amount awarded by the Limitation Court and of the significant number of objections to the Court's decision, the Director proposes maintaining the level of payments at 35% so as to avoid an overpayment situation. The Director also proposes that this level of payments be reviewed at the next session of the Executive Committee.
Action to be taken:	<u>1992 Fund Executive Committee</u> Decide whether to maintain the level of payments at 35%.

1 Level of payments

- 1.1 As at 7 October 2014, the Court of Seosan had settled through mediation over 36 254 claims, or some 40% of the claims submitted.
- 1.2 Some 60% of the claims in the Seosan Court, however, remain pending and it is unlikely that a decision will be made on the remaining claims before summer 2015.
- 1.3 The table below shows the amount available for compensation as a percentage of the amount still being disputed in the Seosan Court, and as a percentage of the amount awarded by the Limitation Court both including and excluding the claims for which the Korean authorities are 'standing last in the queue (SLQ)'.

	Amount (KRW billion)	Amount (£ million)	1992 Fund's limit (KRW 321.6 billion) as a percentage of the amount claimed/ awarded
Amount claimed in the Seosan Court including amount settled through mediation	1 254	700	25.7%
Amount claimed in the Seosan Court including amount settled through mediation (excluding SLQ claims)	1 033	577	31.1%
Amount awarded by the Limitation Court	738	412	43.6%
Amount awarded by the Limitation Court (excluding SLQ claims)	518	289	62.1%

- 1.4 The total amount available for compensation under the 1992 Fund Convention is 203 million SDR or KRW 321.6 billion.
- 1.5 The amount assessed by the Limitation Court in its January 2013 decision was KRW 738 billion. The amount available under the 1992 Conventions would only correspond to 43.6% of the amount assessed by the Limitation Court.
- 1.6 Excluding the claims for which the Korean Government is 'standing last in the queue', the amount available under the 1992 Conventions would only correspond to 62.1% of the amount assessed by the Court.
- 1.7 As at 7 October 2014, the Seosan Court has issued judgments and recommendations towards over 50 000 claims out of the 86 000 considered by the Court. Recommendations in respect of some 36 254 claims (about 40% of all the claims), totalling KRW 63 615 million, have become final. The remaining 60% of the claims, at a total amount of KRW 1 190 billion, are still pending in the proceedings. The amount available under the 1992 Conventions corresponds to 25.7% of the aggregated amounts still pending in the proceedings and settled through mediation (ie KRW 1 190 billion plus KRW 63.6 billion).
- 1.8 The Court issued 11 judgments on a total of 4 971 actions. Although these judgments were generally in line with the 1992 Fund's conclusions on these claims they have all been appealed except in one case. A further six judgments have been issued on a total of 2 559 actions. It is not known whether these claimants have appealed them. It is thus still difficult to predict the impact of the Limitation Court's assessment on future court cases.
- 1.9 In view of the disparity between the amounts claimed in the court proceedings and the amount determined by the Court, and in view of the fact that only 40% of the claims have been settled through mediation, the Director is of the view that it is premature to raise the level of payments at this moment.
- 1.10 The Director therefore recommends the 1992 Fund Executive Committee to maintain the level of payments at 35% of the amount of the loss or damage as assessed by the Club's and 1992 Fund's experts or by the Court through final judgment or mediation, and that this percentage should be revised at the next session of the 1992 Fund Executive Committee.

Action to be taken

1992 Fund Executive Committee

The 1992 Fund Executive Committee is invited to decide whether to maintain the level of payments at 35%.
