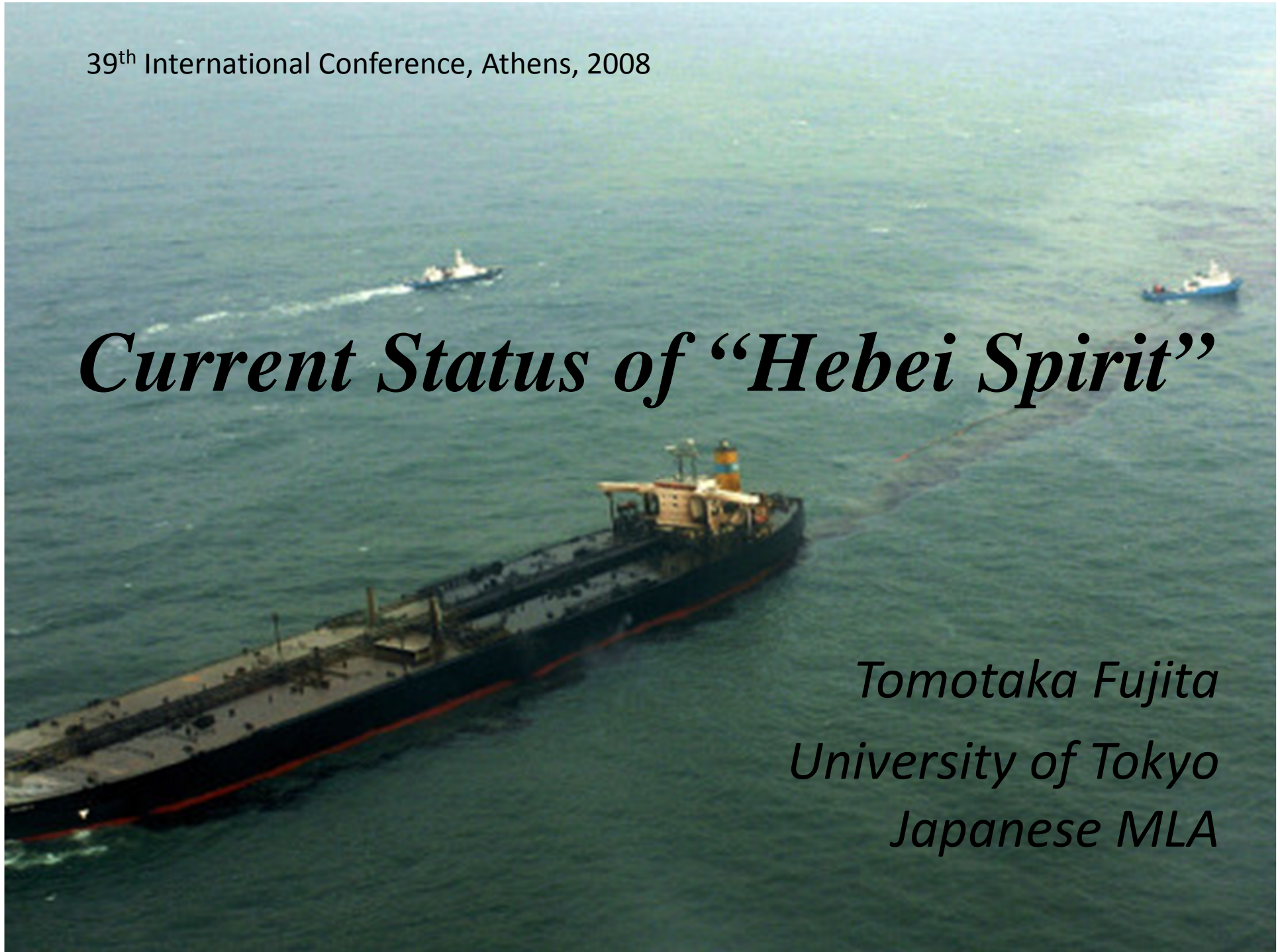


39<sup>th</sup> International Conference, Athens, 2008

# *Current Status of “Hebei Spirit”*

*Tomotaka Fujita  
University of Tokyo  
Japanese MLA*



# Hebei Spirit

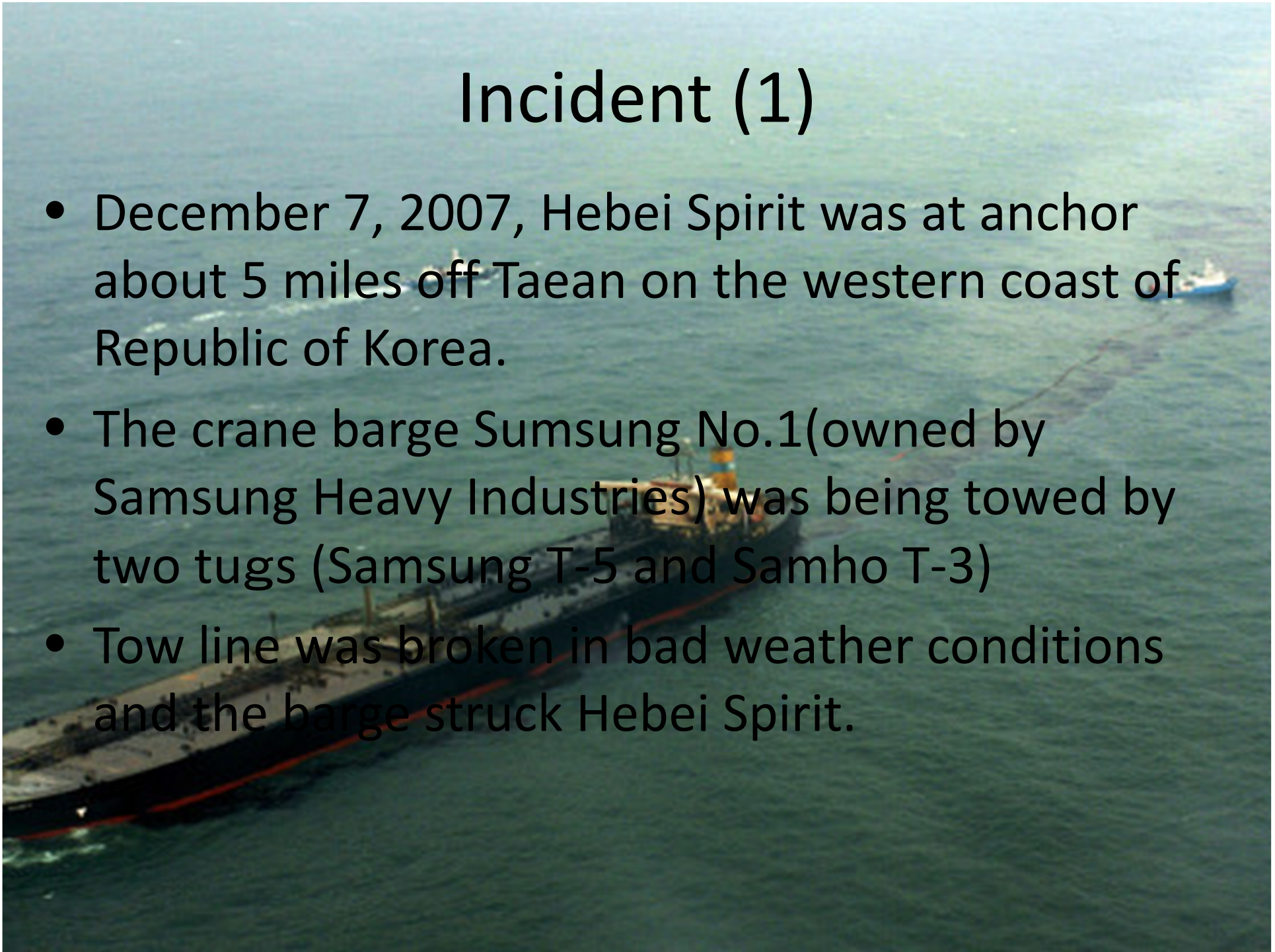


Hong Kong flag tanker of 146, 848 GT  
with 209, 000 tonnes of crude oil

Owner: Hebei Spirit Shipping Company Limited

# Incident (1)

- December 7, 2007, Hebei Spirit was at anchor about 5 miles off Taean on the western coast of Republic of Korea.
- The crane barge Sumsung No.1(owned by Samsung Heavy Industries) was being towed by two tugs (Samsung T-5 and Samho T-3)
- Tow line was broken in bad weather conditions and the barge struck Hebei Spirit.



## Incident (2)



- Three of five containers on Hebei Spirit were punctured and roughly 10500 tonnes of crude oil were released into the sea.

# Incident (3)



The oil polluted, in varying degree of contamination, three of the four provinces along the western coast of Republic of Korea.

# Clean-up Operations



- Clean-up operations are continued at sea and onshore first under the responsibility of Korea National Coast Guard Agency and then of local governments.
- The removal of the bulk oil was completed by the end of March 2008. The major part of secondary clean-up operations were completed by the end of June 2008.
- International Responses
  - European Commission-United Nations/ Japan/ China/ The United States/ Singapore

# Investigation and Criminal Proceedings

## Seosan Court Judgment (June 23, 2008)

- Two masters of the Crane Barge were sentenced to three years imprisonment and a fine of KRW 2 million and one year imprisonment respectively (June 23, 2008)
  - Samsung Heavy Industries was sentenced to a fine of KRW 30 million.
  - The master and the chief officer of the Hebei Spirit were found *not* guilty of any criminal offence.
- The prosecutor and Samsung filed an appeal against the judgment.

# Available Compensation

- Republic of Korea is a State Party to the **1992 CLC** and a Member State of the **1992 FC** (but not a Member State of the Supplemental Fund)
- Hebei Spirit is 146 848 GT (>140000GT)
  - The limitation amount applicable under CLC is **89.77 million SDR (£78 million)**.
  - Total amount available under the 1992 CLC and the 1992 FC is **203 million SDR (£177 million)**.

# Interested Parties

- Insurer of the Hebei Spirit: **Skuld Club**  
(Assuranceforeningen Skuld (Gjensidig) )
- **The 1992 Fund:** The aggregate claims are likely to exceed the CLC limitation.  
→ Claims Office (**Hebei Spirit Centre**)

*Fully operational since 22 January 2008.*

- Korean Government
- Victims

# Position of Korean Government (1)

- **Special law for the Support of the Victims of the Hebei Spirit Incident** was approved by the National Assembly in March 2008.
  - Korean Government was authorized to make payment to claimant based on the assessments by Skuld Club and the 1992 Fund.
  - If the 1992 Fund and Skuld Club paid claimants compensation on a pro-rata basis, the Korean Government would pay the claimants the remaining of the claim as assessed by the 1992 Fund.

# Position of Korean Government (2)

- “stand last in queue” The Korean Government *'stands last in the queue'* in respect of compensation against the 1992 Fund for clean-up costs and other expenses incurred by the central and local governments.

## As a result

- (1) all money available under insurance and the 1992 are distributed to the claimants other than the governments. [“stand last in queue”]
- (2) If the aggregate amount of the assessed claims is larger than the limitation under 1992 CLC and 1992 FC, the Korean Government bears the financial burden of the exceeding amount. [“full compensation under the Special Law”]

# Claims for Compensation (Sep. 2 2008)

Category of Claim	Number of Claims	Claimed Amount
Clean up and preventive measures	182	56.56
Property damage	11	1.07
Fisheries and mariculture	39	35.88
Tourism and other economic damage claims	500	4.22
Environment damage	1	1.08
Total	733	98.83

# Status of Claims(Oct. 08 2008)

Category	Claimed but not yet paid	Assessed but not yet paid	Paid
Clean up and preventive measures	56.92	9.53	5.57
Property damage	1.08	-	-
Fisheries and mariculture	36.11	-	-
Tourism and other economic damage claims	4.17	0.03	-
Environment damage	1.09	-	-
Total	99.45	9.56	5.57

# Developments of Total Claims

	March 08	June 08	October 08
Claimed but not Assessed	-	93.06	99.45
Assessed but not paid	0.05	0.27	9.56
Paid	5.10	5.50	5.57

# Cause of the Delay in Assessment

- Fishing activities are mostly unlicensed and non-commissioned sales. Difficult to have reliable production and revenue data.
- Distrust between the local residents and the Skuld Club and the 1992 Fund.
- Unique situation causing reputational damages.
- Various types of non-fisheries business and a massive number of claimants.

