



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 08.09.2003
COM(2003) 534 final

2003/0209 (AVC)

Proposal for a

COUNCIL DECISION

authorizing the Member States to sign, ratify or accede to, in the interest of the European Community, the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992, and authorising Austria and Luxemburg, in the interest of the European Community, to accede to the underlying instruments

(presented by the Commission)

EXPLANATORY MEMORANDUM

The existing international regime

Compensation of damage caused by oil pollution by ships is regulated by two international conventions. The 1969 International Convention on Civil Liability for Oil Pollution (CLC) and the 1971 International Convention setting up the Oil Pollution Compensation Fund (Fund Convention) establish a two-tier liability system, which builds upon a strict but limited liability for the registered shipowner and a Fund, financed by oil receivers, which provides compensation to victims of oil pollution damage who cannot obtain full compensation for the damage from the shipowner. The CLC Convention entered into force in 1975 and the Fund Convention in 1978. This regime was revised in 1992, whereby the two conventions were modified by protocols to them. The 1992 Protocols to the CLC and Fund Conventions entered into force in 1996. All EU Member States with a coastline have become parties to the two 1992 Protocols.

The first liability tier, the liability of the registered shipowner, is governed by the CLC. The shipowner's liability is strict and thus not depending on fault or negligence on his part. The owner is normally allowed to limit his liability to an amount which is linked to the tonnage of the ship, presently maximum EUR 72 million for the biggest ships. The shipowner loses the right to limit his liability only if it is proved that the pollution damage "resulted from his personal act or omission, committed with the intent to cause damage, or recklessly and with knowledge that such damage would probably result". The CLC also requires shipowners to maintain liability insurance and gives claimants the right of direct action against the insurer up to the limits of the shipowner's liability.

The CLC regime is supplemented by the International Oil Pollution Compensation Fund (the IOPC Fund), which was established through the Fund Convention in order to compensate victims when the shipowner's liability is insufficient to cover the damage. Recourse to the IOPC Fund may take place in three cases. The most common is where the damage exceeds the shipowner's maximum liability. The second case is where the shipowner can invoke any of the defences allowed in the CLC.¹ The last case is where the shipowner (and his insurer) are financially incapable of meeting their obligations. The maximum compensation by the IOPC Fund is currently around EUR 162 million. The IOPC Fund is financed by contributions from companies or other entities receiving oil carried by sea. In the event of an oil spill, thus, all oil receivers world-wide which are established in the States parties to the Fund Convention will contribute to the compensation as well as to the administrative expenses of the Fund, wherever the pollution damage has occurred. The IOPC Fund will not pay compensation if the pollution damage resulted from an act of war or was caused by a spill from a warship. It also has to be proved that the oil originated from a tanker.

¹ According to Article III.2 of the CLC the shipowner is exempted from liability if he proves that the damage:

- (a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character, or
- (b) was wholly caused by an act or omission done with intent to cause damage by a third party, or
- (c) was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.

Victims of oil spills may present their claims directly against the IOPC Fund and, to the extent claims are justified and meet the relevant criteria, the Fund will compensate the claimant directly. If the total of approved claims exceeds the maximum limit of the IOPC Fund all claims will be reduced proportionately. Claimants may also decide to pursue their claims before the courts of the State where the damage occurred. Since it was first established in 1978, the IOPC Fund has dealt with more than 100 cases, most of which have been within the limits of compensation and thus fully compensated according to the Fund's own assessment as to the validity of claims.

Recently, however, the adequacy of the maximum compensation limits of the 1992 Fund has been questioned. Following the *Erika* accident in December 1999, the process started whereby the existing limits of the CLC and Fund Conventions were to be increased, according to a specific simplified amendment procedure envisaged in the Conventions. The maximum increase under this procedure depends on a number of factors and will not at present facilitate an increase of more than some 50% of the current limits. These amendments will become applicable on 1 November 2003.

The Commission's point of view

The Commission has considered that a 50% increase of the existing limits, providing a total of some EUR 250 million, is insufficient to guarantee adequate protection for victims of a potential major oil spill in Europe. Therefore, the Commission in December 2000 proposed a Regulation to complement the existing international regime by creating a European supplementary fund, the COPE Fund, to compensate victims of oil spills in European waters.² The COPE Fund would only compensate victims whose claims have been considered justified, but who still have been unable to obtain full compensation by the international regime, due to insufficient limits of compensation. Compensation from the COPE fund would thus be based on the same principles and rules as the current international fund system, but subject to a ceiling which is deemed to be sufficient for any foreseeable disaster, i.e. EUR 1,000 million.

Developments within the EU institutions

To date, the proposal of the Commission has been approved, subject to a number of amendments, by the European Parliament,³ but the Council has not reached a position on it. While the majority of Member States agreed on the objective of creating a higher level of maximum cover through a top-up mechanism and the underlying principles of the proposed regulation, the general view among Member States has been that it would be preferable to address this matter at an international level, if possible. The Transport Council of December 2000 adopted conclusions on the necessity to achieve ameliorations to the existing international regime, including "a substantial increase in liability and compensation ceilings". In June 2001 the Council adopted a common approach where Member States undertook to support and participate in a supplementary oil pollution compensation regime which should "provide for full compensation".

² COM(2000)802 final, 6.12.2000.

³ The proposed amendments were adopted by the European Parliament on 13 June 2001.

Following the *Prestige* accident in November 2002, the Council took a stronger stance on the need for a top-up compensation arrangement. Most recently, the European Summit on 21 March 2003 confirmed the views of various Council meetings in December in calling for:

“in terms of compensation for the victims of pollution, including environmental damage, Member States to pursue within the forthcoming diplomatic conference at the IMO in May an increase in the current ceiling on compensation to 1 billion Euros; failing a positive outcome within the IMO to work on the existing proposal for a Regulation establishing a special European fund endowed with 1 billion euros with a view to the creation of the fund before the end of the year and drawing as much as possible on private funding”

As to the timing, paragraph 12 of the Transport Council Conclusions of 6 December 2002, subsequently endorsed by the Copenhagen Summit a week later, was even more clear:

REAFFIRMS the support of Member States to establish a supplementary compensation fund, developed in the IMO, to the benefit of the victims of oil pollution, which should be able to cover any future oil-spills up to EUR 1 000 million in the waters of the Member States of the EU foreseeing a rapid mechanism for payments and being operational by the end of 2003, and the intention of those Member States, which are parties to the existing global compensation regimes, to ratify the new supplementary fund. AGREES, in the event that the supplementary compensation fund is not established, to examine immediately a regulation on the establishment of a fund for the compensation of oil pollution damage in European waters, with the aim of establishing this fund before the end of 2003

International developments

An intersessional working group was established by the IOPC Fund in February 2000 to discuss the need to improve the existing international regime for liability and compensation for oil pollution damage. Early on in the discussions, the creation of an optional Supplementary Fund emerged as a key item on the agenda of the working group. Resulting from this, a draft Protocol was approved by the 1992 Fund's Assembly on 19 October 2001. The Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (hereinafter 'the Supplementary Fund Protocol') was finally adopted by a Diplomatic Conference in International Maritime Organization on 16 May 2003.

In substance the new Supplementary Fund bears a strong resemblance with the COPE Fund as proposed by the Commission. While the administrative solutions are different, the objective, to provide supplementary compensation in respect of claims which have been established by the 1992 Fund, is the same. The Supplementary Fund will thus be very closely linked to the 1992 Fund regime and membership in the latter is a condition for accepting the Supplementary Fund Protocol. The maximum limits of compensation by the Supplementary Fund have been established at 750 million SDR, which at the time of adoption corresponded to some 920 million EUR or 1,000 million USD. It is likely that its membership will be considerably narrower than that of the 1992 Fund, as many States Parties to the 1992 regime do not presently consider that they need such supplementary protection.

Community legislation

So far, compensation for oil pollution is only regulated by means of international conventions and national legislation. There are no adopted Community rules regulating specifically the matter of compensation for oil pollution damage. As shown above, however, there is a significant Community interest in matters related to the supplementary compensation of oil pollution.

In addition, the Supplementary Fund Protocol includes provisions on the jurisdiction, recognition and enforcement of judgments relating to the application of the Convention. These articles affect provisions of Community law, namely Council Regulation 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.⁴

Council Regulation 44/2001

Council Regulation 44/2001 sets out common rules on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. The Regulation binds all Member States except for Denmark. The 1968 Brussels Convention remains in force in the relations between Denmark and the other Member States.

The common rules on jurisdiction of Regulation 44/2001 apply when the defendant is domiciled in one of the Member States bound by the Regulation, while a defendant not domiciled in a Member State may be brought before the courts of each Member State in accordance with its national rules of jurisdiction. The jurisdiction regime is based in the first place on the domicile of the defendant. In addition, in matters relating to tort, delict or quasi-delict, a person domiciled in a Member State may be sued in the Member State where the harmful event occurred or may occur. In matters relating to insurance, an insurer domiciled in a Member State may be sued (a) in the courts of the Member State where he is domiciled, or (b) in the Member State where the plaintiff is domiciled, in the case of actions brought by the policyholder, the insured or a beneficiary, or (c) if he is a co-insurer, in the courts of a Member State in which proceedings are brought against the leading insurer. In respect of liability insurance, the insurer may in addition be sued in the courts of the place where the harmful event occurred, as well as, if the law of the court permits it, be joined in proceedings brought by the injured party against the insured.

Regulation 44/2001 stipulates that a judgment given in a Member State shall be recognized and enforced in other Member States without any special procedure being required. However, a limited number of grounds of non-recognition are provided to take into account public policy considerations, respect for the rights of defense and the existence of certain irreconcilable judgments.

The regime on jurisdiction and the recognition and enforcement of judgments of the Supplementary Protocol

In contrast to the multiple grounds of jurisdiction available under Regulation 44/2001, Article 7 of the Supplementary Fund Protocol, as a main rule, mandates the exclusive jurisdiction of the State Party where pollution damage occurred. This is done through a reference to the corresponding articles of the 1992 CLC and Fund Conventions. As regards actions involving the Supplementary Fund, Articles 7.2 and 7.3 provide for a similarly

⁴ OJ L 12, 16.1.2001, p. 1.

restrictive jurisdiction regime. The Supplementary Fund Protocol further provides that the courts of the State where the shipowner, or the insurer, has constituted a fund in order to benefit from the right to limit the liability, shall have exclusive jurisdiction to determine all matters relating to the apportionment and distribution of the fund.

Moreover, Article 8 of the Supplementary Fund Protocol, by reference to article X of the CLC Convention, requires the recognition of a judgment given by a Court with jurisdiction where it is no longer subject to ordinary forms of review except where the judgment was obtained by fraud, or where the defendant was not given reasonable notice and a fair opportunity to present his case. Judgments shall be enforceable in each State Party as soon as the formalities required in the State where the judgment was given have been complied with. Those formalities shall not permit the merits of the case to be re-opened.

Community competence with respect to the Supplementary Fund Protocol

There is exclusive Community competence in matters regulated by the Supplementary Fund Protocol. Its provisions on jurisdiction, recognition and enforcement contained in Articles 7 and 8 of the Protocol affect the corresponding rules of Council Regulation 44/2001.

In accordance with the case law of the Court of Justice, Member States, whether acting individually or collectively, lose their right to assume obligations with third countries as and when common rules which could be affected by those obligations come into being. It follows that only the Community is competent for the negotiation, conclusion and fulfillment of such international commitments.

In the view of the Commission, the articles dealing with the jurisdiction, recognition and enforcement of judgments should be compatible, to the extent possible, with Community legislation in this area. In this regard, however, the very specific nature of the Supplementary Protocol needs to be acknowledged. As outlined above, the purpose of the Protocol is only to build upon an existing compensation regime and to provide additional funds for settling claims that are not fully compensated by the 1992 Fund Convention. It will never get involved in compensation of claims that have not been dealt with by the 1992 Fund. As regards, the competent jurisdiction, the Supplementary Fund is therefore inextricably linked with the 1992 regime. For practical reasons the provisions on jurisdiction should therefore match those of the 1992 Fund Convention, which has not been revised recently. The variation between the oil pollution system and the Community regime as regards the competent jurisdiction should thus not be addressed in the context of the Supplementary Fund Protocol.

As to the rules on the recognition and enforcement of judgments, the Commission considered that a continued application of Chapter III of Regulation 44/2001 between Member States is essential, when it comes to the recognition and enforcement of judgments given by a court of a Member State in another Member State.

In light of such considerations, the Commission asked the Council for a mandate to negotiate certain parts of the Supplementary Protocol. The proposed mandate included the negotiation of an article providing for the possibility for the Community to become a party to the Protocol. In addition, there was, in the view of the Commission, a need for a mechanism ensuring a continued possibility to apply the Community rules on the recognition and enforcement of judgments. By contrast, the provisions on jurisdictions were not considered necessary to revise in the Supplementary Fund Protocol. However, the Commission added, should the 1992 CLC and Fund Conventions be re-opened for revision, which is not an unlikely scenario for the coming years, there is a need to analyse in great detail the

compatibility between Regulation 44/2001 and the international oil pollution compensation regime and the reasons therefore.

A negotiation mandate relating to the Supplementary Fund Protocol was adopted on 19 December 2002 by the Justice and Home Affairs Council. This mandate did not, as the Commission had proposed, include the negotiation of an accession clause for the Community, but it did hold that:

“the Commission should ensure that the regime for recognition and enforcement of judgments, as laid down by Regulation 44/2001, shall continue to apply when judgements given by a court of a Member State are recognised and enforced in another Member State. In this respect the necessary contacts with third States should be taken by the Commission well in advance of the Diplomatic Conference 12-16 May 2003.”

Following discussions with Member States and third States, the Commission submitted a proposal to the Diplomatic Conference to add a new paragraph 2 to draft Article 8 of the Supplementary Fund Protocol.⁵ The proposed new paragraph, read as follows:

“2. A State Party to this Protocol may apply other rules for the recognition and enforcement of judgments, provided that their effect is to ensure that judgments are recognised and enforced at least to the same extent as under paragraph 1.”

The addition of this paragraph was accepted by the Diplomatic Conference.

Consequently, the text of the Supplementary Protocol does not allow for the Community as such to conclude the Protocol. In order to safeguard the Community interests in view of its external competence, while at the same time enabling the Member States to ratify the Protocol, a Council decision to authorise Member States to conclude the Protocol is proposed. The Council could thus exceptionally authorize the Member States, with the exception of Denmark, to sign and ratify the Supplementary Fund Protocol in the interest of the Community.

This measure should be considered to be an interim solution. In the longer term, at the earliest opportunity, the Supplementary Fund Protocol, and the underlying instruments, should be revised in order to allow the European Community to conclude the instruments.

In light of the commitment made by EU Transport Ministers and Heads of State/Government, to have the new fund fully operational before the end of 2003, a very tight schedule has to be applied for the ratification of the new Protocol. The Supplementary Fund Protocol will, according to its Article 21, enter into force three months after eight States, representing a total of at least 450 million tonnes of contributing oil, have become Contracting Parties to it. Action by EU Member States alone is thus sufficient to bring the Protocol into operation.

⁵ IMO Document LEG/CONF.14/7

The special case of Austria and Luxemburg

Two Member States are not yet Contracting Parties to the underlying CLC and Fund Conventions, which is a precondition for concluding the Supplementary Fund Protocol. The underlying CLC and Fund conventions raise similar issues with respect to the relationship to Regulation 44/2001. On 19 December 2002 the Council invited the Commission to prepare as soon as possible an authorisation for Austria and Luxemburg to accede to the underlying instruments. Therefore, it is proposed that the present decision should also include an authorisation for these two Member States to accede to the CLC and Fund Conventions. Since this accession procedure will inevitably take some time, it is proposed that Austria and Luxemburg should sign, ratify or accede to the Supplementary Fund Protocol by 31 December 2005.

Conclusion

For these reasons, the Commission recommends that the Council adopt the attached decision.

Neither the decision itself nor the proposed conclusion by Member States of the Supplementary Fund Protocol will have any implications on the Community budget.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(c), Article 67(5), Article 300(2) first subparagraph and Article 300(3), second subparagraph thereof,

Having regard to the proposal from the Commission⁶,

Having regard to the assent of the European Parliament⁷,

Whereas:

- (1) The Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (hereinafter ‘the Supplementary Fund Protocol’) is aimed at ensuring adequate, prompt, and effective compensation of persons who suffer damage caused by oil spills caused by tankers. By significantly raising the limits of compensation available in the present international system, the Supplementary Fund Protocol addresses one of the most significant shortcomings in the international regulation of oil pollution liability.
- (2) Articles 7 and 8 of the Supplementary Fund Protocol affect Community legislation on jurisdiction and the recognition and enforcement of judgments, as laid down in Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.⁸
- (3) The Community and the Member States share competence for subject areas covered by the Supplementary Fund Protocol, the Community having exclusive competence in relation to Articles 7 and 8 thereof;
- (4) Pursuant to the Supplementary Fund Protocol, only sovereign States may be party to it; it is not therefore possible for the Community to ratify or accede to the Protocol, nor is there a prospect that it will be able to do so in the near future.

⁶ OJ C ..., ..., p. ...

⁷ OJ C ..., ..., p. ...

⁸ OJ L 12, 16.1.2001, p. 1.

- (5) The Council should therefore authorise the Member States to sign and conclude the Supplementary Fund Protocol in the interest of the Community, under the conditions set out in this Decision.
- (6) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Decision, and is not bound by it or subject to its application,
- (7) Only Contracting Parties to the underlying instruments may become Contracting Parties to the Supplementary Fund Protocol. Austria and Luxemburg are not currently parties to the underlying instruments. Since the underlying instruments contain provisions affecting Regulation (EC) No 44/2001, Austria and Luxemburg should also be authorised to accede to these instruments.
- (8) Member States should sign, ratify or accede to the Protocol as soon as possible and in any case before the end of 2003.
- (9) The situation of Austria and Luxemburg is different in that they cannot become Contracting Parties to the Supplementary Fund Protocol until they have acceded to the underlying instruments. For this reason, Austria and Luxemburg should sign, ratify or accede to the Supplementary Fund Protocol by 31 December 2005 at the latest.

HAS DECIDED AS FOLLOWS:

Article 1

1. The Member States are hereby authorized to sign, ratify or accede to, in the interest of the European Community, the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992, (the 'Supplementary Fund Protocol') subject to the conditions set out in the following Articles.

The text of the Supplementary Fund Protocol is attached in Annex 1 of this Decision.

2. Austria and Luxemburg are also authorised to accede to the underlying instruments.

The text of the underlying instruments is attached in Annexes 2 and 3 of this Decision.

3. In this Decision, the term "underlying instruments" shall mean the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 and the Protocol of 1992 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971.

Article 2

When signing, ratifying or acceding to the instruments referred to in Article 1, Member States shall inform the Secretary-General of the International Maritime Organization in writing that such signature, ratification or accession has taken place in accordance with this Decision.

Article 3

Member States shall take the necessary steps to sign, ratify or otherwise express their consent to be bound by the Supplementary Fund Protocol as soon as possible and in any case before the end of 2003.

Austria and Luxemburg shall take the necessary steps to sign, ratify or otherwise express their consent to be bound by the Supplementary Fund Protocol before 31 December 2005.

Article 4

Member States shall, at the earliest opportunity, use their best endeavours to ensure that the Supplementary Fund Protocol, and the underlying instruments, are amended in order to allow the Community to become a Contracting Party to them.

Done at Brussels,

*For the Council
The President*

ANNEX 1

PROTOCOL OF 2003 TO THE INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE, 1992⁹

THE CONTRACTING STATES TO THE PRESENT PROTOCOL,

BEARING IN MIND the International Convention on Civil Liability for Oil Pollution Damage, 1992 (hereinafter “the 1992 Liability Convention”),

HAVING CONSIDERED the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (hereinafter “the 1992 Fund Convention”),

AFFIRMING the importance of maintaining the viability of the international oil pollution liability and compensation system,

NOTING that the maximum compensation afforded by the 1992 Fund Convention might be insufficient to meet compensation needs in certain circumstances in some Contracting States to that Convention,

RECOGNIZING that a number of Contracting States to the 1992 Liability and 1992 Fund Conventions consider it necessary as a matter of urgency to make available additional funds for compensation through the creation of a supplementary scheme to which States may accede if they so wish,

BELIEVING that the supplementary scheme should seek to ensure that victims of oil pollution damage are compensated in full for their loss or damage and should also alleviate the difficulties faced by victims in cases where there is a risk that the amount of compensation available under the 1992 Liability and 1992 Fund Conventions will be insufficient to pay established claims in full and that as a consequence the International Oil Pollution Compensation Fund, 1992, has decided provisionally that it will pay only a proportion of any established claim,

CONSIDERING that accession to the supplementary scheme will be open only to Contracting States to the 1992 Fund Convention,

⁹ It should be noted that while the Protocol text reproduced in this Annex is the text that was adopted by the Diplomatic Conference on 16 May 2003, it is not the official text of the Protocol, which was not yet available at the time of adoption of this proposal. The understanding is that the official text, once available, will take precedence over the text reproduced in this Annex.

HAVE AGREED AS FOLLOWS:

General provisions

Article 1

For the purposes of this Protocol:

1. “1992 Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage, 1992;
2. “1992 Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992;
3. “1992 Fund” means the International Oil Pollution Compensation Fund, 1992, established under the 1992 Fund Convention;
4. “Contracting State” means a Contracting State to this Protocol, unless stated otherwise;
5. When provisions of the 1992 Fund Convention are incorporated by reference into this Protocol, “Fund” in that Convention means “Supplementary Fund”, unless stated otherwise;
6. "Ship", "Person", "Owner", "Oil", "Pollution Damage", "Preventive Measures" and "Incident" have the same meaning as in article I of the 1992 Liability Convention;
7. “Contributing Oil”, “Unit of Account”, “Ton”, “Guarantor” and “Terminal installation” have the same meaning as in article 1 of the 1992 Fund Convention, unless stated otherwise;
8. "Established claim" means a claim which has been recognised by the 1992 Fund or been accepted as admissible by decision of a competent court binding upon the 1992 Fund not subject to ordinary forms of review and which would have been fully compensated if the limit set out in article 4, paragraph 4, of the 1992 Fund Convention had not been applied to that incident;
9. “Assembly” means the Assembly of the International Oil Pollution Compensation Supplementary Fund, 2003, unless otherwise indicated;
10. “Organization” means the International Maritime Organization;
11. “Secretary-General” means the Secretary-General of the Organization.

Article 2

1. An International Supplementary Fund for compensation for pollution damage, to be named “The International Oil Pollution Compensation Supplementary Fund, 2003” (hereinafter “the Supplementary Fund”), is hereby established.

2. The Supplementary Fund shall in each Contracting State be recognized as a legal person capable under the laws of that State of assuming rights and obligations and of being a party in legal proceedings before the courts of that State. Each Contracting State shall recognize the Director of the Supplementary Fund as the legal representative of the Supplementary Fund.

Article 3

This Protocol shall apply exclusively:

- (a) to pollution damage caused:
 - (i) in the territory, including the territorial sea, of a Contracting State, and
 - (ii) in the exclusive economic zone of a Contracting State, established in accordance with international law, or, if a Contracting State has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;
- (b) to preventive measures, wherever taken, to prevent or minimize such damage.

Supplementary Compensation

Article 4

1. The Supplementary Fund shall pay compensation to any person suffering pollution damage if such person has been unable to obtain full and adequate compensation for an established claim for such damage under the terms of the 1992 Fund Convention, because the total damage exceeds, or there is a risk that it will exceed, the applicable limit of compensation laid down in article 4, paragraph 4, of the 1992 Fund Convention in respect of any one incident.
- 2(a) The aggregate amount of compensation payable by the Supplementary Fund under this article shall in respect of any one incident be limited, so that the total sum of that amount together with the amount of compensation actually paid under the 1992 Liability Convention and the 1992 Fund Convention within the scope of application of this Protocol shall not exceed 750 million units of account.
- (b) The amount of 750 million units of account mentioned in paragraph 2(a) shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date determined by the Assembly of the 1992 Fund for conversion of the maximum amount payable under the 1992 Liability and 1992 Fund Conventions.
3. Where the amount of established claims against the Supplementary Fund exceeds the aggregate amount of compensation payable under paragraph 2, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Protocol shall be the same for all claimants.

4. The Supplementary Fund shall pay compensation in respect of established claims as defined in article 1, paragraph 8, and only in respect of such claims.

Article 5

The Supplementary Fund shall pay compensation when the Assembly of the 1992 Fund has considered that the total amount of the established claims exceeds, or there is a risk that the total amount of established claims will exceed the aggregate amount of compensation available under article 4, paragraph 4, of the 1992 Fund Convention and that as a consequence the Assembly of the 1992 Fund has decided provisionally or finally that payments will only be made for a proportion of any established claim. The Assembly of the Supplementary Fund shall then decide whether and to what extent the Supplementary Fund shall pay the proportion of any established claim not paid under the 1992 Liability Convention and the 1992 Fund Convention.

Article 6

1. Subject to article 15, paragraphs 2 and 3, rights to compensation against the Supplementary Fund shall be extinguished only if they are extinguished against the 1992 Fund under article 6 of the 1992 Fund Convention.
2. A claim made against the 1992 Fund shall be regarded as a claim made by the same claimant against the Supplementary Fund.

Article 7

1. The provisions of article 7, paragraphs 1, 2, 4, 5 and 6, of the 1992 Fund Convention shall apply to actions for compensation brought against the Supplementary Fund in accordance with article 4, paragraph 1, of this Protocol.
2. Where an action for compensation for pollution damage has been brought before a court competent under article IX of the 1992 Liability Convention against the owner of a ship or his guarantor, such court shall have exclusive jurisdictional competence over any action against the Supplementary Fund for compensation under the provisions of article 4 of this Protocol in respect of the same damage. However, where an action for compensation for pollution damage under the 1992 Liability Convention has been brought before a court in a Contracting State to the 1992 Liability Convention but not to this Protocol, any action against the Supplementary Fund under article 4 of this Protocol shall at the option of the claimant be brought either before a court of the State where the Supplementary Fund has its headquarters or before any court of a Contracting State to this Protocol competent under article IX of the 1992 Liability Convention.
3. Notwithstanding paragraph 1, where an action for compensation for pollution damage against the 1992 Fund has been brought before a court in a Contracting State to the 1992 Fund Convention but not to this Protocol, any related action against the Supplementary Fund shall, at the option of the claimant, be brought either before a court of the State where the Supplementary Fund has its headquarters or before any court of a Contracting State competent under paragraph 1.

Article 8

1. Subject to any decision concerning the distribution referred to in article 4, paragraph 3 of this Protocol, any judgment given against the Supplementary Fund by a court having jurisdiction in accordance with article 7 of this Protocol, shall, when it has become enforceable in the State of origin and is in that State no longer subject to ordinary forms of review, be recognized and enforceable in each Contracting State on the same conditions as are prescribed in article X of the 1992 Liability Convention.
2. A Contracting State may apply other rules for the recognition and enforcement of judgments, provided that their effect is to ensure that judgments are recognised and enforced at least to the same extent as under paragraph 1.

Article 9

1. The Supplementary Fund shall, in respect of any amount of compensation for pollution damage paid by the Supplementary Fund in accordance with article 4, paragraph 1, of this Protocol, acquire by subrogation the rights that the person so compensated may enjoy under the 1992 Liability Convention against the owner or his guarantor.
2. The Supplementary Fund shall acquire by subrogation the rights that the person compensated by it may enjoy under the 1992 Fund Convention against the 1992 Fund.
3. Nothing in this Protocol shall prejudice any right of recourse or subrogation of the Supplementary Fund against persons other than those referred to in the preceding paragraphs. In any event the right of the Supplementary Fund to subrogation against such person shall not be less favourable than that of an insurer of the person to whom compensation has been paid.
4. Without prejudice to any other rights of subrogation or recourse against the Supplementary Fund which may exist, a Contracting State or agency thereof which has paid compensation for pollution damage in accordance with provisions of national law shall acquire by subrogation the rights which the person so compensated would have enjoyed under this Protocol.

Contributions

Article 10

1. Annual contributions to the Supplementary Fund shall be made in respect of each Contracting State by any person who, in the calendar year referred to in article 11, paragraph 2(a) or (b), has received in total quantities exceeding 150,000 tons:
 - (a) in the ports or terminal installations in the territory of that State contributing oil carried by sea to such ports or terminal installations; and

- (b) in any installations situated in the territory of that Contracting State contributing oil which has been carried by sea and discharged in a port or terminal installation of a non-Contracting State, provided that contributing oil shall only be taken into account by virtue of this sub-paragraph on first receipt in a Contracting State after its discharge in that non-Contracting State.
2. The provisions of article 10, paragraph 2, of the 1992 Fund Convention shall apply in respect of the obligation to pay contributions to the Supplementary Fund.

Article 11

1. With a view to assessing the amount of annual contributions due, if any, and taking account of the necessity to maintain sufficient liquid funds, the Assembly shall for each calendar year make an estimate in the form of a budget of:
- (i) Expenditure
 - (a) costs and expenses of the administration of the Supplementary Fund in the relevant year and any deficit from operations in preceding years;
 - (b) payments to be made by the Supplementary Fund in the relevant year for the satisfaction of claims against the Supplementary Fund due under article 4, including repayments on loans previously taken by the Supplementary Fund for the satisfaction of such claims;
 - (ii) Income
 - (a) surplus funds from operations in preceding years, including any interest;
 - (b) annual contributions, if required to balance the budget;
 - (c) any other income.
2. The Assembly shall decide the total amount of contributions to be levied. On the basis of that decision, the Director of the Supplementary Fund shall, in respect of each Contracting State, calculate for each person referred to in article 10, the amount of that person's annual contribution:
- (a) in so far as the contribution is for the satisfaction of payments referred to in paragraph 1(i)(a) on the basis of a fixed sum for each ton of contributing oil received in the relevant State by such person during the preceding calendar year; and
 - (b) in so far as the contribution is for the satisfaction of payments referred to in paragraph 1(i)(b) on the basis of a fixed sum for each ton of contributing oil received by such person during the calendar year preceding that in which the incident in question occurred, provided that State was a Contracting State to this Protocol at the date of the incident.
3. The sums referred to in paragraph 2 shall be arrived at by dividing the relevant total amount of contributions required by the total amount of contributing oil received in all Contracting States in the relevant year.

4. The annual contribution shall be due on the date to be laid down in the Internal Regulations of the Supplementary Fund. The Assembly may decide on a different date of payment.
5. The Assembly may decide, under conditions to be laid down in the Financial Regulations of the Supplementary Fund, to make transfers between funds received in accordance with paragraph 2(a) and funds received in accordance with paragraph 2(b)

Article 12

1. The provisions of article 13 of the 1992 Fund Convention shall apply to contributions to the Supplementary Fund.
2. A Contracting State itself may assume the obligation to pay contributions to the Supplementary Fund in accordance with the procedure set out in article 14 of the 1992 Fund Convention.

Article 13

1. Contracting States shall communicate to the Director of the Supplementary Fund information on oil receipts in accordance with article 15 of the 1992 Fund Convention provided, however, that communications made to the Director of the 1992 Fund under article 15, paragraph 2, of the 1992 Fund Convention shall be deemed to have been made also under this Protocol.
2. Where a Contracting State does not fulfil its obligations to submit the communication referred to in paragraph 1 and this results in a financial loss for the Supplementary Fund, that Contracting State shall be liable to compensate the Supplementary Fund for such loss. The Assembly shall, on the recommendation of the Director of the Supplementary Fund, decide whether such compensation shall be payable by that Contracting State.

Article 14

1. Notwithstanding article 10, for the purposes of this Protocol there shall be deemed to be a minimum receipt of 1 million tons of contributing oil in each Contracting State.
2. When the aggregate quantity of contributing oil received in a Contracting State is less than 1 million tons, the Contracting State shall assume the obligations that would be incumbent under this Protocol on any person who would be liable to contribute to the Supplementary Fund in respect of oil received within the territory of that State in so far as no liable person exists for the aggregated quantity of oil received.

Article 15

1. If in a Contracting State there is no person meeting the conditions of article 10, that Contracting State shall for the purposes of this Protocol inform the Director of the Supplementary Fund thereof.

2. No compensation shall be paid by the Supplementary Fund for pollution damage in the territory, territorial sea or exclusive economic zone or area determined in accordance with article 3(a)(ii), of this Protocol, of a Contracting State in respect of a given incident or for preventive measures, wherever taken, to prevent or minimize such damage, until the obligations to communicate to the Director of the Supplementary Fund according to article 13, paragraph 1 and paragraph 1 of this article have been complied with in respect of that Contracting State for all years prior to the occurrence of that incident.

The Assembly shall determine in the Internal Regulations the circumstances under which a Contracting State shall be considered as having failed to comply with its obligations.

3. Where compensation has been denied temporarily in accordance with paragraph 2, compensation shall be denied permanently in respect of that incident if the obligations to communicate to the Director of the Supplementary Fund under article 13, paragraph 1 and paragraph 1 of this article, have not been complied with within one year after the Director of the Supplementary Fund has notified the Contracting State of its failure to report.
4. Any payments of contributions due to the Supplementary Fund shall be set off against compensation due to the debtor, or the debtor's agents.

Organization and administration

Article 16

1. The Supplementary Fund shall have an Assembly and a Secretariat headed by a Director.
2. Articles 17 to 20 and 28 to 33 of the 1992 Fund Convention shall apply to the Assembly, Secretariat and Director of the Supplementary Fund.
3. Article 34 of the 1992 Fund Convention shall apply to the Supplementary Fund.

Article 17

1. The Secretariat of the 1992 Fund, headed by the Director of the 1992 Fund, may also function as the Secretariat and the Director of the Supplementary Fund.
2. If, in accordance with paragraph 1, the Secretariat and the Director of the 1992 Fund also perform the function of Secretariat and Director of the Supplementary Fund, the Supplementary Fund shall be represented, in cases of conflict of interests between the 1992 Fund and the Supplementary Fund, by the Chairman of the Assembly.
3. The Director of the Supplementary Fund, and the staff and experts appointed by the Director of the Supplementary Fund, performing their duties under this Protocol and the 1992 Fund Convention, shall not be regarded as contravening the provisions of article 30 of the 1992 Fund Convention as applied by article 16, paragraph 2, of this Protocol in so far as they discharge their duties in accordance with this article.

4. The Assembly shall endeavour not to take decisions which are incompatible with decisions taken by the Assembly of the 1992 Fund. If differences of opinion with respect to common administrative issues arise, the Assembly shall try to reach a consensus with the Assembly of the 1992 Fund, in a spirit of mutual co-operation and with the common aims of both organizations in mind.
5. The Supplementary Fund shall reimburse the 1992 Fund all costs and expenses arising from administrative services performed by the 1992 Fund on behalf of the Supplementary Fund.

Article 18
Transitional provisions

1. Subject to paragraph 4, the aggregate amount of the annual contributions payable in respect of contributing oil received in a single Contracting State during a calendar year shall not exceed 20% of the total amount of annual contributions pursuant to this Protocol in respect of that calendar year.
2. If the application of the provisions in article 11, paragraphs 2 and 3, would result in the aggregate amount of the contributions payable by contributors in a single Contracting State in respect of a given calendar year exceeding 20% of the total annual contributions, the contributions payable by all contributors in that State shall be reduced pro rata so that their aggregate contributions equal 20% of the total annual contributions to the Supplementary Fund in respect of that year.
3. If the contributions payable by persons in a given Contracting State shall be reduced pursuant to paragraph 2, the contributions payable by persons in all other Contracting States shall be increased pro rata so as to ensure that the total amount of contributions payable by all persons liable to contribute to the Supplementary Fund in respect of the calendar year in question will reach the total amount of contributions decided by the Assembly.
4. The provisions in paragraphs 1 to 3 shall operate until the total quantity of contributing oil received in all Contracting States in a calendar year, including the quantities referred to in article 14, paragraph 1, has reached 1,000 million tons or until a period of 10 years after the date of entry into force of this Protocol has elapsed, whichever occurs earlier.

Final clauses

Article 19

Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open for signature at London from 31 July 2003 to 30 July 2004.
2. States may express their consent to be bound by this Protocol by:
 - (a) signature without reservation as to ratification, acceptance or approval; or
 - (b) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or

- (c) accession.
- 3. Only Contracting States to the 1992 Fund Convention may become Contracting States to this Protocol.
- 4. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument to that effect with the Secretary-General.

Article 20
Information on contributing oil

Before this Protocol comes into force for a State, that State shall, when signing this Protocol in accordance with article 19, paragraph 2(a), or when depositing an instrument referred to in article 19, paragraph 4 of this Protocol, and annually thereafter at a date to be determined by the Secretary-General, communicate to the Secretary-General the name and address of any person who in respect of that State would be liable to contribute to the Supplementary Fund pursuant to article 10 as well as data on the relevant quantities of contributing oil received by any such person in the territory of that State during the preceding calendar year.

Article 21
Entry into force

- 1. This Protocol shall enter into force three months following the date on which the following requirements are fulfilled:
 - (a) at least eight States have signed the Protocol without reservation as to ratification, acceptance or approval, or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General; and
 - (b) the Secretary-General has received information from the Director of the 1992 Fund that those persons who would be liable to contribute pursuant to article 10 have received during the preceding calendar year a total quantity of at least 450 million tons of contributing oil, including the quantities referred to in article 14, paragraph 1.
- 2. For each State which signs this Protocol without reservation as to ratification, acceptance or approval, or which ratifies, accepts, approves or accedes to this Protocol, after the conditions in paragraph 1 for entry into force have been met, the Protocol shall enter into force three months following the date of the deposit by such State of the appropriate instrument.
- 3. Notwithstanding paragraphs 1 and 2, this Protocol shall not enter into force in respect of any State until the 1992 Fund Convention enters into force for that State.

Article 22
First session of the Assembly

The Secretary-General shall convene the first session of the Assembly. This session shall take place as soon as possible after the entry into force of this Protocol and, in any case, not more than thirty days after such entry into force.

Article 23
Revision and amendment

1. A conference for the purpose of revising or amending this Protocol may be convened by the Organization.
2. The Organization shall convene a Conference of Contracting States for the purpose of revising or amending this Protocol at the request of not less than one third of all Contracting States.

Article 24
Amendment of compensation limit

1. Upon the request of at least one quarter of the Contracting States, any proposal to amend the limit of the amount of compensation laid down in article 4, paragraph 2 (a), shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.
2. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization for consideration at a date at least six months after the date of its circulation.
3. All Contracting States to this Protocol, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.
4. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided for in paragraph 3, on condition that at least one half of the Contracting States shall be present at the time of voting.
5. When acting on a proposal to amend the limit, the Legal Committee shall take into account the experience of incidents and in particular the amount of damage resulting therefrom and changes in the monetary values.
- 6(a) No amendments of the limit under this article may be considered before the date of entry into force of this Protocol nor less than three years from the date of entry into force of a previous amendment under this article.
- (b) The limit may not be increased so as to exceed an amount which corresponds to the limit laid down in this Protocol increased by six per cent per year calculated on a compound basis from the date when this Protocol is opened for signature to the date on which the Legal Committee's decision comes into force.
- (c) The limit may not be increased so as to exceed an amount which corresponds to the limit laid down in this Protocol multiplied by three.
7. Any amendment adopted in accordance with paragraph 4 shall be notified by the Organization to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of twelve months after the date of notification, unless within that period not less than one quarter of the States that were Contracting States at the time of the adoption of the amendment by the Legal Committee have

communicated to the Organization that they do not accept the amendment, in which case the amendment is rejected and shall have no effect.

8. An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force twelve months after its acceptance.
9. All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with article 26, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.
10. When an amendment has been adopted by the Legal Committee but the twelve-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 7. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Protocol enters into force for that State, if later.

Article 25
Protocols to the 1992 Fund Convention

1. If the limits laid down in the 1992 Fund Convention have been increased by a Protocol thereto, the limit laid down in article 4, paragraph 2(a), may be increased by the same amount by means of the procedure set out in article 24. The provisions of article 24, paragraph 6, shall not apply in such cases.
2. If the procedure referred to in paragraph 1 has been applied, any subsequent amendment of the limit laid down in article 4, paragraph 2, by application of the procedure in article 24 shall, for the purpose of article 24, paragraphs 6(b) and (c), be calculated on the basis of the new limit as increased in accordance with paragraph 1.

Article 26
Denunciation

1. This Protocol may be denounced by any Contracting State at any time after the date on which it enters into force for that Contracting State.
2. Denunciation shall be effected by the deposit of an instrument with the Secretary-General.
3. A denunciation shall take effect twelve months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General.
4. Denunciation of the 1992 Fund Convention shall be deemed to be a denunciation of this Protocol. Such denunciation shall take effect on the date on which denunciation of the Protocol of 1992 to amend the 1971 Fund Convention takes effect according to article 34 of that Protocol.

5. Notwithstanding a denunciation of the present Protocol by a Contracting State pursuant to this article, any provisions of this Protocol relating to the obligations to make contributions to the Supplementary Fund with respect to an incident referred to in article 11, paragraph 2(b), and occurring before the denunciation takes effect, shall continue to apply.

Article 27

Extraordinary sessions of the Assembly

1. Any Contracting State may, within ninety days after the deposit of an instrument of denunciation the result of which it considers will significantly increase the level of contributions for the remaining Contracting States, request the Director of the Supplementary Fund to convene an extraordinary session of the Assembly. The Director of the Supplementary Fund shall convene the Assembly to meet not later than sixty days after receipt of the request.
2. The Director of the Supplementary Fund may take the initiative to convene an extraordinary session of the Assembly to meet within sixty days after the deposit of any instrument of denunciation, if the Director of the Supplementary Fund considers that such denunciation will result in a significant increase in the level of contributions of the remaining Contracting States.
3. If the Assembly at an extraordinary session convened in accordance with paragraph 1 or 2 decides that the denunciation will result in a significant increase in the level of contributions for the remaining Contracting States, any such State may, not later than one hundred and twenty days before the date on which the denunciation takes effect, denounce this Protocol with effect from the same date.

Article 28

Termination

1. This Protocol shall cease to be in force on the date when the number of Contracting States falls below seven or the total quantity of contributing oil received in the remaining Contracting States, including the quantities referred to in article 14, paragraph 1, falls below 350 million tons, whichever occurs earlier.
2. States which are bound by this Protocol on the day before the date it ceases to be in force shall enable the Supplementary Fund to exercise its functions as described in article 29 and shall, for that purpose only, remain bound by this Protocol.

Article 29

Winding up of the Supplementary Fund

1. If this Protocol ceases to be in force, the Supplementary Fund shall nevertheless:
 - (a) meet its obligations in respect of any incident occurring before the Protocol ceased to be in force;

- (b) be entitled to exercise its rights to contributions to the extent that these contributions are necessary to meet the obligations under paragraph 1(a), including expenses for the administration of the Supplementary Fund necessary for this purpose.
- 2. The Assembly shall take all appropriate measures to complete the winding up of the Supplementary Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the Supplementary Fund.
- 3. For the purposes of this article the Supplementary Fund shall remain a legal person.

Article 30
Depositary

- 1. This Protocol and any amendments accepted under article 24 shall be deposited with the Secretary-General.
- 2. The Secretary-General shall:
 - (a) inform all States which have signed or acceded to this Protocol of:
 - (i) each new signature or deposit of an instrument together with the date thereof;
 - (ii) the date of entry into force of this Protocol;
 - (iii) any proposal to amend the limit of the amount of compensation which has been made in accordance with article 24, paragraph 1;
 - (iv) any amendment which has been adopted in accordance with article 24, paragraph 4;
 - (v) any amendment deemed to have been accepted under article 24, paragraph 7, together with the date on which that amendment shall enter into force in accordance with paragraphs 8 and 9 of that article;
 - (vi) the deposit of an instrument of denunciation of this Protocol together with the date of the deposit and the date on which it takes effect;
 - (vii) any communication called for by any article in this Protocol;
 - (b) transmit certified true copies of this Protocol to all Signatory States and to all States which accede to the Protocol.
- 3. As soon as this Protocol enters into force, the text shall be transmitted by the Secretary-General to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 31
Languages

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this sixteenth day of May, two thousand and three.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments for that purpose, have signed this Protocol.

ANNEX 2

PROTOCOL OF 1992 TO AMEND THE INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE, 1969

THE PARTIES TO THE PRESENT PROTOCOL,

HAVING CONSIDERED the International Convention of Civil Liability for Oil Pollution Damage, 1969, and the 1984 Protocol thereto,

HAVING NOTED that the 1984 Protocol to that Convention, which provides for improved scope and enhanced compensation, has not entered into force,

AFFIRMING the importance of maintaining the viability of the international oil pollution liability and compensation system,

AWARE OF the need to ensure the entry into force of the content of the 1984 Protocol as soon as possible,

RECOGNIZING that special provisions are necessary in connection with the introduction of corresponding amendments to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971,

HAVE AGREED as follows:

Article 1

The Convention which the provisions of this Protocol amend is the International Convention on Civil Liability for Oil Pollution Damage, 1969, hereinafter referred to as the "1969 Liability Convention". For States Parties to the Protocol of 1976 to the 1969 Liability Convention, such reference shall be deemed to include the 1969 Liability Convention as amended by that Protocol.

Article 2

Article I of the 1969 Liability Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:

1. "Ship" means any sea-going vessel and seaborne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo, provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard.

2. Paragraph 5 is replaced by the following text:

5. "Oil" means any persistent hydrocarbon mineral oil such as crude oil, fuel oil, heavy diesel oil and lubricating oil, whether carried on board a ship as cargo or in the bunkers of such a ship.

3. Paragraph 6 is replaced by the following text:
 6. "Pollution damage" means:
 - (a) loss or damage caused outside the ship by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken;
 - (b) the costs of preventive measures and further loss or damage caused by preventive measures.
4. Paragraph 8 is replaced by the following text:
 8. "Incident" means any occurrence, or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing such damage.
5. Paragraph 9 is replaced by the following text:
 9. "Organization" means the International Maritime Organization.
6. After paragraph 9 a new paragraph is inserted reading as follows:
 10. "1969 Liability Convention" means the International Convention of Civil Liability for Oil Pollution Damage, 1969. For States Parties to the Protocol of 1976 to that Convention, the term shall be deemed to include the 1969 Liability Convention as amended by that Protocol.

Article 3

Article II of the 1969 Liability Convention is replaced by the following text:

This Convention shall apply exclusively:

(a) to pollution damage caused:

(i) in the territory, including the territorial sea, of a Contracting State, and

(ii) in the exclusive economic zone of a Contracting State, established in accordance with international law, or, if a Contracting State has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;

(b) to preventive measures, wherever taken, to prevent or minimize such damage.

Article 4

Article III of the 1969 Liability Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:

1. Except as provided in paragraphs 2 and 3 of this Article, the owner of a ship at the time of an incident, or, where the incident consists of a series of occurrences, at the time of the first such occurrence, shall be liable for any pollution damage caused by the ship as a result of the incident.

2. Paragraph 4 is replaced by the following text:

4. No claim for compensation for pollution damage may be made against the owner otherwise than in accordance with this Convention. Subject to paragraph 5 of this Article, no claim for compensation for pollution damage under this Convention or otherwise may be made against:

(a) the servants or agents of the owner or the members of the crew;

(b) the pilot or any other person who, without being a member of the crew, performs services for the ship;

(c) any charterer (howsoever described, including a bareboat charterer), manager or operator of the ship;

(d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;

(e) any person taking preventive measures;

(f) all servants or agents of persons mentioned in subparagraphs (c), (d) and (e); unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

Article 5

Article IV of the 1969 Liability Convention is replaced by the following text:

When an incident involving two or more ships occurs and pollution damage results therefrom, the owners of all the ships concerned, unless exonerated under Article III, shall be jointly and severally liable for all such damage which is not reasonably separable.

Article 6

Article V of the 1969 Liability Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:

1. The owner of a ship shall be entitled to limit his liability under this Convention in respect of any one incident to an aggregate amount calculated as follows:

(a) 3 million units of account for a ship not exceeding 5,000 units of tonnage;

(b) for a ship with a tonnage in excess thereof, for each additional unit of tonnage, 420 units of account in addition to the amount mentioned in subparagraph (a); provided, however, that this aggregate amount shall not in any event exceed 59.7 million units of account.

2. Paragraph 2 is replaced by the following text:

2. The owner shall not be entitled to limit his liability under this Convention if it is proved that the pollution damage resulted from his personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

3. Paragraph 3 is replaced by the following text:

3. For the purpose of availing himself of the benefit of limitation provided for in paragraph 1 of this Article the owner shall constitute a fund for the total sum representing the limit of his liability with the Court or other competent authority of any one of the Contracting States in which action is brought under Article IX or, if no action is brought, with any Court or other competent authority in any one of the Contracting States in which an action can be brought under Article IX. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the legislation of the Contracting State where the fund is constituted, and considered to be adequate by the Court or other competent authority.

4. Paragraph 9 is replaced by the following text:

9 (a). The "unit of account" referred to in paragraph 1 of this Article is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in paragraph 1 shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the constitution of the fund referred to in paragraph 3. The value of the national currency, in terms of the Special Drawing Right, of a Contracting State which is a member of the International Monetary Fund shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a Contracting State which is not a member of the International Monetary Fund shall be calculated in a manner determined by that State.

9 (b). Nevertheless, a Contracting State which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 9 (a) may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the unit of account referred to in paragraph 9 (a) shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.

9 (c). The calculation mentioned in the last sentence of paragraph 9 (a) and the conversion mentioned in paragraph 9 (b) shall be made in such manner as to express in the national currency of the Contracting State as far as possible the same real value for the amounts in paragraph 1 as would result from the application of the first three sentences of paragraph 9 (a).

Contracting States shall communicate to the depositary the manner of calculation pursuant to paragraph 9 (a), or the result of the conversion in paragraph 9 (b) as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

5. Paragraph 10 is replaced by the following text:

10. For the purpose of this Article the ships tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.

6. The second sentence of paragraph 11 is replaced by the following text:

Such a fund may be constituted even if, under the provisions of paragraph 2, the owner is not entitled to limit his liability, but its constitution shall in that case not prejudice the rights of any claimant against the owner.

Article 7

Article VII of the 1969 Liability Convention is amended as follows:

1. The first two sentences of paragraph 2 are replaced by the following text:

A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a Contracting State has determined that the requirements of paragraph 1 have been complied with.

With respect to a ship registered in a Contracting State such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a Contracting State it may be issued or certified by the appropriate authority of any Contracting State.

2. Paragraph 4 is replaced by the following text:

4. The certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a Contracting State, with the authorities of the State issuing or certifying the certificate.

3. The first sentence of paragraph 7 is replaced by the following text:

Certificates issued or certified under the authority of a Contracting State in accordance with paragraph 2 shall be accepted by other Contracting States for the purposes of this Convention and shall be regarded by other Contracting States as having the same force as certificates issued or certified by them even if issued or certified in respect of a ship not registered in a Contracting State.

4. In the second sentence of paragraph 7 the words "with the State of a ship's registry" are replaced by the words "with the issuing or certifying State".

5. The second sentence of paragraph 8 is replaced by the following text:

In such case the defendant may, even if the owner is not entitled to limit his liability according to Article V, paragraph 2, avail himself of the limits of liability prescribed in Article V, paragraph 1.

Article 8

Article IX of the 1969 Liability Convention is amended as follows:

Paragraph 1 is replaced by the following text:

1. Where an incident has caused pollution damage in the territory, including the territorial sea or an area referred to in Article II, of one or more Contracting States or preventive measures have been taken to prevent or minimize pollution damage in such territory including the territorial sea or area, actions for compensation may only be brought in the Courts of any such Contracting State or States. Reasonable notice of any such action shall be given to the defendant.

Article 9

After Article XII of the 1969 Liability Convention two new Articles are inserted as follows:

Article XII bis

Transitional provisions

The following transitional provisions shall apply in the case of a State which at the time of an incident is a Party both to this Convention and to the 1969 Liability Convention:

(a) where an incident has caused pollution damage within the scope of this Convention, liability under this Convention shall be deemed to be discharged if, and to the extent that, it also arises under the 1969 Liability Convention;

(b) where an incident has caused pollution damage within the scope of this Convention, and the State is a Party both to this Convention and to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, liability remaining to be discharged after the application of subparagraph (a) of this Article shall arise under this Convention only to the extent that pollution damage remains uncompensated after application of the said 1971 Convention;

(c) in the application of Article III, Paragraph 4, of this Convention the expression "this Convention" shall be interpreted as referring to this Convention or the 1969 Liability Convention, as appropriate;

(d) in the application of Article V, paragraph 3, of this Convention the total sum of the fund to be constituted shall be reduced by the amount by which liability has been deemed to be discharged in accordance with subparagraph (a) of this Article.

Article XII ter

Final clauses

The final clauses of this Convention shall be Articles 12 to 18 of the Protocol of 1992 to amend the 1969 Liability Convention. References in this Convention to Contracting States shall be taken to mean references to the Contracting States of that Protocol.

Article 10

The model of a certificate annexed to the 1969 Liability Convention is replaced by the model annexed to this Protocol.

Article 11

1. The 1969 Liability Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.
2. Articles I to XII ter, including the model certificate, of the 1969 Liability Convention as amended by this Protocol shall be known as the International Convention on Civil Liability for Oil Pollution Damage, 1992 (1992 Liability Convention).

FINAL CLAUSES

Article 12

Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open for signature at London from 15 January 1993 to 14 January 1994 by all States.
2. Subject to paragraph 4, any State may become a Party to this Protocol by:
 - (a) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or
 - (b) accession.
3. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument to that effect with the Secretary-General of the Organization.
4. Any Contracting State to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, hereinafter referred to as the 1971 Fund Convention, may ratify, accept, approve or accede to this Protocol only if it ratifies, accepts, approves or accedes to the Protocol of 1992 to amend that Convention at the same time, unless it denounces the 1971 Fund Convention to take effect on the date when this Protocol enters into force for that State.
5. A State which is a Party to this protocol but not a Party to the 1969 Liability Convention shall be bound by the provisions of the 1969 Liability Convention as amended by this Protocol in relation to other States Parties hereto, but shall not be bound by the provisions of the 1969 Liability Convention in relation to States Parties thereto.
6. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the 1969 Liability Convention as amended by this Protocol shall be deemed to apply to the Convention so amended, as modified by such amendment.

Article 13

Entry into force

1. This Protocol shall enter into force twelve months following the date on which ten States including four States each with not less than one million units of gross tanker tonnage have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization.
2. However, any Contracting State to the 1971 Fund Convention may, at the time of the deposit of its instrument of ratification, acceptance, approval or accession in respect of this Protocol, declare that such instrument shall be deemed not to be effective for the purposes of this Article until the end of the six-month period in Article 31 of the Protocol of 1992 to amend the 1971 Fund Convention. A State which is not a Contracting State to the 1971 Fund Convention but which deposits an instrument of

ratification, acceptance, approval or accession in respect of the Protocol of 1992 to amend the 1971 Fund Convention may also make a declaration in accordance with this paragraph at the same time.

3. Any State which has made a declaration in accordance with the preceding paragraph may withdraw it at any time by means of a notification addressed to the Secretary-General of the Organization. Any such withdrawal shall take effect on the date the notification is received, provided that such State shall be deemed to have deposited its instrument of ratification, acceptance, approval or accession in respect of this Protocol on that date.
4. For any State which ratifies, accepts, approves or accedes to it after the conditions in paragraph 1 for entry into force have been met, this Protocol shall enter into force twelve months following the date of deposit by such State of the appropriate instrument.

Article 14
Revision and amendment

1. A Conference for the purpose of revising or amending the 1992 Liability Convention may be convened by the Organization.
2. The Organization shall convene a Conference of Contracting States for the purpose of revising or amending the 1992 Liability Convention at the request of not less than one third of the Contracting States.

Article 15
Amendments of limitation amounts

1. Upon the request of at least one quarter of the Contracting States any proposal to amend the limits of liability laid down in Article V, paragraph 1, of the 1969 Liability Convention as amended by this Protocol shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.
2. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization for consideration at a date at least six months after the date of its circulation.
3. All Contracting States to the 1969 Liability Convention as amended by this Protocol, whether or not Members of the Organization, shall be entitled to participate in the proceeding of the Legal Committee for the consideration and adoption of amendments.
4. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided for in paragraph 3, on condition that at least one half of the Contracting States shall be present at the time of voting.

5. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and in particular the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance. It shall also take into account the relationship between the limits in Article V, paragraph 1, of the 1969 Liability Convention as amended by this Protocol and those in Article 4, paragraph 4, of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992.
- 6 (a) No amendment of the limits of liability under this Article may be considered before 15 January 1998 nor less than five years from the date of entry into force of a previous amendment under this Article. No amendment under this Article shall be considered before this Protocol has entered into force.
- (b) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1969 Liability Convention as amended by this Protocol increased by 6 per cent per year calculated on a compound basis from 15 January 1993.
- (c) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1969 Liability Convention as amended by this Protocol multiplied by 3.
7. Any amendment adopted in accordance with paragraph 4 shall be notified by the Organization to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification, unless within that period not less than one quarter of the States that were Contracting States at the time of the adoption of the amendment by the Legal Committee have communicated to the Organization that they do not accept the amendment in which case the amendment is rejected and shall have no effect.
8. An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force eighteen months after its acceptance.
9. All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with Article 16, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.
10. When an amendment has been adopted by the Legal Committee but the eighteen-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 7. In the case referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Protocol enters into force for that State, if later.

Article 16
Denunciation

1. This Protocol may be denounced by any Party at any time after the date on which it enters into force for that Party.
2. Denunciation shall be effected by the deposit of an instrument with the Secretary-General of the Organization.
3. A denunciation shall take effect twelve months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General of the Organization.
4. As between the Parties to this Protocol, denunciation by any of them of the 1969 Liability Convention in accordance with Article XVI thereof shall not be construed in any way as a denunciation of the 1969 Liability Convention as amended by this Protocol.
5. Denunciation of the Protocol of 1992 to amend the 1971 Fund Convention by a State which remains a Party to the 1971 Fund Convention shall be deemed to be a denunciation of this Protocol. Such denunciation shall take effect on the date on which denunciation of the Protocol of 1992 to amend the 1971 Fund Convention takes effect according to Article 34 of that Protocol.

Article 17
Depositary

1. This Protocol and any amendments accepted under Article 15 shall be deposited with the Secretary-General of the Organization.
2. The Secretary-General of the Organization shall:
 - (a) inform all States which have signed or acceded to this protocol of:
 - (i) each new signature or deposit of an instrument together with the date thereof;
 - (ii) each declaration and notification under Article 13 and each declaration and communication under Article 13 and each declaration and communication under Article V, paragraph 9, of the 1992 Liability Convention;
 - (iii) the date of entry into force of this Protocol;
 - (iv) any proposal to amend limits of liability which has been made in accordance with Article 15, paragraph 1;
 - (v) any amendment which has been adopted in accordance with Article 15, paragraph 4;

- (vi) any amendment deemed to have been accepted under Article 15, paragraph 7, together with the date on which that amendment shall enter into force in accordance with paragraphs 8 and 9 of that Article;
 - (vii) the deposit of any instrument of denunciation of this Protocol together with the date of the deposit and the date on which it takes effect;
 - (viii) any denunciation deemed to have been made under Article 16, paragraph 5;
 - (ix) any communication called for by any Article of this Protocol;
- (b) transmit certified true copies of this Protocol to all Signatory States and to all States which accede to this Protocol.
3. As soon as this Protocol enters into force, the text shall be transmitted by the Secretary-General of the Organization to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 18
Languages

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON, this twenty-seventh day of November one thousand nine hundred and ninety-two.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Protocol.

ANNEX

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF
CIVIL LIABILITY FOR OIL POLLUTION DAMAGE

Issued in accordance with the provisions of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Name of ship

Distinctive number of letters

Port of registry

Name and address of owner

This is to certify that there is in force in respect of the above-named ship a policy of insurance or other financial security satisfying the requirements of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Type of Security

Duration of Security

Name and Address of the Insurer(s) and/or Guarantor(s)

Name

Address.....

This certificate is valid until

Issued or certified by the Government of

(Full designation of the State)

At On

(Place) (Date)

.....

Signature and Title of issuing or certifying official

Explanatory Notes:

1. If desired, the designation of the State may include a reference to the competent public authority of the country where the certificate is issued.
2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
3. If security is furnished in several forms, these should be enumerated.
4. The entry "Duration of Security" must stipulate the date on which such security takes effect.

ANNEX 3

PROTOCOL OF 1992 TO AMEND THE INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE OF 1971

THE PARTIES TO THE PRESENT PROTOCOL,

HAVING CONSIDERED the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, and the 1984 Protocol thereto,

HAVING NOTED that the 1984 Protocol to that Convention, which provides for improved scope and enhanced compensation, has not entered into force,

AFFIRMING the importance of maintaining the viability of the international oil pollution liability and compensation system,

AWARE OF the need to ensure the entry into force of the content of the 1984 Protocol as soon as possible,

RECOGNIZING the advantage for the States Parties of arranging for the amended Convention to coexist with and be supplementary to the original Convention for a transitional period,

CONVINCED that the economic consequences of pollution damage resulting from the carriage of oil in bulk at sea by ships should continue to be shared by the shipping industry and by the oil cargo interests,

BEARING IN MIND the adoption of the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969,

HAVE AGREED AS FOLLOWS:

Article 1

The Convention which the provisions of this Protocol amend is the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, hereinafter referred to as the "1971 Fund Convention". For States Parties to the Protocol of 1976 to the 1971 Fund Convention, such reference shall be deemed to include the 1971 Fund Convention as amended by that Protocol.

Article 2

Article 1 of the 1971 Fund Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:

1. "1992 Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1992.

2. After paragraph 1 a new paragraph is inserted as follows:
 - 1 bis. "1971 Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971. For States Parties to the Protocol of 1976 to that Convention, the term shall be deemed to include the 1971 Fund Convention as amended by that Protocol.
3. Paragraph 2 is replaced by the following text:
 2. "Ship", "Person", "Owner", "Oil", "Pollution Damage", "Preventive Measures", "Incident", and "Organization" have the same meaning as in Article I of the 1992 Liability Convention.
4. Paragraph 4 is replaced by the following text:
 4. "Unit of account" has the same meaning as in Article V, paragraph 9, of the 1992 Liability Convention.
5. Paragraph 5 is replaced by the following text:
 5. "Ship's tonnage" has the same meaning as in Article V, paragraph 10, of the 1992 Liability Convention.
6. Paragraph 7 is replaced by the following text:
 7. "Guarantor" means any person providing insurance or other financial security to cover an owner's liability in pursuance of Article VII, paragraph 1, of the 1992 Liability Convention.

Article 3

Article 2 of the 1971 Fund Convention is amended as follows:

Paragraph 1 is replaced by the following text:

1. An International Fund for compensation for pollution damage, to be named "The International Oil Pollution Compensation Fund 1992" and hereinafter referred to as "the Fund", is hereby established with the following aims:
 - (a) to provide compensation for pollution damage to the extent that the protection afforded by the 1992 Liability Convention is inadequate;
 - (b) to give effect to the related purposes set out in this Convention.

Article 4

Article 3 of the 1971 Fund Convention is replaced by the following text:

This Convention shall apply exclusively:

- (a) to pollution damage caused:

(i) in the territory, including the territorial sea, of a Contracting State, and

(ii) in the exclusive economic zone of a Contracting State, established in accordance with international law, or, if a Contracting State has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;

(b) to preventive measures, wherever taken, to prevent or minimize such damage.

Article 5

The heading to Articles 4 to 9 of the 1971 Fund Convention is amended by deleting the words "and indemnification".

Article 6

Article 4 of the 1971 Fund Convention is amended as follows:

1. In paragraph 1 the five references to "the Liability Convention" are replaced by references to "the 1992 Liability Convention".

2. Paragraph 3 is replaced by the following text:

3. If the Fund proves that the pollution damage resulted wholly or partially either from an act or omission done with the intent to cause damage by the person who suffered the damage or from the negligence of that person, the Fund may be exonerated wholly or partially from its obligation to pay compensation to such person. The Fund shall in any event be exonerated to the extent that the shipowner may have been exonerated under Article III, paragraph 3, of the 1992 Liability Convention. However, there shall be no such exoneration of the Fund with regard to preventive measures.

3. Paragraph 4 is replaced by the following text:

4. (a) Except as otherwise provided in subparagraphs (b) and (c) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the 1992 Liability Convention for pollution damage within the scope of application of this Convention as defined in Article 3 shall not exceed 135 million units of account.

(b) Except as otherwise provided in subparagraph (c), the aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional inevitable and irresistible character shall not exceed 135 million units of account.

(c) The maximum amount of compensation referred to in subparagraphs (a) and (b) shall be 200 million units of account with respect to any incident occurring during any period when there are three Parties to this Convention in respect of which the combined relevant quantity of contributing oil received by persons in the territories

of such Parties, during the preceding calendar year, equalled or exceeded 600 million tons.

(d) Interest accrued on a fund constituted in accordance with Article V, paragraph 3, of the 1992 Liability Convention, if any, shall not be taken into account for the computation of the maximum compensation payable by the Fund under this Article.

(e) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the Fund as to the first date of payment of compensation.

4. Paragraph 5 is replaced by the following text:

5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.

5. Paragraph 6 is replaced by the following text:

6. The Assembly of the Fund may decide that, in exceptional cases, compensation in accordance with this Convention can be paid even if the owner of the ship has not constituted a fund in accordance with Article V, paragraph 3, of the 1992 Liability Convention. In such case paragraph 4(e) of this Article applies accordingly.

Article 7

Article 5 of the 1971 Fund Convention is deleted.

Article 8

Article 6 of the 1971 Fund Convention is amended as follows:

1. In paragraph 1 the paragraph number and the words "or indemnification under Article 5" are deleted.
2. Paragraph 2 is deleted.

Article 9

Article 7 of the 1971 Fund Convention is amended as follows:

1. In paragraphs 1, 3, 4 and 6 the seven references to "the Liability Convention" are replaced by references to "the 1992 Liability Convention".
2. In paragraph 1 the words "or indemnification under Article 5" are deleted.
3. In the first sentence of paragraph 3 the words "or indemnification" and "or 5" are deleted.

4. In the second sentence of paragraph 3 the words "or under Article 5, paragraph 1," are deleted.

Article 10

In Article 8 of the 1971 Fund Convention the reference to "the Liability Convention" is replaced by a reference to "the 1992 Liability Convention".

Article 11

Article 9 of the 1971 Fund Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:
 1. The Fund shall, in respect of any amount of compensation for pollution damage paid by the Fund in accordance with Article 4, paragraph 1, of this Convention, acquire by subrogation the rights that the person so compensated may enjoy under the 1992 Liability Convention against the owner or his guarantor.
2. In paragraph 2 the words "or indemnification" are deleted.

Article 12

Article 10 of the 1971 Fund Convention is amended as follows:

The opening phrase of paragraph 1 is replaced by the following text:

Annual contributions to the Fund shall be made in respect of each Contracting State by any person who, in the calendar year referred to in Article 12, paragraph 2(a) of (b), has received in total quantities exceeding 150,000 tons:

Article 13

Article 11 of the 1971 Fund Convention is deleted.

Article 14

Article 12 of the 1971 Fund Convention is amended as follows:

1. In the opening phrase of paragraph 1 the words "for each person referred to in Article 10" are deleted.
2. In paragraph 1(i), subparagraphs (b) and (c), the words "or 5" are deleted and the words "15 million francs" are replaced by the words "four million units of account".
3. Subparagraph 1(ii)(b) is deleted.
4. In paragraph 1(ii), subparagraph (c) becomes (b) and subparagraph (d) becomes (c).

5. The opening phrase in paragraph 2 is replaced by the following text:

The Assembly shall decide the total amount of contributions to be levied. On the basis of that decision, the Director shall, in respect of each Contracting State, calculate for each person referred to in Article 10 the amount of his annual contribution:

6. Paragraph 4 is replaced by the following text:

4. The annual contribution shall be due on the date to be laid down in the Internal Regulations of the Fund. The Assembly may decide on a different date of payment.

7. Paragraph 5 is replaced by the following text:

5. The Assembly may decide, under conditions to be laid down in the Financial Regulations of the fund, to make transfers between funds received in accordance with Article 12.2(a) and funds received in accordance with Article 12.2(b).

8. Paragraph 6 is deleted.

Article 15

Article 13 of the 1971 Fund Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:

1. The amount of any contribution due under Article 12 and which is in arrears shall bear interest at a rate which shall be determined in accordance with the Internal Regulations of the Fund, provided that different rates may be fixed for different circumstances.

2. In paragraph 3 the words "Articles 10 and 11" are replaced by the words "Articles 10 and 12" and the words "for a period exceeding three months" are deleted.

Article 16

A new paragraph 4 is added to Article 15 of the 1971 Fund Convention:

4. Where a Contracting State does not fulfil its obligations to submit to the Director the communication referred to in paragraph 2 and this results in a financial loss for the Fund, that Contracting State shall be liable to compensate the Fund for such loss. The Assembly shall, on the recommendation of the Director, decide whether such compensation shall be payable by that Contracting State.

Article 17

Article 16 of the 1971 Fund Convention is replaced by the following text:

The Fund shall have an Assembly and a Secretariat headed by a Director.

Article 18

Article 18 of the 1971 Fund Convention is amended as follows:

1. In the opening sentence of the article the words", subject to the provisions of Article 26," are deleted.
2. Paragraph 8 is deleted.
3. Paragraph 9 is replaced by the following text:

9. to establish any temporary or permanent subsidiary body it may consider to be necessary, to define its terms of reference and to give it the authority needed to perform the functions entrusted to it; when appointing the members of such body, the Assembly shall endeavour to secure an equitable geographical distribution of members and to ensure that the Contracting States, in respect of which the largest quantities of contributing oil are being received, are appropriately represented; the Rules of Procedure of the Assembly may be applied, mutatis mutandis, for the work of such subsidiary body;
4. In paragraph 10 the words ", the Executive Committee," are deleted.
5. In paragraph 11 the words ", the Executive Committee" are deleted.
6. Paragraph 12 is deleted.

Article 19

Article 19 of the 1971 Fund Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:
 1. Regular sessions of the Assembly shall take place once every calendar year upon convocation by the Director.
2. In paragraph 2 the words "of the Executive Committee or" are deleted.

Article 20

Articles 21 to 27 of the 1971 Fund Convention and the heading to these articles are deleted.

Article 21

Article 29 of the 1971 Fund Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:
 1. The Director shall be the chief administrative officer of the Fund. Subject to the instructions given to him by the Assembly, he shall perform those functions which are assigned to him by this Convention, the Internal Regulations of the Fund and the Assembly.

2. In paragraph 2(e) the words "or the Executive Committee" are deleted.
3. In paragraph 2(f) the words "or to the Executive Committee, as the case may be," are deleted.
4. Paragraph 2(g) is replaced by the following text:

(g) prepare, in consultation with the Chairman of the Assembly, and publish a report of the activities of the Fund during the previous calendar year;
5. In paragraph 2(h) the words ", the Executive Committee" are deleted.

Article 22

In Article 31, paragraph 1, of the 1971 Fund Convention, the words "on the Executive Committee and" are deleted.

Article 23

Article 32 of the 1971 Fund Convention is amended as follows:

1. In the opening phrase the words "and the Executive Committee" are deleted.
2. In subparagraph (b) the words "and the Executive Committee" are deleted.

Article 24

Article 33 of the 1971 Fund Convention is amended as follows:

1. Paragraph 1 is deleted.
2. In paragraph 2 the paragraph number is deleted.
3. Subparagraph (c) is replaced by the following text:

(c) the establishment of subsidiary bodies, under Article 18, paragraph 9, and matters relating to such establishment.

Article 25

Article 35 of the 1971 Fund Convention is replaced by the following text:

Claims for compensation under Article 4 arising from incidents occurring after the date of entry into force of this Convention may not be brought against the Fund earlier than the one hundred and twentieth day after that date.

Article 26

After Article 36 of the 1971 Fund Convention four new articles are inserted as follows:

Article 36 bis

The following transitional provisions shall apply in the period, hereinafter referred to as the transitional period, commencing with the date of entry into force of this Convention and ending with the date on which the denunciations provided for in Article 31 of the 1992 Protocol to amend the 1971 Fund Convention take effect:

(a) In the application of paragraph 1(a) of Article 2 of this Convention, the reference to the 1992 Liability Convention shall include reference to the International Convention on Civil Liability for Oil Pollution Damage, 1969, either in its original version or as amended by the Protocol thereto of 1976 (referred to in this Article as "the 1969 Liability Convention"), and also the 1971 Fund Convention.

(b) Where an incident has caused pollution damage within the scope of this Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person has been unable to obtain full and adequate compensation for the damage under the terms of the 1969 Liability Convention, the 1971 Fund Convention and the 1992 Liability Convention, provided that, in respect of pollution damage within the scope of this Convention in respect of a Party to this Convention but not a Party to the 1971 Fund Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person would have been unable to obtain full and adequate compensation had that State been party to each of the above-mentioned Conventions.

(c) In the application of Article 4 of this Convention, the amount to be taken into account in determining the aggregate amount of compensation payable by the Fund shall also include the amount of compensation actually paid under the 1969 Liability Convention, if any, and the amount of compensation actually paid or deemed to have been paid under the 1971 Fund Convention.

(d) Paragraph 1 of Article 9 of this Convention shall also apply to the rights enjoyed under the 1969 Liability Convention.

Article 36 ter

1. Subject to paragraph 4 of this Article, the aggregate amount of the annual contributions payable in respect of contributing oil received in a single Contracting State during a calendar year shall not exceed 27.5% of the total amount of annual contributions pursuant to the 1992 Protocol to amend the 1971 Fund Convention, in respect of that calendar year.

2. If the application of the provisions in paragraphs 2 and 3 of Article 12 would result in the aggregate amount of the contributions payable by contributors in a single Contracting State in respect of a given calendar year exceeding 27.5% of the total annual contributions, the contributions payable by all contributors in that State shall be reduced pro rata so that their aggregate contributions equal 27.5% of the total annual contributions to the Fund in respect of that year.

3. If the contributions payable by persons in a given Contracting State shall be reduced pursuant to paragraph 2 of this Article, the contributions payable by persons in all other Contracting States shall be increased pro rata so as to ensure that the total amount of

contributions payable by all persons liable to contribute to the Fund in respect of the calendar year in question will reach the total amount of contributions decided by the Assembly.

4. The provisions in paragraphs 1 to 3 of this Article shall operate until the total quantity of contributing oil received in all Contracting States in a calendar year has reached 750 million tons or until a period of 5 years after the date of entry into force of the said 1992 Protocol has elapsed, whichever occurs earlier.

Article 36 quater

Notwithstanding the provisions of this Convention, the following provisions shall apply to the administration of the Fund during the period in which both the 1971 Fund Convention and this Convention are in force:

(a) The Secretariat of the Fund, established by the 1971 Fund Convention (hereinafter referred to as "the 1971 Fund"), headed by the Director, may also function as the Secretariat and the Director of the Fund.

(b) If, in accordance with subparagraph (a), the Secretariat and the Director of the 1971 Fund also perform the function of Secretariat and Director of the Fund, the Fund shall be represented, in cases of conflict of interests between the 1971 Fund and the Fund, by the Chairman of the Assembly of the Fund.

(c) The Director and the staff and experts appointed by him, performing their duties under this Convention and the 1971 Fund Convention, shall not be regarded as contravening the provisions of Article 30 of this Convention in so far as they discharge their duties in accordance with this Article.

(d) The Assembly of the Fund shall endeavour not to take decisions which are incompatible with decisions taken by the Assembly of the 1971 Fund. If differences of opinion with respect to common administrative issues arise, the Assembly of the Fund shall try to reach a consensus with the Assembly of the 1971 Fund, in a spirit of mutual co-operation and with the common aims of both organizations in mind.

(e) The Fund may succeed to the rights, obligations and assets of the 1971 Fund if the Assembly of the 1971 Fund so decides, in accordance with Article 44, paragraph 2, of the 1971 Fund Convention.

(f) The Fund shall reimburse to the 1971 Fund all costs and expenses arising from administrative services performed by the 1971 Fund on behalf of the Fund.

Article 36 quinquies

Final clauses

The final clauses of this Convention shall be Articles 28 to 39 of the Protocol of 1992 to amend the 1971 Fund Convention. References in this Convention to Contracting States shall be taken to mean references to the Contracting States of that Protocol.

Article 27

1. The 1971 Fund Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.
2. Articles 1 to 36 quinquies of the 1971 Fund Convention as amended by this Protocol shall be known as the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (1992 Fund Convention).

FINAL CLAUSES

Article 28

Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open for signature at London from 15 January 1993 to 14 January 1994 by any State which has signed the 1992 Liability Convention.
2. Subject to paragraph 4, this Protocol shall be ratified, accepted or approved by States which have signed it.
3. Subject to paragraph 4, this Protocol is open for accession by States which did not sign it.
4. This Protocol may be ratified, accepted, approved or acceded to only by States which have ratified, accepted, approved or acceded to the 1992 Liability Convention.
5. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument to that effect with the Secretary-General of the Organization.
6. A State which is a Party to this Protocol but is not a Party to the 1971 Fund Convention shall be bound by the provisions of the 1971 Fund Convention as amended by this Protocol in relation to other Parties hereto, but shall not be bound by the provisions of the 1971 Fund Convention in relation to Parties thereto.
7. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the 1971 Fund Convention as amended by this Protocol shall be deemed to apply to the Convention so amended, as modified by such amendment.

Article 29

Information on contributing oil

1. Before this Protocol comes into force for a State, that State shall, when depositing an instrument referred to in Article 28, paragraph 5, and annually thereafter at a date to be determined by the Secretary-General of the Organization, communicate to him the name and address of any person who in respect of that State would be liable to contribute to the Fund pursuant to Article 10 of the 1971 Fund Convention as amended by this Protocol as well as data on the relevant quantities of contributing oil received by any such person in the territory of that State during the preceding calendar year.

2. During the transitional period, the Director shall, for Parties, communicate annually to the Secretary-General of the Organization data on quantities of contributing oil received by persons liable to contribute to the Fund pursuant to Article 10 of the 1971 Fund Convention as amended by this Protocol.

Article 30
Entry into force

1. This Protocol shall enter into force twelve months following the date on which the following requirements are fulfilled:
 - (a) at least eight States have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization; and
 - (b) the Secretary-General of the Organization has received information in accordance with Article 29 that those persons who would be liable to contribute pursuant to Article 10 of the 1971 Fund Convention as amended by this Protocol have received during the preceding calendar year a total quantity of at least 450 million tons of contributing oil.
2. However, this Protocol shall not enter into force before the 1992 Liability Convention has entered into force.
3. For each State which ratifies, accepts, approves or accedes to this Protocol after the conditions in paragraph 1 for entry into force have been met, the Protocol shall enter into force twelve months following the date of the deposit by such State of the appropriate instrument.
4. Any State may, at the time of the deposit of its instrument of ratification, acceptance, approval or accession in respect of this Protocol declare that such instrument shall not take effect for the purpose of this Article until the end of the six-month period in Article 31.
5. Any State which has made a declaration in accordance with the preceding paragraph may withdraw it at any time by means of a notification addressed to the Secretary-General of the Organization. Any such withdrawal shall take effect on the date the notification is received, and any State making such a withdrawal shall be deemed to have deposited its instrument of ratification, acceptance, approval or accession in respect of this Protocol on that date.
6. Any State which has made a declaration under Article 13, paragraph 2, of the Protocol of 1992 to amend the 1969 Liability Convention shall be deemed to have also made a declaration under paragraph 4 of this Article. Withdrawal of a declaration under the said Article 13, paragraph 2, shall be deemed to constitute withdrawal also under paragraph 5 of this Article.

Article 31
Denunciation of the 1969 and 1971 Conventions

Subject to Article 30, within six months following the date on which the following requirements are fulfilled:

- (a) at least eight States have become Parties to this Protocol or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization, whether or not subject to Article 30, paragraph 4, and
- (b) the Secretary-General of the Organization has received information in accordance with Article 29 that those persons who are or would be liable to contribute pursuant to Article 10 of the 1971 Fund Convention as amended by this Protocol have received during the preceding calendar year a total quantity of at least 750 million tons of contributing oil;

each Party to this Protocol and each State which has deposited an instrument of ratification, acceptance, approval or accession, whether or not subject to Article 30, paragraph 4, shall, if Party thereto, denounce the 1971 Fund Convention and the 1969 Liability Convention with effect twelve months after the expiry of the above-mentioned six-month period.

Article 32
Revision and amendment

- 1. A conference for the purpose of revising or amending the 1992 Fund Convention may be convened by the Organization.
- 2. The Organization shall convene a Conference of Contracting States for the purpose of revising or amending the 1992 Fund Convention at the request of not less than one third of all Contracting States.

Article 33
Amendment of compensation limits

- 1. Upon the request of at least one quarter of the Contracting States, any proposal to amend the limits of amounts of compensation laid down in Article 4, paragraph 4, of the 1971 Fund Convention as amended by this Protocol shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.
- 2. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization for consideration at a date at least six months after the date of its circulation.
- 3. All Contracting States to the 1971 Fund Convention as amended by this Protocol, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.
- 4. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided for in paragraph 3, on condition that at least one half of the Contracting States shall be present at the time of voting.

5. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and in particular the amount of damage resulting therefrom and changes in the monetary values. It shall also take into account the relationship between the limits in Article 4, paragraph 4, of the 1971 Fund Convention as amended by this Protocol and those in Article V, paragraph 1, of the International Convention on Civil Liability for Oil Pollution Damage, 1992.
6. (a) No amendment of the limits under this Article may be considered before 15 January 1998 nor less than five years from the date of entry into force of a previous amendment under this Article. No amendment under this Article shall be considered before this Protocol has entered into force.
(b) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1971 Fund Convention as amended by this Protocol increased by six per cent per year calculated on a compound basis from 15 January 1993.
(c) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1971 Fund Convention as amended by this Protocol multiplied by three.
7. Any amendment adopted in accordance with paragraph 4 shall be notified by the Organization to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification unless within that period not less than one quarter of the States that were Contracting States at the time of the adoption of the amendment by the Legal Committee have communicated to the Organization that they do not accept the amendment in which case the amendment is rejected and shall have no effect.
8. An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force eighteen months after its acceptance.
9. All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with Article 34, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.
10. When an amendment has been adopted by the Legal Committee but the eighteen-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 7. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Protocol enters into force for that State, if later.

Article 34
Denunciation

1. This Protocol may be denounced by any Party at any time after the date on which it enters into force for that Party.

2. Denunciation shall be effected by the deposit of an instrument with the Secretary-General of the Organization.
3. A denunciation shall take effect twelve months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General of the Organization.
4. Denunciation of the 1992 Liability Convention shall be deemed to be a denunciation of this Protocol. Such denunciation shall take effect on the date on which denunciation of the Protocol of 1992 to amend the 1969 Liability Convention takes effect according to Article 16 of that Protocol.
5. Any Contracting State to this Protocol which has not denounced the 1971 Fund Convention and the 1969 Liability Convention as required by Article 31 shall be deemed to have denounced this Protocol with effect twelve months after the expiry of the six-month period mentioned in that Article. As from the date on which the denunciations provided for in Article 31 take effect, any Party to this Protocol which deposits an instrument of ratification, acceptance, approval or accession to the 1969 Liability Convention shall be deemed to have denounced this Protocol with effect from the date on which such instrument takes effect.
6. As between the Parties to this Protocol, denunciation by any of them of the 1971 Fund Convention in accordance with Article 41 thereof shall not be construed in any way as a denunciation of the 1971 Fund Convention as amended by this Protocol.
7. Notwithstanding a denunciation of this Protocol by a Party pursuant to this Article, any provisions of this Protocol relating to the obligations to make contributions under Article 10 of the 1971 Fund Convention as amended by this Protocol with respect to an incident referred to in Article 12, paragraph 2(b), of that amended Convention and occurring before the denunciation takes effect shall continue to apply.

Article 35

Extraordinary sessions of the Assembly

1. Any Contracting State may, within ninety days after the deposit of an instrument of denunciation the result of which it considers will significantly increase the level of contributions for the remaining Contracting States, request the Director to convene an extraordinary session of the Assembly. The Director shall convene the Assembly to meet not later than sixty days after receipt of the request.
2. The Director may convene, on his own initiative, an extraordinary session of the Assembly to meet within sixty days after the deposit of any instrument of denunciation, if he considers that such denunciation will result in a significant increase in the level of contributions of the remaining Contracting States.
3. If the Assembly at an extraordinary session convened in accordance with paragraph 1 or 2 decides that the denunciation will result in a significant increase in the level of contributions for the remaining Contracting States, any such State may, not later than one hundred and twenty days before the date on which the denunciation takes effect, denounce this Protocol with effect from the same date.

Article 36
Termination

1. This Protocol shall cease to be in force on the date when the number of Contracting States falls below three.
2. States which are bound by this Protocol on the day before the date it ceases to be in force shall enable the Fund to exercise its functions as described under Article 37 of this Protocol and shall, for that purpose only, remain bound by this Protocol.

Article 37
Winding up of the Fund

1. If this Protocol ceases to be in force, the Fund shall nevertheless:
 - (a) meet its obligations in respect of any incident occurring before the Protocol ceased to be in force;
 - (b) be entitled to exercise its rights to contributions to the extent that these contributions are necessary to meet the obligations under subparagraph (a), including expenses for the administration of the Fund necessary for this purpose.
2. The Assembly shall take all appropriate measures to complete the winding up of the Fund including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the Fund.
3. For the purposes of this Article the Fund shall remain a legal person.

Article 38
Depositary

1. This Protocol and any amendments accepted under Article 33 shall be deposited with the Secretary-General of the Organization.
2. The Secretary-General of the Organization shall:
 - (a) inform all States which have signed or acceded to this Protocol of:
 - (i) each new signature or deposit of an instrument together with the date thereof;
 - (ii) each declaration and notification under Article 30 including declarations and withdrawals deemed to have been made in accordance with that Article;
 - (iii) the date of entry into force of this Protocol;
 - (iv) the date by which denunciations provided for in Article 31 are required to be made;
 - (v) any proposal to amend limits of amounts of compensation which has been made in accordance with Article 33, paragraph 1;

- (vi) any amendment which has been adopted in accordance with Article 33, paragraph 4;
 - (vii) any amendment deemed to have been accepted under Article 33, paragraph 7, together with the date on which that amendment shall enter into force in accordance with paragraphs 8 and 9 of that Article;
 - (viii) the deposit of an instrument of denunciation of this Protocol together with the date of the deposit and the date on which it takes effect;
 - (ix) any denunciation deemed to have been made under Article 34, paragraph 5;
 - (x) any communication called for by any Article in this Protocol;
- (b) transmit certified true copies of this Protocol to all Signatory States and to all States which accede to the Protocol.
3. As soon as this Protocol enters into force, the text shall be transmitted by the Secretary-General of the Organization to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 39
Languages

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this twenty-seventh day of November one thousand nine hundred and ninety-two.

IN WITNESS WHEREOF the undersigned being duly authorized for that purpose have signed this Protocol.