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COMPENSATION
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Agenda item 3

92FUND/A/ES.8/2/2
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PREPARATIONS FOR THE ENTRY INTO FORCE OF THE SUPPLEMENTARY FUND PROTOCOL

TREATY MATTERS

Note by the Director

Summary:	This document deals with issues relating to treaty matters which will have to be considered in connection with the setting up of the Supplementary Fund. The procedure for informing the Supplementary Fund of the establishment of an EEZ or designation of an area under Article 3(a)(ii) of the Supplementary Fund Protocol is discussed. Consideration is given to the likely date for the entry into force of the Protocol.
Action to be taken:	Decide on the procedure for informing the Supplementary Fund of the establishment of an EEZ or designation of such an area.

1 Status of the Supplementary Fund Protocol

- 1.1 The Supplementary Fund Protocol shall under Article 21 enter into force three months following the date on which the following requirements are fulfilled:
 - (i) 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
 - (ii) the Secretary-General of IMO 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.
- 1.2 As at 12 May 2004 two States (Denmark and Norway) had ratified the Protocol.
- 1.3 At the 24th session of the 1992 Fund Executive Committee the delegations of Finland, Spain and France indicated that their States expected to ratify the Protocol during the spring of 2004 whilst the delegations of Germany, Ireland, Japan and the United Kingdom expected their States to ratify during the summer. At that session the delegations of Sweden and Greece indicated that their States expected to ratify later in 2004 and the delegations of Canada, the Netherlands and Italy stated that they were preparing for consultations on ratification but did not give an estimated date (document 92FUND/EXC.24/8, paragraph 5.3).

- 1.4 In view of these indications it appears that by the end of the summer 2004 eight States, whose contributors have received a total quantity of at least 450 million tons of contributing oil in the calendar year 2003, will have ratified the Supplementary Fund Protocol. Therefore, in the Director's view it is likely that the Protocol will enter into force during the autumn of 2004.

2 Application of the Supplementary Fund Protocol to the EEZ or an area designated under Article 3(a)(ii)

- 2.1 At its 1st session held in 1996 the 1992 Fund Assembly noted that the geographical scope of application of the 1992 Fund Convention included the exclusive economic zone (EEZ) established under the United Nations Convention on the Law of the Sea or an area designated under Article 3(a)(ii) of the 1992 Fund Convention. It was recognised that in order to determine the geographical scope of application of the 1992 Fund Convention in respect of a given Member State, it was necessary for the 1992 Fund to know whether that State had established an EEZ or designated such an area (document 92FUND/A.1/34, paragraph 21.1).
- 2.2 The Assembly adopted a Resolution at its 1st session (1992 Fund Resolution N°4) to the effect that States which established an EEZ or determined an area under Article 3(a)(ii) of the 1992 Fund Convention before ratifying the 1992 Fund Convention were urged to notify the Secretary-General of IMO accordingly when they deposited their instruments of ratification in respect of that Convention, and that States which established an EEZ or determined such an area after the entry into force of the 1992 Fund Convention in respect of those States were invited to notify the Director accordingly (document 92FUND/A.1/34, paragraph 21.2 and Annex IV).
- 2.3 The provisions of Article 3(a)(ii) of the Supplementary Fund Protocol concerning the establishment by Contracting States of an EEZ or designation of such an area are identical to those of Article 3(a)(ii) of the 1992 Fund Convention. In the Director's view, it would be appropriate therefore that notifications received by the Secretary-General of IMO or the Director from States which are Members of the 1992 Fund should automatically apply in respect of the Supplementary Fund Protocol when they become Parties to the Protocol.

3 Action to be taken

The Assembly is invited:

- (a) to take note of the information contained in this document; and
 - (b) to decide on the procedure for informing the Supplementary Fund of the establishment of an EEZ or designation of an area under Article 3(a)(ii) of the Supplementary Fund Protocol.
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