



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1992

THIRD INTERSESSIONAL  
WORKING GROUP  
Agenda item 2

92FUND/WGR.3/22/4  
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## REVIEW OF THE INTERNATIONAL COMPENSATION REGIME

A discussion paper

**Submitted by Italy**

***Summary:***

Italy expresses concerns about the current system of burden sharing for incidents covered by the 1992 Civil Liability Convention (CLC) and the 1992 Fund Convention and on the imbalance in the apportionment of liabilities among the parties.

The proposal set out in this document is aimed at amending the regime to address the key issue of a more equitable balance between shipowners and all the subjects interested in the cargo.

***Action to be taken:***

The Working Group is invited to take note of the information in this document.

### **1 Introduction**

During the 7th meeting of the third intersessional Working Group, Italy presented document 92FUND/WGR.3/19/11 concerning amendments to the 1992 Civil Liability and Fund Conventions. Due to constraint of time, the compact proposal could not be examined in its entirety.

### **2 Consideration**

- 2.1 The Italian delegation has noted that the issue raised in the document has been taken into consideration in some of the new submitted proposals now under examination, but only in a partial way.
- 2.2 It is therefore deemed useful, in order to contribute to the discussion of the subject, to revert to the previous Italian proposal and extract from the above mentioned document the problem of the liability concerning cargo owners

**3 Proposal**

- 3.1 In this respect, Italy, in line with what has already been pointed out during previous Working Group meetings, requests that the proposal to establish an additional tier of liability for the cargo owners be considered together with the shipowners' and the Fund's financial liabilities.
- 3.2 Cargo owners (intended as the actors to whom the bill of lading is registered and different from the subjects that receive the cargo at the discharging port) through spot commercial operations move great quantities of cargo; consequently an appropriate level of burden sharing, by means of financial guarantees or insurance cover, should be assessed and determined, in a manner at least equivalent to the ceiling established for the shipowners.
- 3.3 In this way, the unfair imbalance currently existing among the Fund' Member States would be significantly redressed, together with a more reasonable review of the shipowners' liability threshold.
- 3.4 The observations expressed by some delegations about the identification of that party through the bill of lading have been noted. Further clarifications have been given during the past discussion.
- 3.5 In particular, the Italian delegation points out that as far as the identification of this new party is concerned, the action should be taken with regard to the formal document recognising the cargo in quality and in quantity and its owner through the bill of lading.
- 3.6 When this additional tier is established, the ship, before sailing from the port of loading has to prove that the cargo has been insured not only for its value as currently happens, but even and additionally for the potential dangers related to the oil spill, up to a limit to be established. The insurance will cover the cargo as far as the port of discharge even if it has been sold on the way.

**4 Action requested**

- 4.1 Italy expresses the wish that the Working Group give the proposal contained in this document its most careful consideration.
- 4.2 The involvement of a third tier in the existing compensation regime appears to be justified by the need to improve the protection of the marine environment through the liability of all the parties responsible for the transportation of oil products by sea.
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