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COMPENSATION  
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DEFINITION OF "CONTRIBUTING OIL" IN ARTICLE 1.3 OF THE FUND CONVENTION

Note by the Director

Introduction

1 The IOPC Fund is financed by a levy on "contributing oil" as defined in Article 1.3 of the Fund Convention. This definition reads:

"Contributing oil" means crude oil and fuel oil as defined in sub-paragraphs (a) and (b) below:

- (a) "Crude Oil" means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation. It also includes crude oils from which certain distillate fractions have been removed (sometimes referred to as "topped crudes") or to which certain distillate fractions have been added (sometimes referred to as "spiked" or "reconstituted" crudes).
- (b) "Fuel Oil" means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the "American Society for Testing and Materials' Specification for Number Four Fuel Oil (Designation D396-69)", or heavier.

2 Certain changes which have taken place within the oil industry since the Fund Convention was adopted in 1971 have had an impact on the scope of this definition, and queries have been raised by Member States. For this reason, the Director has considered it appropriate to submit a question regarding the interpretation of this definition to the Assembly for consideration.

Background to the Definition

3 The definition of contributing oil was elaborated at the 1971 Diplomatic Conference on the basis of a text presented by the organisations representing the oil industry with, inter alia, the following intentions:

- (a) To cover all crude oil carried by sea and to prevent a situation arising where a simple treatment or steaming of crude oil, or the addition of an extra component, would enable an operator to claim that the material was not crude oil but something different and that he was therefore not liable to contribute for this material.
- (b) To define fuel oil so as to exclude lubricating oil and blendstocks therefor, bitumen and process stocks which were not intended to be burned as fuel.

4 Fuel oil was defined by reference to the American Society for Testing and Materials' Specification for Number Four Fuel Oil (Designation D396-69) in an endeavour to provide a criterion which was easily understandable to the oil industry for the purpose of establishing whether or not any material should be considered as contributing oil. Designation D396-69 reads <1>:

N°4 (Light) Fuel

Pre-heating not usually required for handling or burning

Specific gravity at 60°F (16°C)	0.8762	minimum
API gravity at 60°F (16°C)	30	maximum
Flash point	30°C	minimum
	100°F	"
Pour point	-6°C	maximum
	20°F	"
Kinematic viscosity -	2.0	minimum
centistokes at 38°C (100°F)	5.8	maximum
Saybolt universal viscosity -	32.6	minimum
seconds at 38°C (100°F)	45.0	maximum
Ash (by weight)	0.05%	maximum
Water and sediment (by volume)	0.50%	maximum

Changes Within the Oil Industry

5 Since the definition of contributing oil was incorporated into the Fund Convention in 1971, there have been major changes in the oil industry and oil refining techniques. In 1971, fuel oil was a major source of heat and power. With the increase in the price of crude oil in the 1970s, fuel oil demand decreased as a result of its substitution by coal, nuclear power and natural gas. Refineries, therefore, had to find a new outlet for the oil for which there was now a significantly diminished market. This was achieved by increased catalytic cracking (a process which converts heavy distillates, which would otherwise be sold as fuel oil, into gasoline components and lighter distillates) and by the installation of visbreaking capacity (a process by

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<1> Designation D396-69 has been updated, most recently by designation D396-82; however, the definition of N°4 fuel oil has not been changed.

which heavy residual fuel oil components can be converted to lighter fractions such as distillate and gasoline fractions). Some of the heavy residue is also sold as aromatic tar, a feedstock used by specialist companies for the manufacture of carbon black.

6 As a result of these changes, some materials which were previously considered as fuel oil and, therefore, as "contributing oil" for the purposes of the Fund Convention, have now become feedstocks for the processes mentioned above and are classified as intermediate products (ie oil which is no longer crude oil but which is not yet a finished product). The question has arisen as to whether these feedstocks should be considered as "contributing oil". It appears that certain States have included materials of the kind now discussed in their reports to the IOPC Fund on contributing oil, whereas most States have not. A clarification on this point is therefore necessary.

7 When the Fund Convention was adopted in 1971, crude oil and fuel oil, as defined, represented over 98% of the total quantity of persistent oil carried by sea. It was the strong recommendation of the oil industry that contributing oil should be limited to these two materials, since the cost and complexity of recording carriage by sea of other materials, such as lubricating oil and its various blendstocks, would unnecessarily complicate the contribution system; in view of the fact that the quantities involved were very small, their inclusion would be without practical significance. Movements of intermediate stocks which were persistent oils were, at that time, virtually unknown.

8 Today, however, growing quantities of intermediate stocks are being carried by sea. It is believed that the worldwide movement of such materials (ie catalytic cracker feedstock, visbreaker feedstock and aromatic tar) is in the region of 50-70 million tonnes per year and it is probable that some of this quantity is received in ports in Member States of the IOPC Fund after carriage by sea. However, it is unlikely that the inclusion or non-inclusion of these materials within the definition of "contributing oil" would have any major impact on the contribution per tonne levied by the IOPC Fund, since the quantities concerned, at present, are thought to represent only a small fraction of the total quantities of contributing oil reported by all Member States. If a decision were taken to consider such materials as "contributing oil", there would be small increases in the sums levied on those contributors who receive these feedstocks by sea.

#### Director's Position

9 In the Director's view, the changed situation within the oil industry makes it appropriate for the Assembly to examine whether the definition of "contributing oil" in Article 1.3 of the Fund Convention should be interpreted so as to include catalytic cracker feedstock, visbreaker feedstock and aromatic tar. There exists at present an uncertainty as to the interpretation of the definition in respect of these materials.

10 Materials which are now used as catalytic cracker feedstock, visbreaker feedstock and aromatic tar were previously marketed as finished products in the

form of fuel oil. However, they have now become refinery intermediate products. Used for their new purposes, these materials could not be considered as "fuel oil" for the purpose of the definition of "contributing oil", since they are not "... intended for use as a fuel for the production of heat or power". If they were still to be covered by the definition of "contributing oil", they would have to fall under the notion of "crude oil". However, since they have been through the initial distillation process and have been broken up into their constituent components, the Director is of the opinion that they should not be considered as "crude oil". For this reason, the Director considers that the definition of "contributing oil" should not be construed so as to cover catalytic cracker feedstock, visbreaker feedstock and aromatic tar.

#### List of Contributing Oil

11 It will be recalled that in 1981 the IOPC Fund elaborated "A Non-technical Guide to the Nature and Definition of Persistent Oil" (documents FUND/A.4/11 and FUND/A.4/16, paragraph 14). It was agreed by the IOPC Fund Assembly that this non-technical guide should serve as a guideline for the Director when dealing with claims against the IOPC Fund. This guide has proved very useful.

12 In connection with the examination of oil reports submitted to the IOPC Fund, the Secretariat of the IOPC Fund has found that a similar guide to the definition of "contributing oil" would be valuable. For this purpose, the consultant who assisted the Director in the elaboration of the guide on persistent oil <2> has prepared a list in which various materials are classified under the headings "contributing oil" and "non-contributing oil", respectively. This list is attached as an Annex to this document. With regard to the categories discussed above, their place in the list will obviously depend on the decision of the Assembly on the interpretation of the definition of "contributing oil".

13 This list should not be considered as exhaustive, but is intended to serve as a guideline for the Director when dealing with reports on receipts of contributing oil.

#### Action to be Taken by the Assembly

14 The Assembly is invited to:

- (a) decide on the interpretation of the notion of "contributing oil" in respect of catalytic cracker feedstock, visbreaker feedstock and aromatic tar; and
- (b) make such comments on the list of contributing and non-contributing oil in the Annex as it considers appropriate.

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<2> Mr C Walder, former Director of the Oil Companies International Marine Forum (OCIMF), who represented OCIMF as an observer at the 1971 Diplomatic Conference which adopted the Fund Convention.

ANNEXList of Contributing Oil and Non-Contributing OilContributing OilCrude Oils

All naturally occurring crude oils  
 Topped crudes  
 Spiked crudes  
 Reconstituted crudes

Finished Products

N°4 fuel (ASTM)  
 Navy special fuel  
 Light fuel oil  
 N°5 fuel (ASTM) - light  
 Medium fuel oil  
 N°5 fuel (ASTM) - heavy  
 Bunker C fuel oil  
 Heavy fuel oil  
 Marine fuel oil  
 N°6 fuel oil (ASTM)  
 Blended fuel oils by viscosity  
 or sulphur content

Intermediate or Process Stocks

Fuel oil blend stocks

Non-Contributing OilCrude Oils

Natural gas liquids  
 Condensate  
 Casinghead naphtha  
 Natural gasoline

Finished Products

LNG and LPG  
 Aviation gasolines  
 Motor gasoline (petrol, essence)  
 White spirit  
 Kerosene  
 Aviation kerosene  
 - Jet 1 A  
 - N°1 fuel (ASTM)  
 Gas oil  
 Heating oil  
 N°2 fuel (ASTM)  
 Marine diesel  
 Lubricating oil

Intermediate or Process Stocks

Straight run naphthas  
 Light cracked naphtha  
 Heavy cracked naphtha  
 Platformate  
 Reformate  
 Steam-cracked naphtha  
 Polymers  
 Isomers  
 Alkylates  
 Catalytic cycle oil  
 Reformer feed  
 Steam cracker feed  
 Gas oil blend stocks

(Place to depend on the decision  
 to be taken by the Assembly as to  
 the interpretation of the notion  
 of "contributing oil")

Catalytic cracker feedstock  
 Visbreaker feedstock  
 Aromatic tar

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