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COMPENSATION
FUND 1971

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ANY OTHER BUSINESS

DEFINITION OF 'CONTRIBUTING OIL'

Note by the Director

Summary:	The question has arisen whether certain types of oils should be considered as falling within the definition of 'contributing oil'.
Action to be taken:	Amend the list of 'contributing oil' contained in the reporting form annexed to the Internal Regulations, and instruct the Director to review the list further.

1 The Director has recently received several enquiries from Member States and individual contributors as to whether certain types of oils fall within the definition of 'contributing oil'.

2 The term 'contributing oil' is defined in Article 1.3 of the 1971 Fund Convention which 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 D 396-69)', or heavier.

3 The form for reporting receipts of contributing oil, which is annexed to the Internal Regulations, contains a list of contributing oil and non-contributing oil which is intended to serve as a guide for contributors.

4 The 1971 Fund Convention applies to spills of 'oil' as defined in Article I.5 of the 1969 Civil Liability Convention (ie "'Oil' means any persistent oil such as crude oil, fuel oil, heavy diesel oil, lubricating oil and whale oil"), but with the proviso that 'oil' is "confined to persistent hydrocarbon mineral oils" (Article 1.2).

5 Neither persistence nor non-persistence is defined in the 1971 Fund Convention. However, in 1981 the 1971 Fund elaborated a non-technical guide to the nature and definition of persistent oil (document FUND/A.4/11). It was agreed at the Assembly's 4th session that this guide should serve as a guideline for the Director when dealing with claims against the 1971 Fund (document FUND/A.4/16, paragraph 14).

6 Under the oil guide an oil is considered non-persistent if at the time of shipment at least 50% of the hydrocarbon fractions, by volume, distill at a temperature of 340°C, and at least 95% of the hydrocarbon fractions, by volume, distill at a temperature of 370°C, when tested in accordance with the American Society for Testing and Materials' Method D86/78 or any subsequent revision thereof.

7 At its 20th session, in connection with its consideration of whether a particular type of crude oil should be considered as contributing oil, the Assembly took the view that it was reasonable to interpret the definition of 'crude oil' within the definition of 'contributing oil' in the 1971 Fund Convention as being limited to persistent crude oil, since the compensation system established by the 1969 Civil Liability Convention and the 1971 Fund Convention applied only to persistent oil (document FUND/A.16/32, paragraph 29.3).

8 Most of the oils which have been the subject of recent enquiries are termed 'condensates', which at normal ambient conditions are composed of liquid hydrocarbon mixtures and which occur naturally in the earth. All condensates are listed as 'non-contributing oil' on the oil reporting form. The classification of condensates as 'non-contributing oil' is in conformity with the decision referred to in paragraph 7 above for those condensates which are considered non-persistent under the persistent oil guide referred to in paragraphs 5 and 6. It appears however, that the classification is not in conformity with that decision for those condensates which are considered persistent under that guide.

9 To maintain consistency with the Assembly's decision at its 20th session that 'contributing oil' should be limited to 'persistent oil', the Director proposes that the list of 'contributing oil' and 'non-contributing oil' attached to the oil reporting form which is annexed to the Internal Regulations is amended so that the classification of condensates is dependent on whether the type of oil in question is persistent. A revised list, with amendments underlined, is at the Annex.

10 Subject to any instructions which the Assembly may wish to give him, the Director intends to review further the list of 'contributing oil' and 'non-contributing oil' attached to the oil reporting form which is annexed to the Internal Regulations.

Action to be taken by the Assembly

- 11** The Assembly is invited:
- (a) to take note of the information contained in this document;
 - (b) to consider the proposed amendments to the list of 'contributing oil' and 'non-contributing oil' attached to the oil reporting form which is annexed to the Internal Regulations; and
 - (c) to give the Director such instructions as it considers necessary in respect of a further review of the list of types of oil contained in the oil reporting form which is annexed to the Internal Regulations.

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ANNEX

DRAFT

List of Contributing Oil and Non-Contributing Oil

The following list of contributing and non-contributing oil is intended as a guide for contributors (see also note 6)

Contributing Oil	Non-Contributing Oil
<i>Crude Oils</i>	<i>Crude Oils</i>
All naturally occurring crude oils	Natural gas liquids
<u>Condensate</u> ^{<1>}	<u>Condensate</u> ^{<1>}
Topped crudes	Casinghead naphtha
Spiked crudes	Natural gasoline
Reconstituted crudes	Cohasset-panuke
 <i>Finished Products</i>	 <i>Finished Products</i>
N°4 fuel (ASTM)	LNG and LPG
Navy special fuel	Aviation gasolines
Light fuel oil	Motor gasoline (petrol, essence)
N°5 fuel (ASTM) - light	White spirit
Medium fuel oil	Kerosene
N°5 fuel (ASTM) - heavy	Aviation kerosene
Bunker C fuel oil	- Jet 1 A
Heavy fuel oil	- N°1 fuel (ASTM)
Marine fuel oil	Gas oil
N°6 fuel oil (ASTM)	Heating oil
Blended fuel oils by viscosity or sulphur content	N°2 fuel (ASTM)
Orimulsion™ (a bituminous emulsion used for the production of heat or power) ^{<2>}	Marine diesel
	Lubricating oil
 <i>Intermediate or Process Stocks</i>	 <i>Intermediate or Process Stocks</i>
Fuel oil blend 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
	Catalytic cracker feedstock
	Visbreaker feedstock
	Aromatic tar

^{<1>} To be considered as 'non-contributing oil' if more than 50% by volume distils at a temperature of 340°C, or if more than 95% by volume distils at a temperature of 370°C, when tested by the ASTM Method D 86/78 or any subsequent revision thereof.

^{<2>} Quantity of orimulsion™ received should be reported with no allowance for its water content.