



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

ASSEMBLY
6th session
Agenda item 6

92FUND/A.6/4/3
2 October 2001
Original: ENGLISH

REPORT OF THE THIRD INTERSESSIONAL WORKING GROUP

DRAFT PROTOCOL ESTABLISHING A SUPPLEMENTARY COMPENSATION FUND

Submitted by the International Group of P & I Clubs

Summary:	This submission is intended to explain further the proposal put forward by the International Group of P & I Clubs at the inter-sessional Working Group meeting which was held in June 2001.
Action to be taken:	To take note of these further details.

- 1 At the meeting of the Third Inter-sessional Working Group which was held in June 2001 the International Group indicated that a proposal was being considered by Club Boards and international shipowner organizations to increase voluntarily the minimum limit of shipowners' liability under the 1992 Civil Liability Convention in order to
 - demonstrate the support of shipowners for the existing regime
 - demonstrate the commitment of shipowners to the notion of sharing and in recognition of the potential increased burden for contributing oil receivers under the proposal to introduce an optional third tier
 - avoid the necessity to amend the Conventions, a process which would inevitably be bedevilled by treaty law problems.
- 2 The proposal was welcomed at the meeting in June and further detail requested. Since that time the issue has been considered further and has gained general support in principle from Club Boards. In the light of the reaction of the 83rd session of the Legal Committee of IMO and of the 6th session of the 1992 IOPC Fund Assembly it is then intended to put the following scheme to Boards once more with further elaboration on points of detail.
- 3 **Outline of Possible Voluntary Scheme**
 - i. The Scheme would only apply in the event of a tanker spill affecting a State Party to the third tier when liability was imposed under CLC92. The scheme would come into effect at the

same time as the entry into force of the third tier. The flag of the vessel or the ownership of the cargo would not be relevant.

- ii. The CLC limit (including the increases which come into effect in 2003) would have to be exceeded, but the scheme would operate even if claims do not reach the third tier.
 - iii. The tanker owner's liability under the scheme would not exceed the CLC limit plus the voluntary tranche. Although Club Boards have not yet considered the amount of the voluntary increase the paper submitted by the International Group to the June meeting used an illustrative figure of SDR13.5 million. At this level the scheme would potentially cover 5,000 tank vessels out of a world fleet of approximately 7,700 tank vessels. Of the 5000 tank vessels 97% by number are known to be insured for pollution risks by Clubs in the International Group. Of the remainder, the majority are covered by one insurer outside the Group which, it is hoped, will eventually join the scheme.
 - iv. The tanker owner would contract with the IOPC Fund to reimburse claims paid in excess of the amended 92CLC limit. All contributors to the 1992 Fund would therefore benefit in circumstances where the scheme applied.
 - v. Attempts will be made to find a mechanism which will avoid the necessity for tanker owners to sign up individually to the scheme
 - vi. Clubs would guarantee the contractual liability to the Fund under the agreement subject only to the defences available to shipowners and insurers under CLC.
- 4** This scheme is based on the 1992 Conventions. It follows therefore that if any essential element of the 1992 Conventions affecting tanker-owners liabilities were to be amended shipowners and their Clubs reserve the right to withdraw the Scheme.
-