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STATUS OF THE 1992 CIVIL LIABILITY CONVENTION AND 1992 FUND CONVENTION AND RELATED MATTERS

Note by the Director

Introduction

1 Article 31 of the Final Clauses of the 1992 Protocol to the Fund Convention contains provisions concerning the denunciation of the 1969 Civil Liability Convention and the 1971 Fund Convention. This Article reads:

Article 31

Denunciation of the 1969 and 1971 Conventions

Subject to Article 30, within six months following the date on which the following requirements are fulfilled:

- (a) at least eight States have become Parties to this Protocol or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization, whether or not subject to Article 30, paragraph 4, and
- (b) the Secretary-General of the Organization has received information in accordance with Article 29 that those persons who are or would be liable to contribute pursuant to Article 10 of the 1971 Fund Convention as amended by this Protocol have received during the preceding calendar year a total quantity of at least 750 million tons of contributing oil;

each Party to this Protocol and each State which has deposited an instrument of

ratification, acceptance, approval or accession, whether or not subject to Article 30, paragraph 4, shall, if party thereto, denounce the 1971 Fund Convention and the 1969 Liability Convention with effect twelve months after the expiry of the above-mentioned six-month period.

2 Pursuant to Article 41.5 of the 1971 Fund Convention, denunciation by a State of that Convention will not affect the obligations of contributors in that State to pay contributions to major claims funds (ie to cover payments in excess of 1 million SDRs (approximately £937 000) for a given incident) in respect of incidents which occurred before the denunciation takes effect.

Prospects for compulsory denunciation

3 The quantities of contributing oil received in the States which have so far ratified the 1992 Protocol to the Fund Convention, and in the State which has indicated that the Protocol is before Parliament, are shown in the following table (quantities received in 1995, or the latest figure available):

	State	Contributing Oil (tonnes)	Total Oil (tonnes)
States Parties at time of 1st extraordinary session of the Assembly	Australia	29 293 967	598 225 133
	Denmark	6 597 134	
	France	93 349 995	
	Germany ^{<1>}	60 277 227	
	Greece	18 082 743	
	Japan	280 933 626	
	Liberia ^{<2>}	0	
	Marshall Islands	0	
	Mexico	12 165 722	
	Norway	24 019 234	
	Oman	0	
	Sweden	19 493 011	
	United Kingdom	83 306 441	
	Sub-total	598 225 133	
<i>Total of States Parties</i>			598 225 133
States which have deposited instruments of ratification but for which Convention is not in force at time of 1st extraordinary session of Assembly	Bahrain ^{<3>}	0	69 389 912
	Finland	11 378 019	
	Spain	58 011 893	
	Switzerland ^{<3>}	0	
	Sub-total	69 389 912	
<i>Total of these two groups</i>			667 615 045
States which have indicated possible ratification later in autumn of 1996	Netherlands	98 648 509	98 648 509
<i>Possible total by end of autumn 1996</i>			766 263 554

<1> For the purposes of this table, the quantity of 15 430 080 tonnes received via the Netherlands has not been included, since the oil should not be reported twice. Until such time as the Netherlands becomes Party to the 1992 Fund Protocol, however, the actual total quantity received in Germany amounts to 75 707 307 tonnes. It should also be noted that the figure given above

includes 26 582 897 tonnes received via Italy, and that if Italy were to become Party to the 1992 Fund Protocol, the total for Germany would be reduced accordingly.

- <2> Report on quantity received in 1995 not yet submitted; figure given is latest available.
<3> No report on contributing oil received since joining 1971 or 1992 Fund.

4 In the light of the information set out above, the Director of the 1971 Fund considers that the requirements for the compulsory denunciation of the 1969 Civil Liability Convention and the 1971 Fund Convention might be fulfilled during the autumn of 1996 – ie a total quantity of 750 million tonnes of contributing oil represented by the States which have ratified the 1992 Protocol to the Fund Convention – if the Netherlands ratifies the Protocols as expected. States Parties to the 1992 Protocol to the Fund Convention as well as States which have deposited their instruments of ratification in respect of that Protocol would then have to denounce the 1969 Civil Liability Convention and the 1971 Fund Convention within six months of the date when the figure of 750 million tonnes of contributing oil is reached, with effect 18 months after date of the accession by the Netherlands.

Consequences for States of failure to denounce the 1969 Civil Liability Convention and the 1971 Fund Convention

5 A State which has ratified the 1992 Protocol to the Fund Convention but does not denounce the 1969 Civil Liability Convention and the 1971 Fund Convention at the expiry of the above-mentioned six-month period shall be deemed to have denounced the 1992 Protocol to the Fund Convention with effect twelve months after the expiry of that six-month period (Article 34.5 of the Final Clauses of the 1992 Protocol to the Fund Convention). Such a State would consequently cease to be Party to the 1992 Protocol to the Fund Convention at the end of the twelve-month period.

6 During its consideration in October 1995 of the preparations for the entry into force of the 1992 Protocols amending the 1969 Civil Liability Convention and the 1971 Fund Convention, the 1971 Fund Assembly stressed that States should, when depositing their instruments of ratification of the 1992 Protocol to the Fund Convention, inform the Secretary-General of the International Maritime Organization of the quantity of contributing oil received, since this data was vital in order to establish when the total tonnage of 750 million tonnes which would trigger compulsory denunciations had been reached. It was further stated that in subsequent years, this information should be submitted to the Director of the 1992 Fund. The observer delegation of the International Maritime Organization confirmed that the Secretary-General would make every effort to ensure that States received notification in their capitals as promptly as possible, so that Governments would be able to take the necessary steps to denounce the 1969 Civil Liability Convention and the 1971 Fund Convention within the six-month period laid down in Article 31 of the Final Clauses of the 1992 Protocol to the Fund Convention.

Action to be taken by the Assembly

7 The Assembly is invited to take note of the information contained in this document.
