



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1992

SECOND INTERSESSIONAL  
WORKING GROUP  
Agenda item 3

92FUND/WGR.2/2/1  
23 March 1999  
Original: ENGLISH

## APPLICABILITY OF THE 1992 CONVENTIONS TO OFFSHORE CRAFT

Submitted by the Australian delegation

<b>Summary:</b>	Australia's position was set out in document 92FUND/A.2/22/1. Australia's primary concern is that the Assembly reaches an agreed position on whether or not the 1992 Conventions apply to FPSOs.
<b>Action to be taken:</b>	See paragraph 5.

1 Australia submitted a paper to the 2nd session of the 1992 Fund Assembly (92FUND/A.2/22/1) discussing the application of the 1992 Fund Convention to floating storage units (FSUs) and floating production storage offloading facilities (FPSOs). The paper proposed that the 1992 Fund Assembly decide whether or not such vessels fall within the scope of the Convention.

2 Australia considers that this remains the basic question for determination by the Intersessional Working Group, and requests that document 92FUND/A.2/22/1 (copy attached) be taken into account by the Working Group in its deliberations.

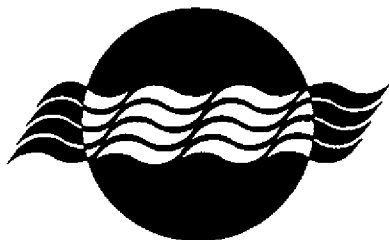
3 The paper submitted by the United Kingdom to the 3rd session of the 1992 Fund Assembly (92FUND/A.3/18) provides a comprehensive discussion of the issues involved. Australia concurs with the suggested implications of the definition of 'ship' and 'oil', as set out in the United Kingdom paper, and that the central question is the interpretation of the expression 'carried as cargo'. Australia notes the views of various delegations on this issue set out in the report of the 3rd session of the Assembly (paragraphs 20.5-20.10 of 92FUND/A.3/27).

4 Australia's primary concern is for the Assembly to reach an agreed position on this issue, rather than to promote a particular outcome. However, Australia remains of the view that, subject to satisfying the definitions of 'ship' and 'oil', FPSOs on voyages to and from repair or drydocking facilities or on voyages to avoid the possible effect of severe weather could reasonably be expected to fall within the scope of the Conventions.

**Action requested of the Working Group**

5 Australia requests that the Working Group take into account the Australian submission 92FUND/A.2/22/1 and the comments set out above.

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INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1992

ASSEMBLY  
2nd session  
Agenda item 23

92FUND/A.2/22/1  
29 August 1997  
Original: ENGLISH

## APPLICABILITY OF THE 1992 CIVIL LIABILITY CONVENTION AND THE 1992 FUND CONVENTION TO FLOATING STORAGE UNITS (FSUs) AND FLOATING PRODUCTION STORAGE AND OFFLOADING UNITS (FPSOs)

**Submission by the Australian delegation**

### **Introduction**

1 Australia considers that the application of the 1992 Fund Convention to floating storage units (FSUs) and floating production storage offloading facilities (FPSOs) requires clarification. This paper discusses the issue and proposes that the 1992 Fund Assembly decide whether or not such vessels fall within the scope of the Convention.

### **Background**

2 An FSU is a vessel, either custom built or converted from an existing tanker, whose main function is to act as interim bulk storage for crude oil production and to have the facility to transfer that oil to/from export or import tankers or to/from shore facilities. FPSOs are similar vessels with storage and offloading facilities. However they are also equipped to provide a process service usually in the form of separation of reservoir fluids into oil, gas and water.

3 The 39th session of the Marine Environment Protection Committee of IMO noted that the use of FSUs and FPSOs is expected to increase dramatically in the near future, and that Lloyds List reported in May 1996 24 such vessels under construction or being planned for addition to the global fleet by 1998.

4 The primary purpose of FSUs and FPSOs is to provide production and/or storage facilities for offshore oilfields or as storage in locations where such facilities provide the only viable storage option. They are normally permanently moored and remain at a fixed location, although some are designed to disconnect

from a riser turret and move under their own power from station in severe weather conditions or for voyages to repair or drydocking facilities. Operating in areas susceptible to tropical cyclones, most Australian FPSOs are of this type, and consequently maintained in class as oil tankers with major international classification societies who are members of IACS. A further consequence of being maintained in class is the need to comply with applicable international requirements such as MARPOL 73/78.

### **The problem**

5 Although the risk is low, there is nevertheless the possibility of incidents occurring while on station, during voyages to repair or drydocking facilities or voyages undertaken because of extreme weather conditions. Voyages to repair or drydocking facilities are normally undertaken without bulk oil on board (but are "ballast voyages" within the 1992 Fund Convention definition). However, the need to disconnect because of extreme weather conditions could arise at any stage of the vessel's operation, and conceivably with a part or full load of oil.

6 The question of whether FSUs or FPSOs are considered "ships" for the purposes of the 1992 Fund Convention appears to depend largely on whether they are "constructed or adapted for the carriage of oil" (see Article I.1 of the 1992 Civil Liability Convention and Article 1.2 of the 1992 Fund Convention).

7 Abecassis, 2nd edition, provides the following comment with regard to the definition of "ship" incorporated in the 1984 Protocol:

"The new definition appears more capable of covering the converted tankers which store oil at certain offshore installations or elsewhere, for the test now is not whether they are carrying oil in bulk as cargo, but whether they are constructed or adapted to do so, irrespective of their actual use at the time of the incident."

8 Australia holds the view that FPSO's which have been retained in classification as tankers would be covered by the 1992 Fund when on voyages to and from repair or drydocking facilities or on voyages to avoid the possible effect of severe weather conditions. Australia also holds the view that the application of the 1992 Fund Convention to any FPSO or FSU while connected to a pipeline in normal operating mode may not be so clear. It is therefore important for this issue to be resolved to avoid the possibility of dispute in the future.

9 Australia acknowledges the need for the 1992 Fund Assembly to avoid as far as possible taking decisions on hypothetical situations. However, Australia considers this to be an issue of fundamental importance to Member States with FSUs or FPSOs operating in their waters and to Member States whose contributors should be fully aware of the risks covered by the 1992 Fund Convention. If it is determined that the 1992 Fund Convention does not apply in all or any of the above circumstances, Administrations may need to consider the need for special coverage under national arrangements.

### **Action to be taken by the Assembly**

10 That the Assembly decide whether or not the 1992 Fund Convention applies to pollution damage arising from FSUs or FPSOs.

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