

ASSEMBLY - 1st session
Agenda item 9

ADOPTION OF INTERNAL REGULATIONS

Note by the Secretary-General of IMCO

1. On the basis of the Resolution adopted by the 1971 Conference on the Establishment of an International Compensation Fund for Oil Pollution Damage the Council of IMCO asked the Secretary-General to prepare and submit to the first Assembly of the Fund, inter alia, draft Internal Regulations and instructed the Organization's Legal Committee to 'monitor' the work of the Secretary-General.
2. In accordance with this decision a set of draft Internal Regulations for the Fund was prepared by the Secretary-General with the assistance of experts and consultants in the field and submitted to the Legal Committee of IMCO at its twentieth session, held from 3 to 7 September 1973. At that session, the Committee held a preliminary exchange of views. In accordance with a decision by the Committee, the Secretary-General of IMCO invited Governments to submit written comments on the existing draft. A further exchange of views, particularly on the principal issues raised, was held at the Committee's twenty-first session, held from 28 January to 1 February 1974. In the light of comments, observations and suggestions made by Governments and interested organizations the Secretary-General prepared a revised text which was submitted to the Legal Committee at its twenty-fourth session held from 11 to 15 November 1974. On the basis of further comments made at that session and after further consultations with a number of persons with special knowledge in this field, the Secretary-General has prepared the attached draft Internal Regulations.
3. The Assembly is invited to consider for adoption the attached draft Internal Regulations.

Attachment

DRAFT
INTERNAL REGULATIONS
FOR
THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND

REGULATION 1

DEFINITIONS

In these Internal Regulations:

1. "The Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, adopted at Brussels on 18 December 1971.
2. "The Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, adopted at Brussels on 29 November 1969.
3. "The Fund" means the International Oil Pollution Compensation Fund, established pursuant to Article 2, paragraph 1 of the Fund Convention.
4. "Contracting State" means the States Parties to the Fund Convention.
5. "Ship", "Person", "Owner", "Oil", "Pollution Damage", "Preventive Measures", "Incident", "Organization", "Contributing Oil", "Franc", "Ship's Tonnage", "Ton", "Guarantor" and "Terminal Installation" have the same meaning as in Article 1 of the Fund Convention.
6. "Competent authority" means an authority designated by a Contracting State to act on behalf of that State with regard to a particular aspect of the Fund's activities.
7. "Assembly" means the Assembly referred to in Article 17 of the Fund Convention or, where appropriate, the Executive Committee referred to in Article 21 of that Convention when it performs functions in accordance with Article 26 of the Fund Convention.
8. "Claim" means any application for compensation for pollution damage made to or against the owner, his guarantor or the Fund.
9. "Claimant" means any person making a claim.

10. "Indemnification liability" means that portion of the owner's liability for which the Fund, pursuant to Article 5, paragraph 1, of the Fund Convention, is under an obligation to indemnify the owner or his guarantor.
11. "Headquarters State" means the State in which the Fund has its headquarters.

REGULATION 2

CONTRIBUTIONS

2.1 The fixed sum on the basis of which initial contributions shall be calculated under Article 11, paragraph 1, of the Fund Convention shall be determined in francs. That sum shall be converted into the currency of the Headquarters State on the basis of the official value of that currency by reference to the franc on the date of the entry into force of the Fund Convention. Where there is no such official value on that date the conversion shall be made by the Director in accordance with principles established by the Assembly.

2.2 The fixed sum on the basis of which annual contributions shall be calculated under Article 12, paragraph 2, of the Fund Convention shall be determined in the currency of the Headquarters State.

2.3 Initial contributions shall be payable in the currency of the Headquarters State.

2.4 Alternative A

Annual contributions shall be payable in the currency of the Headquarters State. However, the Director may require a contributor to pay his annual contribution or a portion thereof in the national currency of the State within whose territory the relevant quantities of contributing oil were received. Conversion from the currency of the Headquarters State to the currency in which payment is to be made shall be at the official rate of exchange applied by the Central Bank of the Headquarters State on the date on which payment is due.

Alternative B^{1/}

Annual contributions shall be payable in the currency of the Headquarters State. A contributor may, however, pay his annual contribution or a portion thereof in the national currency of the State within whose territory the

^{1/} The adoption of this alternative would necessitate consequential amendments to Regulation 2.7(a).

relevant quantities of contributing oil were received. Conversion from the currency of the Headquarters State to the currency in which payment is to be made shall be at the official rate of exchange applied by the Central Bank of the Headquarters State on the date on which payment is due.

2.5 For the purposes of calculating the annual contributions the figure of 15 million francs laid down in Article 12, paragraph (1)(i)(b) and (c), shall be converted into the currency of the Headquarters State on the basis of the official value of that currency by reference to the franc on the date of the relevant incident. Where there is no such official value on that date the conversion shall be made by the Director in accordance with principles established by the Assembly.

2.6 In respect of any State for which the Fund Convention is not in force on 1 January of a particular year the annual contribution to be paid by each person in that State for that year shall be calculated as if the Fund Convention had been in force for that State on 1 January.

2.7 The Director shall promptly issue to every person liable to pay contributions under Articles 10, 11, 12 and 14 of the Fund Convention an invoice in respect of the sums for which he is liable. A copy of each invoice shall also be sent to the competent authority of the State within whose territory the relevant quantities of contributing oil were received. An invoice shall state:

- (a) the amount of the contribution due and the currency in which payment shall be made;
- (b) the date on the basis of which the amount of contribution has been calculated;
- (c) the date by which payment shall be made;
- (d) the address at which payment shall be made;
- (e) any other relevant information.

2.8 If a contributor fails to pay an initial or annual contribution by the date payment is due, the Director shall notify the competent authority of the State within whose territory the relevant quantities of contributing oil were received and request advice on the action to be taken to ensure that the obligations of that contributor are fulfilled.

2.9 Interest shall be charged on unpaid annual contributions from the date on which payment is due.

2.10 The Director may require a person who is in arrears for a period exceeding one month in respect of contributions duly invoiced to him in accordance with Regulation 2.7 to provide such financial security as the Director may consider adequate in respect of the amount unpaid. If the required security is not provided within two months from the date of a request from the Director, the Director shall take all appropriate steps against the person concerned with a view to recovering the amount due, unless the Assembly decides, pursuant to Article 13, paragraph 3 of the Fund Convention, that no action shall be taken or continued against such person.^{1/}

2.11 In respect of each incident giving rise to claims against the Fund, the Director shall maintain a running record of all expenses incurred by the Fund.

REGULATION 3

ACCOUNTS AND BUDGET

3.1 The accounts of the Fund and its annual budget shall be established in the currency of the Headquarters State.

3.2 Subject to Regulation 3.3, the accounts of the Fund shall be completed and closed at the end of each calendar year. Any surplus funds including interest from operations in a given year shall be carried forward to the next calendar year.

3.3 Annual contributions paid to the Fund under Article 12, paragraph 2(b) of the Fund Convention, including any interest thereon, shall be used exclusively for the satisfaction of the claims for which they were levied and shall be reserved in the accounts of the Fund from year to year for this purpose.

3.4 Where, after the periods set out in Article 6 of the Fund Convention for bringing actions in respect of a particular incident have lapsed and all claims and expenses arising out of that incident have been settled, there remains a substantial amount which has been reserved in accordance with Regulation 3.3, the Assembly shall decide whether such amount shall be reimbursed pro rata to the persons who made contributions with respect to that incident in accordance with Article 12, paragraph 2(b), of the Fund Convention, or whether such amount shall be credited pro rata to the accounts of these persons.

^{1/} The value of this paragraph seems questionable; it has, however, been inserted in light of the reference to the Internal Regulations contained in Article 12, paragraph 5 of the Fund Convention.

REGULATION 4

REPORTS OF CONTRIBUTING OIL RECEIPTS

4.1 The competent authority in each Contracting State shall forward to the Director an annual report in the form annexed to these Regulations. The annual report shall reach the Director not later than 31 March each year and shall specify the names and addresses of all persons who, in the preceding calendar year received within the territory of the Contracting State concerned oil in respect of which contributions are liable to be paid in accordance with Article 10 of the Fund Convention, together with details of the quantities of contributing oil received by all such persons during that year. The competent authority of each State in respect of which the Convention enters into force after 31 March of any year shall, on or before the date of entry into force of the Fund Convention for that State, submit a report in the terms stipulated in this Regulation in respect of contributing oil received within its territory during the preceding calendar year.

4.2 For the purpose of assisting Contracting States in the preparation of the reports referred to in Regulation 4.1 the Director shall, not later than 15 January of each year, circulate to the competent authorities of all Contracting States a list of the States in respect of which the Fund Convention will be in force on 31 March of that year. The Director shall notify these authorities of the date on which the Fund Convention enters into force for any other State during the course of the year.

4.3 The Director shall ascertain whether as a result of the coming into force of the Fund Convention for a State after 31 March of any year, some quantities of contributing oil have been reported to the Fund under Regulation 4.1 by more than one State. Where any such double reporting is found, the Director shall inform the competent authorities of all Contracting States thereof and amend the reports submitted by the authorities concerned accordingly. Where such amendment results in a reduction in the quantity of contributing oil received by any person during the preceding calendar year, the Director shall ensure that any excess contribution paid by such person is reimbursed or that any outstanding invoice issued to such person is appropriately amended.

4.4 Where, pursuant to Article 14 of the Fund Convention, a Contracting State assumes itself the obligations of any person who is liable to contribute to the Fund in respect of oil received within the territory of that State, such State shall, when submitting its annual reports concerning contributing

oil receipts, specify therein the names and addresses of the persons in respect of which the State assumes such obligation and the quantities of contributing oil received by such person.

REGULATION 5

INTERVENTION IN LEGAL PROCEEDINGS

5.1 Where the Director considers that the Fund may be liable to pay compensation for pollution damage arising out of a particular incident, he shall arrange to have the Fund intervene as a party in any legal proceedings against the owner or his guarantor or in other procedures for settling any claim arising out of the incident, if the Director considers that such intervention is required to safeguard the interests of the Fund. In case he is satisfied that the interests of the Fund and those of the owner and/or his guarantor are not in conflict, he may arrange for the Fund joining the owner and/or his guarantor in any legal proceedings or other procedures.

5.2 Where the Fund has joined the owner and/or his guarantor, the Fund may share the costs incurred in such proceedings or procedures on a basis agreed between the Director and the owner and/or his guarantor, unless a court or arbitration tribunal decides otherwise. In case of dispute the Director may agree with the other parties concerned to submit to arbitration the question of how the costs should be shared.

REGULATION 6

SETTLEMENT OF CLAIMS

6.1 The Director shall promptly take all appropriate and necessary measures for dealing with claims. Where he deems it appropriate, he may make recommendations to the Assembly with regard to settlement of claims without litigation.

6.2 The Director shall promptly satisfy any claims established by judgement in accordance with Article 8 of the Fund Convention.

6.3 The Director may agree with any claimant to submit a claim to binding arbitration. Claims established by such arbitration shall be promptly satisfied by the Director.

6.4 Alternative A

Where the Director is satisfied that the Fund is liable under the Fund Convention to pay compensation for pollution damage, he may, without prior approval of the Assembly:

- (a) make final settlement not exceeding 5 million francs in respect of any claim; or
- (b) make final settlement not exceeding 10 million francs in respect of any claim, if he estimates that the total costs to the Fund of satisfying all claims in respect of the relevant incident is not likely to exceed 25 million francs.

Alternative B

Where the Director is satisfied that the Fund is liable under the Fund Convention to pay compensation for pollution damage, he may, without prior approval of the Assembly, make final settlement of any claim, if he estimates that the total costs to the Fund of satisfying all claims arising out of the relevant incident is not likely to exceed 25 million francs.

6.5 The Assembly may in respect of a particular incident authorize the Director to settle claims beyond the limits established in Regulation 6.4.

6.6 As a condition for making a final settlement to any claimant under Regulation 6.4 or 6.5, the Director shall obtain a full and final release in favour of the Fund from the claimant in respect of all claims of that claimant arising from that incident.

6.7 All agreements to submit claims to arbitration under Regulation 6.3 and all claims settled under Regulation 6.4 or 6.5 shall be reported by the Director at the next session of the Assembly.

6.8 Where the Director is satisfied in respect of an incident that the owner is entitled to limit his liability under the Liability Convention or has no liability under the said Convention and that the Fund will be liable under the Fund Convention to pay compensation to victims of pollution damage arising from the incident, the Director may, with a view to ensuring that such victims are compensated as promptly as possible and to mitigating undue financial hardships to them make provisional payments to such victims. No provisional payment shall exceed 60 per cent of the amount which the Director estimates that the Fund will finally be obliged to pay in respect of the claim in question. Total payments under this paragraph shall not exceed 225 million francs in respect of any one incident.

6.9 Where in respect of a particular incident, the Director considers the level of provisional payments permitted under Regulation 6.8 is insufficient to mitigate undue financial hardships to victims, he may bring the matter to the attention of the Assembly. The Assembly may decide, in respect of such incident, that provisional payments may be made beyond the limits laid down in Regulation 6.8. The Assembly shall specify the principles and the limits to be followed in making any such provisional payments.

6.10 As a condition for making a provisional payment in respect of a claim, the Director shall obtain from the claimant concerned a transfer to the Fund of any right that such claimant may enjoy under the Liability Convention against the owner or his guarantor, up to the amount of the provisional payment to be made by the Fund to that claimant.

6.11 Where a person who is in arrears in respect of any payments due to the Fund is entitled to receive payment from the Fund for the satisfaction of a claim, the Director shall, unless this is not permitted under the applicable national law, deduct the amount of the arrears from the amount of the payment to be made to such person by the Fund.

REGULATION 7

COST OF LIMITATION FUND IN RESPECT OF INDEMNIFICATION LIABILITY

[7.1 Where an owner has constituted a fund in accordance with Article V, paragraph 3 of the Liability Convention and is entitled to limit his liability in respect of an incident, the Fund shall be liable to reimburse to him or his guarantor part of the expenses in connexion with the constitution of the limitation fund in proportion to the Fund's indemnification liability to that owner. Where such limitation fund is constituted by producing a guarantee, the Fund's contribution to the cost of such guarantee shall be calculated on a similar basis.]

[7.2 Where the limitation fund is constituted by the deposit of a sum of money, the Fund shall pay interest in respect of any unpaid portion of its pro rata contribution. Such interest shall be at an annual rate of 2 per cent higher than the minimum lending rate fixed by the Central Bank of the Headquarters State and shall be computed from the date on which the limitation fund is constituted to the date it is completely distributed provided, however, that the Fund shall be entitled to be credited with a corresponding portion of any interest which may accrue to the sum deposited.]

REGULATION 8

LOANS AND INVESTMENTS

8.1 Where annual contributions determined by the Assembly do not in fact produce sufficient and timely funds for the payments to be made by the Fund for the satisfaction of claims, provisional payments or other expenses incurred in the operation of the Fund, the Director may take up loans for the account of the Fund. Such loans may be in such form, at such rates of interest and for such periods as he may deem necessary. If the Director is unable to arrange the required loan on terms which he feels are reasonable, he shall refer the matter to the Assembly.

8.2 With a view to securing the assets of the Fund the Director may invest funds which are not required for the short term operation of the Fund. In making any investments all necessary steps shall be taken to ensure the maintenance of sufficient liquid funds for the operation of the Fund, to avoid undue currency risks and generally to obtain a reasonable return on the investments of the Fund.

REGULATION 9

ASSISTANCE TO STATES IN EMERGENCY SITUATIONS

9.1 To meet the requirements of Article 4, paragraph 7 of the Fund Convention the Director shall, to the extent he deems it practicable and reasonable, cause to be compiled and circulated to Contracting States and interested authorities, organizations and institutions in such States information on available material, equipment, services and personnel for preventing or mitigating pollution damage in cases of marine pollution incidents, together with an indication of the means of procuring such material, equipment, services or personnel and the conditions and terms of such procurement.

9.2 Without assuming the role of an agent or contractor the Director shall, at the request of a Contracting State or States take all appropriate measures to assist such parties in procuring the materials, equipment, services or personnel required for taking preventive measures against pollution damage arising from a particular incident if he is satisfied that the Fund may be called upon to pay compensation under the Fund Convention in respect of pollution damage arising from that incident.

9.3 The Assembly shall, on the recommendations of the Director, establish appropriate procedures and measures to be taken by the Fund to fulfil its obligations under Article 4, paragraph 7 of the Fund Convention.

REGULATION 10

EXTENSION OF CREDIT FACILITIES

10.1 On the application of a Contracting State which has suffered or may reasonably be expected to suffer pollution damage arising from a particular incident the Director may, if he estimates that the Fund [will] [might] be called upon to pay compensation under the Fund Convention in respect of that incident, provide that State with reasonable credit facilities to enable it to initiate or continue with the taking of adequate preventive measures.

10.2 Subject to conditions specified by the Assembly regarding, inter alia, the data and supporting justifications to be provided by a State requesting credit facilities, the Director shall determine whether in the light of all the circumstances of the case the provision of credit facilities by the Fund in respect of a particular incident is justified and, if so, the amount and form in which such facilities shall be made in each case.

10.3 An application for credit facilities under this Regulation shall include

- (a) full particulars of the incident;
- (b) the nature and extent of pollution damage which has already occurred, including preventive measures already taken;
- (c) the preventive measures envisaged as well as the estimated costs thereof.

Particulars in respect of preventive measures taken or envisaged shall be presented in a manner which will enable the Director to determine the measures which can be taken with personnel, material and equipment available locally and which measures should, in the interest of speed and efficiency, involve personnel, material or equipment to be procured from elsewhere.

10.4 Credit facilities provided by the Fund to a State may be given in the form of

- (i) guarantee by the Fund in respect of an advance to that State from a specified person, whose principal place of business is outside such State, or
- (ii) guarantee by the Fund to make payment of the cost of preventive measures in respect of which the State concerned has entered into a contract with a specified person whose principal place of business is outside such State.

10.5 Credit facilities provided by the Fund with respect to any one incident may not exceed the amount which the Director estimates will be the total amount which the Fund may ultimately be liable to pay under the Fund Convention in respect of such incident, or 45 million francs, whichever is the less.

10.6 All expenses incurred by the Fund as a consequence of providing credit facilities to a State shall be reimbursable to the Fund by such State. The Director shall, in consultation with the State concerned, stipulate the manner and the time within which such reimbursement shall be made.

10.7 Before providing credit facilities to any State under Article 4, paragraph 8 of the Fund Convention, the Director shall require such State to agree in writing that the expenses incurred by the Fund in providing such credit facilities, including any amount which the Fund has paid in consequence of a guarantee referred to in Regulation 10.4, may be deducted from any sums which that State may be entitled to receive from the Fund for the satisfaction of claims for pollution damage under the Convention.

REGULATION 11

RIGHT TO DIRECT CORRESPONDENCE

The Director and other members of the Secretariat acting under his instructions may correspond or otherwise communicate directly with any person in the performance of their functions.

REGULATION 12

DESIGNATION OF COMPETENT AUTHORITY

Any Contracting State having designated a competent authority referred to in Regulation 1.6 shall notify the Director of such designation. In the absence of such notification the Government of the State concerned shall be deemed to be the competent authority.

REGULATION 13

AMENDMENTS

13.1 These Internal Regulations may be amended by the Assembly.

13.2 Any amendment adopted in accordance with Regulation 13.1 shall enter into force one month after its adoption, unless the Assembly decides, in a particular case, that it shall enter into force immediately or after a period of time other than the aforementioned period.

13.3 Amendments adopted in accordance with Regulation 13.1 shall be communicated by the Director to all Contracting States.

REGULATION 14

PUBLICATION

The Director shall publish and make available to all Contracting States these Internal Regulations and any amendment thereto after their adoption by the Assembly.

ANNEX

REPORT ON CONTRIBUTING OIL RECEIPTS

made pursuant to Article 15, paragraph 2 of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, hereinafter "Fund Convention"

Note: Particulars in respect of only one receiving person should be entered on this form except in cases referred to in explanatory note 8

STATE:.....

AUTHORITY MAKING THE REPORT:.....

OIL RECEIPTS DURING:.....
(Calendar year)

Name of person	Address	Contributing oil received directly after carriage by sea		Contributing oil received		
		Received from other States	received otherwise (e.g. from terminal at sea; from off- shore oil field in waters beyond national jurisdiction; after cabotage)	- not directly after carriage by sea - from a non-Contracting State		
		tons received	tons received	tons received	State from which received	Mode of transport into receiving State

Issued at On
(Place) (Date)

Signature of authorized official:

.....

Title:.....

Explanatory notes:

1. This report shall be submitted to the Director of the Fund not later than 31 March of each year.
2. Quantities of contributing oil shall be given in metric tons and rounded out to the nearest ton.
3. "Person" means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions.
4. Article 1, paragraph 3 of the Fund Convention defines "contributing oil" as follows:

"Contributing oil" means crude oil and fuel oil as defined under (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.
5. "Contributing oil received" includes all contributing oil received during the relevant calendar year
 - (a) in the ports or terminal installations in the territory of the reporting State if such oil was carried by sea to such ports or terminal installations; and
 - (b) in any installation situated in the territory of the reporting State if such oil has been carried by sea and discharged in a port or terminal installation of a non-Contracting State and has thereafter been carried to the reporting State from the non-Contracting State by modes of transport other than carriage by sea (e.g. transport by pipeline, non-sea-going barge, road, rail, etc.), provided, however, that in such case oil receipts shall only be taken into account on first receipt in a Contracting State.

6. "Contracting State" means a State which is party to the Fund Convention. When completing the report only those States for which the Convention is in force on 31 March shall be considered Contracting States.
7. A report shall be made in respect of a person only if the total quantities of receipts of contributing oil received by such person during the relevant calendar year exceeds 150,000 tons.
8. Notwithstanding explanatory note 7, a report shall be made also in respect of any person who, in the relevant calendar year, has received contributing oil in a quantity not exceeding 150,000 tons if the quantity of contributing oil received in that year by that person when aggregated with quantities received in the reporting State in that same calendar year by a person or persons associated with that person exceeds 150,000 tons.
9. "Associated person" as used in explanatory note 8 means any subsidiary or commonly controlled entity.
10. With respect to oil received from non-Contracting States and carried into the reporting State by modes other than carriage by sea as described in explanatory note 5(b), for each receipt, specify the State from which the oil was received and the mode of transport involved, it being understood that only such oil is to be considered contributing oil which at some stage has been carried by sea.

APPENDIX

If the Assembly of the Fund decides, pursuant to Article 5, paragraph 2 of the Fund Convention, that the Fund should assume the obligations of a guarantor with regard to part of the liability of the owner, the following regulation will be inserted in the Internal Regulations.

REGULATION X

THE FUND AS A GUARANTOR

X.1 At the request of an owner the Fund shall, on conditions laid down in this Regulation assume, in respect of a ship referred to in Article 3, paragraph 2 of the Fund Convention, the obligations of a guarantor in regard to the portion of that owner's liability under Article 5, paragraph 1 of the Fund Convention.

X.2 The request of the owner shall be in the form of a written application, containing the following particulars:

- (i) name of ship and State of registration or flag;
- (ii) name and principal place of business of the owner;
- (iii) ship's tonnage measured in accordance with Article V, paragraph 10, of the Liability Convention;
- (iv) name and principal place of business of any person(s) providing insurance or other financial security covering the liability of the owner under the Liability Convention as well as the type, duration and amount of each insurance or security.

X.3 The application shall contain a declaration in which the owner:

- (i) certifies that he holds insurance or other financial security covering his liability under the Liability Convention up to an amount equivalent to 1,500 francs for each ton of the ship's tonnage or an amount of 125 million francs, whichever is the less;
- (ii) undertakes to maintain such insurance or other financial security during the whole of the period during which the Fund assumes the obligations as a guarantor in respect of the ship, to notify the Director when such insurance or other financial security is no longer in effect and to keep the Director informed as to the name and address of his insurer(s) and/or guarantor(s) and of the type and duration of the insurance(s) and/or security(ies);

- (iii) certifies that the ship complies with the requirements laid down in Article 5, paragraph 3(a) of the Fund Convention, and that all steps have been and will be taken to ensure that such compliance will continue;
- (iv) undertakes to produce promptly, if requested by the Fund, evidence that insurance or security referred to under item (i) above is in force with regard to the ship in question or that the ship complies with the requirements laid down under item (iii) above;
- (v) undertakes to ensure that, where an incident which has caused pollution damage has occurred, he or his representative will, if and to the extent such information is available to him, without undue delay notify the Director of the Fund of
 - (a) the name and address of the owner or his representative;
 - (b) the identity of the ship or ships involved in the incident, the kinds of cargo carried by these ships and the voyage being performed by each of these ships when the incident occurred;
 - (c) the date and place or places where pollution damage occurred and the kind or kinds of damage sustained;
 - (d) the preventive measures taken, if any, and the person or persons who took such measures as well as the place or places where these measures were taken.
- (vi) undertakes to ensure that, following a notice to the Director pursuant to item (v) above, he or his representative will, if and to the extent such information is available to him, notify the Director of any claim arising out of the incident covered by the notice which may be filed against him, such notice to contain full details of the claim including name of the claimant, the amount of the claim and a description of the pollution damage on which the claim is based;

- (vii) undertakes promptly to inform the Director of any change in the registry of the ship or of the flag which the ship is entitled to fly;
- (viii) undertakes to provide or cause to be provided to the Director such further information with respect to the incident covered by the notice as the Director may request;
- (ix) undertakes to reimburse the Fund for any losses incurred by the Fund as a result of any act or default on his part or failure by him to discharge any of the undertakings contained in this Regulation.

X.4 Upon compliance with Regulation X.2 and X.3 and provided the Director is satisfied as to the financial capability of each insurer and/or guarantor named in the application, the owner shall be entitled to a "Certificate of Guarantee" issued by the Fund in accordance with the form annexed to these Regulations.

X.5 A certificate issued under this Regulation shall be for the period requested by the owner, which period shall not exceed the period for which a valid insurance or other security is held by the owner and shall in no case exceed [X] years.

X.6 The Fund may join an owner in the constitution of a limitation fund in accordance with Article V, paragraph 3, of the Liability Convention only if the Fund has assumed the obligations of guarantor under Article 5, paragraph 2 of the Fund Convention in respect of that owner and if the owner concerned so requests.

ANNEX TO APPENDIX

**CERTIFICATE OF GUARANTEE IN RESPECT OF CIVIL LIABILITY FOR
OIL POLLUTION DAMAGE**

Issued by the International Oil Pollution Compensation Fund
on the basis of Article VII of the International Convention
on Civil Liability for Oil Pollution Damage, 1969 and of a
Resolution adopted by the Assembly of the said Fund
on 197..

Name of ship	Distinctive number or letters	Port and State of registry	Name and address of owner

1. Subject to the provisions of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, and the International Convention on Civil Liability for Oil Pollution Damage, 1969, the International Oil Pollution Compensation Fund (hereinafter referred to as "the Fund") hereby guarantees in respect of the above-mentioned ship payment of that portion of the aggregate amount of the owner's liability for pollution damage under the International Convention on Civil Liability for Oil Pollution Damage which

- (a) is in excess of an amount equivalent to 1,500 francs for each ton of the ship's tonnage or of an amount of 125 million francs, whichever is the less, and
- (b) is not in excess of an amount equivalent to 2,000 francs for each ton of the said tonnage or an amount of 210 million francs, whichever is the less.

2. This guarantee of the Fund expires on _____, 19..

At on
(Place) (Date)

On behalf of the International Oil Pollution Compensation Fund

.....
Signature and title of issuing official.