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## Legislation

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<sup>(1)</sup> Text with EEA relevance

## I

(Acts whose publication is obligatory)

**COMMISSION REGULATION (EC) No 476/2004**  
**of 15 March 2004**  
**establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables <sup>(1)</sup>, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 16 March 2004.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 March 2004.

*For the Commission*  
J. M. SILVA RODRÍGUEZ  
*Agriculture Director-General*

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<sup>(1)</sup> OJ L 337, 24.12.1994, p. 66. Regulation as last amended by Regulation (EC) No 1947/2002 (OJ L 299, 1.11.2002, p. 17).

## ANNEX

**to the Commission Regulation of 15 March 2004 establishing the standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	052	121,1
	204	86,6
	212	121,4
	999	109,7
0707 00 05	052	137,5
	068	141,1
	096	88,7
	204	26,1
	999	98,4
0709 10 00	220	77,3
	999	77,3
0709 90 70	052	109,4
	204	54,6
	999	82,0
0805 10 10, 0805 10 30, 0805 10 50	052	46,4
	204	51,0
	212	60,3
	220	46,1
	400	65,3
	624	65,1
	999	55,7
0805 50 10	052	53,0
	999	53,0
0808 10 20, 0808 10 50, 0808 10 90	060	45,0
	388	90,8
	400	120,6
	404	90,4
	508	66,9
	512	89,5
	524	94,9
	528	92,3
	720	88,2
	800	99,6
	999	87,8
0808 20 50	388	69,7
	512	69,9
	528	73,3
	999	71,0

<sup>(1)</sup> Country nomenclature as fixed by Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11). Code '999' stands for 'of other origin'.

**COMMISSION REGULATION (EC) No 477/2004**  
**of 15 March 2004**

**fixing the minimum selling prices for beef put up for sale under the second invitation to tender referred to in Regulation (EC) No 276/2004**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal <sup>(1)</sup>, and in particular Article 28(2) thereof,

Whereas:

- (1) Tenders have been invited for certain quantities of beef fixed by Commission Regulation (EC) No 276/2004 on periodical sales by tender of beef <sup>(2)</sup>.
- (2) Pursuant to Article 9 of Commission Regulation (EEC) No 2173/79 of 4 October 1979 on detailed rules of application for the disposal of beef bought in by intervention agencies and repealing Regulation (EEC) No 216/69 <sup>(3)</sup>, the minimum selling prices for meat put up for sale by tender should be fixed, taking into account tenders submitted.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Beef and Veal,

HAS ADOPTED THIS REGULATION:

*Article 1*

The minimum selling prices for beef for the second invitation to tender held in accordance with Regulation (EC) No 276/2004 for which the time limit for the submission of tenders was 8 March 2004 are as set out in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 16 March 2004.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 March 2004.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

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<sup>(1)</sup> OJ L 160, 26.6.1999, p. 21. Regulation as last amended by Regulation (EC) No 1782/2003 (OJ L 270, 21.10.2003, p. 1).

<sup>(2)</sup> OJ L 47, 18.2.2004, p. 16.

<sup>(3)</sup> OJ L 251, 5.10.1979, p. 12. Regulation as last amended by Regulation (EC) No 2417/95 (OJ L 248, 14.10.1995, p. 39).

ANEXO — BILAG — ANHANG — ΠΑΡΑΡΤΗΜΑ — ANNEX — ANNEXE — ALLEGATO — BIJLAGE — ANEXO —  
LIITE — BILAGA

Estado miembro	Productos	Precio mínimo Expresado en euros por tonelada
Medlemsstat	Produkter	Mindstepriser i EUR/t
Mitgliedstaat	Erzeugnisse	Mindestpreise Ausgedrückt in EUR/Tonne
Κράτος μέλος	Προϊόντα	Ελάχιστες πωλήσεις εκφραζόμενες σε ευρώ ανά τόνο
Member State	Products	Minimum prices Expressed in EUR per tonne
État membre	Produits	Prix minimaux Exprimés en euros par tonne
Stato membro	Prodotti	Prezzi minimi Espressi in euro per tonnellata
Lidstaat	Producten	Minimumprijzen Uitgedrukt in euro per ton
Estado-Membro	Produtos	Preço mínimo Expresso em euros por tonelada
Jäsenvaltio	Tuotteet	Vähimmäishinnat euroina tonnia kohden ilmaistuna
Medlemsstat	Produkter	Minimipriser i euro per ton

a) **Carne con hueso — Kød, ikke udbenet — Fleisch mit Knochen — Κρέατα με κόκαλα — Bone-in beef —  
Viande avec os — Carni non disossate — Vlees met been — Carne com osso — Luullinen naudanliha — Kött  
med ben**

FRANCE	— Quartiers arrière/Quartiers avant	—
ITALIA	— Quarti posteriori/Quarti anteriori	1 199

b) **Carne deshuesada — Udbenet kød — Fleisch ohne Knochen — Κρέατα χωρίς κόκαλα — Boneless beef —  
Viande désossée — Carni senza osso — Vlees zonder been — Carne desossada — Luuton naudanliha —  
Benfritt kött**

FRANCE	— Jarret arrière d'intervention (INT 11)/Tranche grasse d'intervention (INT 12)/Tranche d'interven- tion (INT 13)/Semelle d'intervention (INT 14)/ Rumsteak d'intervention (INT 16)/Faux-filet d'in- tervention (INT 17)/Flanchet d'intervention (INT 18)/Jarret avant d'intervention (INT 21)/Épaule d'intervention (INT 22)/Poitrine d'intervention (INT 23)	—
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**COMMISSION REGULATION (EC) No 478/2004**  
**of 15 March 2004**  
**on the release of securities for import licences for preferential sugar issued under Regulation (EEC)**  
**No 2782/76**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector <sup>(1)</sup>, and in particular Article 22(2)(b) thereof,

Whereas:

(1) One of the Regulations repealed by Commission Regulation (EC) No 1159/2003 of 30 June 2003 laying down detailed rules of application for the 2003/2004, 2004/2005 and 2005/2006 marketing years for the import of cane sugar under certain tariff quotas and preferential agreements and amending Regulations (EC) No 1464/95 and (EC) No 779/96 <sup>(2)</sup> was Commission Regulation (EEC) No 2782/76 <sup>(3)</sup>, which laid down detailed implementing rules for the importation of preferential sugar.

(2) Article 28 of Regulation (EC) No 1159/2003 provides as a transitional measure that licences issued under Regulation (EEC) No 2782/76 may be used provided that loading took place and/or import declarations were accepted before 1 July 2003.

(3) It has become clear that these transitional measures do not cover the case where licences provided for by Regulation (EEC) No 2782/76 and issued before 1 July 2003 could not be used because of the entry into application of Regulation (EC) No 1159/2003.

(4) Provision should therefore be made for the securities on licences which have been unusable since 1 July 2003 to be released.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

*Article 1*

The securities on import licences issued under Regulation (EEC) No 2782/76 which could not be used because of the entry into application of Regulation (EC) No 1159/2003 may be released forthwith.

*Article 2*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 July 2003.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 March 2004.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

<sup>(1)</sup> OJ L 178, 30.6.2001, p. 1, Regulation last amended by Commission Regulation (EC) No 39/2004 (OJ L 6, 10.1.2004, p. 16).

<sup>(2)</sup> OJ L 162, 1.7.2003, p. 25.

<sup>(3)</sup> OJ L 318, 18.11.1976, p. 13.

**COMMISSION REGULATION (EC) No 479/2004**  
**of 15 March 2004**

**fixing the quantities of raw tobacco which may be transferred to another group of varieties in Italy under the guarantee threshold for the 2004 harvest**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organisation of the market in raw tobacco <sup>(1)</sup>, and in particular Article 9(4) thereof,

Whereas:

- (1) Article 9 of Regulation (EEC) No 2075/92 introduces production quotas for the different groups of varieties of tobacco. The individual quotas are divided among producers on the basis of the guarantee thresholds for the 2004 harvest laid down in Annex II to Council Regulation (EC) No 546/2002 of 25 March 2002 fixing the premiums and guarantee thresholds for leaf tobacco by variety group and Member State for the 2002, 2003 and 2004 harvests and amending Regulation (EEC) No 2075/92 <sup>(2)</sup>. Under Article 9(4) of Regulation (EEC) No 2075/92, the Commission may authorise Member States to transfer parts of their guarantee threshold quantities between groups of varieties provided that such transfers do not give rise to additional costs for the EAGGF and do not involve any increase in the Member State's overall guarantee threshold allocations.

- (2) Since these conditions have been met, transfers should be authorised in the Member States which have made application to do so.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Tobacco,

HAS ADOPTED THIS REGULATION:

*Article 1*

For the 2004 harvest, before the deadline for the conclusion of cultivation contracts laid down in Article 10(1) of Commission Regulation (EC) No 2848/98 <sup>(3)</sup>, Member States are hereby authorised to transfer quantities from one group of varieties to another in accordance with the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 March 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 215, 30.7.1992, p. 70. Regulation as last amended by Regulation (EC) No 2319/2003 (OJ L 345, 31.12.2003, p. 17).

<sup>(2)</sup> OJ L 84, 28.3.2002, p. 4.

<sup>(3)</sup> OJ L 358, 31.12.1998, p. 17.



## ANNEX

**Guarantee threshold quantities which each Member State is authorised to transfer from one group of varieties to another**

Member State	Group of varieties from which transfer is made	Group of varieties to which transfer is made
ITALY	283,5 t light air-cured (group II)	226,8 t flue-cured (group I)
	2 657,0 t dark air-cured (group III)	398,3 t flue-cured (group I)
		2 159,1 t light air-cured (group II)
	1 445,2 t fire-cured (group IV)	1 271,4 t flue-cured (group I)
	4 040,7 t sun-cured (group V)	617,9 t flue-cured (group I)
		2 715,9 t light air-cured (group II)
		148,3 t dark air-cured (group III)
	463,3 t Katerini (group VII)	353,3 t flue-cured (group I)
110,0 t light air-cured (group II)		

**COMMISSION REGULATION (EC) No 480/2004**  
**of 15 March 2004**

**amending Regulation (EC) No 2182/2002 as regards a derogation for 2004 from both the deadline for the notification of the projected financing plans for measures financed by the Community Tobacco Fund and the deadline for the definitive allocation of resources from the Fund among Member States**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2075/92 of 30 June 1992 on the common organisation of the market in raw tobacco <sup>(1)</sup>, and in particular Article 14a thereof,

Whereas:

- (1) Commission Regulation (EC) No 2182/2002 of 6 December 2002 laying down detailed rules for the application of Council Regulation (EEC) No 2075/92 with regard to the Community Tobacco Fund <sup>(2)</sup> specifies, in Article 17(3) and (4), the deadline for notifying to the Commission the projected financing plans for measures for which assistance has been requested and the deadline for the definitive allocation, among Member States, of resources from the Fund.
- (2) To allow Member States sufficient time to draw up their projected financing plans for 2004 for measures to promote a switch of production, the deadline for 2004 for notification of the plans to the Commission and, consequently, that for the definitive allocation of resources among Member States, should be postponed on the same terms as in 2003.

- (3) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Tobacco,

HAS ADOPTED THIS REGULATION:

*Article 1*

The following paragraph is added to Article 26 of Regulation (EC) No 2182/2002:

'By way of derogation from Article 17(3), the 31 March 2004 deadline for the notification of projected plans for the financing of measures for which assistance has been requested under the buy-back programme for the 2003 harvest shall be postponed to 31 May 2004 and, consequently, by way of derogation from Article 17(4), the 31 May 2004 deadline shall be postponed to 30 June 2004.'

*Article 2*

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 March 2004.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

<sup>(1)</sup> OJ L 215, 30.7.1992, p. 70. Regulation as last amended by Regulation (EC) No 2319/2003 (OJ L 345, 31.12.2003, p. 17).

<sup>(2)</sup> OJ L 331, 7.12.2002, p. 16.

**COMMISSION REGULATION (EC) No 481/2004**  
**of 15 March 2004**  
**fixing the export refunds on pigmeat**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2759/75 of 29 October 1975 on the common organisation of the market in pigmeat <sup>(1)</sup>, as last amended by Regulation (EC) No 1365/2000 <sup>(2)</sup>, and in particular the second paragraph of Article 13(3) thereof,

Whereas:

(1) Article 13 of Regulation (EEC) No 2759/75 provides that the difference between prices on the world market for the products listed in Article 1(1) of that Regulation and prices for these products within the Community may be covered by an export refund.

(2) It follows from applying these rules and criteria to the present situation on the market in pigmeat that the refund should be fixed as set out below.

(3) In the case of products falling within CN code 0210 19 81, the refund should be limited to an amount which takes account of the qualitative characteristics of each of the products falling within these codes and of the foreseeable trend of production costs on the world market. It is important that the Community should continue to take part in international trade in the case of certain typical Italian products falling within CN code 0210 19 81.

(4) Because of the conditions of competition in certain third countries, which are traditionally importers of products falling within CN codes 1601 00 and 1602, the refund for these products should be fixed so as to take this situation into account. Steps should be taken to ensure that the refund is granted only for the net weight of the edible substances, to the exclusion of the net weight of the bones possibly contained in the said preparations.

(5) Article 13 of Regulation (EEC) No 2759/75 provides that the world market situation or the specific requirements

of certain markets may make it necessary to vary the refund on the products listed in Article 1(1) of Regulation (EEC) No 2759/75 according to destination.

(6) The refunds should be fixed taking account of the amendments to the refund nomenclature established by Commission Regulation (EEC) No 3846/87 <sup>(3)</sup>, as last amended by Regulation (EC) No 118/2003 <sup>(4)</sup>.

(7) Refunds should be granted only on products that are allowed to circulate freely within the Community. Therefore, to be eligible for a refund, products should be required to bear the health mark laid down in Council Directive 64/433/EEC <sup>(5)</sup>, as last amended by Directive 95/23/EC <sup>(6)</sup>, Council Directive 94/65/EC <sup>(7)</sup> and Council Directive 77/99/EEC <sup>(8)</sup>, as last amended by Directive 97/76/EC <sup>(9)</sup>.

(8) The Management Committee for Pigmeat has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

*Article 1*

The list of products on which the export refund specified in Article 13 of Regulation (EEC) No 2759/75 is granted and the amount of the refund shall be as set out in the Annex hereto.

The products concerned must comply with the relevant provisions on health marks laid down in:

- Chapter XI of Annex I to Directive 64/433/EEC,
- Chapter VI of Annex I to Directive 94/65/EC,
- Chapter VI of Annex B to Directive 77/99/EEC.

*Article 2*

This Regulation shall enter into force on 16 March 2004.

<sup>(1)</sup> OJ L 282, 1.11.1975, p. 1.

<sup>(2)</sup> OJ L 156, 29.6.2000, p. 5.

<sup>(3)</sup> OJ L 366, 24.12.1987, p. 1.

<sup>(4)</sup> OJ L 20, 24.1.2003, p. 3.

<sup>(5)</sup> OJ 121, 29.7.1964, p. 2012/64.

<sup>(6)</sup> OJ L 243, 11.10.1995, p. 7.

<sup>(7)</sup> OJ L 368, 31.12.1994, p. 10.

<sup>(8)</sup> OJ L 26, 31.1.1977, p. 85.

<sup>(9)</sup> OJ L 10, 16.1.1998, p. 25.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 March 2004.

*For the Commission*  
 Franz FISCHLER  
 Member of the Commission

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ANNEX

**to the Commission Regulation of 15 March 2004 fixing the export refunds on pigmeat**

Product code	Destination	Unit of measurement	Amount of refund
0210 11 31 9110	P06	EUR/100 kg	56,50
0210 11 31 9910	P06	EUR/100 kg	56,50
0210 19 81 9100	P06	EUR/100 kg	56,50
0210 19 81 9300	P06	EUR/100 kg	56,50
1601 00 91 9120	P06	EUR/100 kg	20,50
1601 00 99 9110	P06	EUR/100 kg	15,50
1602 41 10 9110	P06	EUR/100 kg	30,50
1602 41 10 9130	P06	EUR/100 kg	18,00
1602 42 10 9110	P06	EUR/100 kg	24,00
1602 42 10 9130	P06	EUR/100 kg	18,00
1602 49 19 9130	P06	EUR/100 kg	18,00

NB: The product codes and the 'A' series destination codes are set out in Commission Regulation (EEC) No 3846/87 (OJ L 366, 27.3.2002, p. 1) as amended.

The numeric destination codes are set out in Commission Regulation (EC) No 2081/2003 (OJ L 313, 28.11.2003, p. 11).

The other destinations are defined as follows:

P06 All destinations except the Czech Republic, the Slovak Republic, Hungary, Poland, Romania, Bulgaria, Latvia, Estonia, Lithuania, Cyprus, Malta, Slovenia.

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**COMMISSION REGULATION (EC) No 482/2004**  
**of 15 March 2004**  
**fixing the import duties in the cereals sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector <sup>(2)</sup>, and in particular Article 2(1) thereof,

Whereas:

- (1) Article 10 of Regulation (EEC) No 1766/92 provides that the rates of duty in the Common Customs Tariff are to be charged on import of the products referred to in Article 1 of that Regulation. However, in the case of the products referred to in paragraph 2 of that Article, the import duty is to be equal to the intervention price valid for such products on importation and increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.
- (2) Pursuant to Article 10(3) of Regulation (EEC) No 1766/92, the cif import prices are calculated on the basis of the representative prices for the product in question on the world market.
- (3) Regulation (EC) No 1249/96 lays down detailed rules for the application of Council Regulation (EEC) No 1766/92 as regards import duties in the cereals sector.
- (4) The import duties are applicable until new duties are fixed and enter into force.
- (5) In order to allow the import duty system to function normally, the representative market rates recorded during a reference period should be used for calculating the duties.
- (6) Application of Regulation (EC) No 1249/96 results in import duties being fixed as set out in Annex I to this Regulation,

HAS ADOPTED THIS REGULATION:

*Article 1*

The import duties in the cereals sector referred to in Article 10(2) of Regulation (EEC) No 1766/92 shall be those fixed in Annex I to this Regulation on the basis of the information given in Annex II.

*Article 2*

This Regulation shall enter into force on 16 March 2004.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 March 2004.

*For the Commission*  
J. M. SILVA RODRÍGUEZ  
*Agriculture Director-General*

<sup>(1)</sup> OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1104/2003 (OJ L 158, 27.6.2003, p. 1).

<sup>(2)</sup> OJ L 161, 29.6.1996, p. 125. Regulation as last amended by Regulation (EC) No 1110/2003 (OJ L 158, 27.6.2003, p. 12).

## ANNEX I

**Import duties for the products covered by Article 10(2) of Regulation (EEC) No 1766/92**

CN code	Description	Import duty <sup>(1)</sup> (EUR/tonne)
1001 10 00	Durum wheat high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	Common high quality wheat other than for sowing	0,00
1002 00 00	Rye	22,44
1005 10 90	Maize seed other than hybrid	25,85
1005 90 00	Maize other than seed <sup>(2)</sup>	25,85
1007 00 90	Grain sorghum other than hybrids for sowing	22,44

<sup>(1)</sup> For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal (Article 2(4) of Regulation (EC) No 1249/96), the importer may benefit from a reduction in the duty of:

- EUR 3 per tonne, where the port of unloading is on the Mediterranean Sea, or
- EUR 2 per tonne, where the port of unloading is in Ireland, the United Kingdom, Denmark, Sweden, Finland or the Atlantic coasts of the Iberian peninsula.

<sup>(2)</sup> The importer may benefit from a flat-rate reduction of EUR 24 per tonne, where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

## ANNEX II

**Factors for calculating duties**

(period from 1 March 2004 to 12 March 2004)

## 1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Exchange quotations	Minneapolis	Chicago	Minneapolis	Minneapolis	Minneapolis	Minneapolis
Product (% proteins at 12 % humidity)	HRS2 (14 %)	YC3	HAD2	Medium quality (*)	Low quality (**)	US barley 2
Quotation (EUR/t)	137,86 (***)	95,58	170,16	160,16	140,16	107,74
Gulf premium (EUR/t)	27,73	8,75	—	—	—	—
Great Lakes premium (EUR/t)	—	—	—	—	—	—

(\*) A discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(\*\*) A discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

(\*\*\*) Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).

## 2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight/cost: Gulf of Mexico—Rotterdam: 34,06 EUR/t; Great Lakes—Rotterdam: 0,00 EUR/t.

3. Subsidy within the meaning of the third paragraph of Article 4(2) of Regulation (EC) No 1249/96: 0,00 EUR/t (HRW2)  
0,00 EUR/t (SRW2).

**COMMISSION REGULATION (EC) No 483/2004**  
**of 15 March 2004**

**fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2771/75 of 29 October 1975 on the common organisation of the market in eggs <sup>(1)</sup>, as last amended by Regulation (EC) No 806/2003 <sup>(2)</sup>, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2777/75 of 29 October 1975 on the common organisation of the market in poultrymeat <sup>(3)</sup>, as last amended by Regulation (EC) No 806/2003, and in particular Article 5(4) thereof,

Having regard to Council Regulation (EEC) No 2783/75 of 29 October 1975 on the common system of trade for ovalbumin and lactalbumin <sup>(4)</sup>, as last amended by Commission Regulation (EC) No 2916/95 <sup>(5)</sup>, and in particular Article 3(4) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1484/95 <sup>(6)</sup> fixes detailed rules for implementing the system of additional import duties and fixes representative prices in the poultrymeat and egg sectors and for egg albumin.

(2) It results from regular monitoring of the information providing the basis for the verification of the import prices in the poultrymeat and egg sectors and for egg albumin that the representative prices for imports of certain products should be amended taking into account variations of prices according to origin. Therefore, representative prices should be published.

(3) It is necessary to apply this amendment as soon as possible, given the situation on the market.

(4) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Poultrymeat and Eggs,

HAS ADOPTED THIS REGULATION:

*Article 1*

Annex I to Regulation (EC) No 1484/95 is hereby replaced by the Annex hereto.

*Article 2*

This Regulation shall enter into force on 16 March 2004.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 March 2004.

*For the Commission*

J. M. SILVA RODRÍGUEZ

*Agriculture Director-General*

<sup>(1)</sup> OJ L 282, 1.11.1975, p. 49.

<sup>(2)</sup> OJ L 122, 16.5.2003, p. 1.

<sup>(3)</sup> OJ L 282, 1.11.1975, p. 77.

<sup>(4)</sup> OJ L 282, 1.11.1975, p. 104.

<sup>(5)</sup> OJ L 305, 19.12.1995, p. 49.

<sup>(6)</sup> OJ L 145, 29.6.1995, p. 47. Regulation as last amended by Regulation (EC) No 267/2004 (OJ L 17, 24.1.2004, p. 16).



## ANNEX

**to the Commission Regulation of 15 March 2004 fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and amending Regulation (EC) No 1484/95**

## 'ANNEX I

CN code	Description	Representative price (EUR/100 kg)	Security referred to in Article 3(3) (EUR/100 kg)	Origin <sup>(1)</sup>
0207 12 90	Chickens, plucked and drawn, without heads and feet and without necks, hearts, livers and gizzards, known as "65 % chickens", or otherwise presented, frozen	90,6	8	01
		74,0	14	03
0207 14 10	Boneless cuts of fowl of the species <i>Gallus domesticus</i> , frozen	199,2	30	01
		149,7	55	02
		194,2	33	03
		214,4	26	04
0207 14 50	Breasts of chicken, frozen	120,0	32	01
		161,5	15	02
		134,3	25	03
0207 14 60	Chicken legs, frozen	133,3	3	01
0207 27 10	Boneless cuts of turkey, frozen	222,3	22	01
		270,0	8	04
0207 36 15	Boneless cuts of duck and guinea fowl, frozen	205,1	36	02
		273,8	14	05
1602 32 11	Preparations of uncooked fowl of the species <i>Gallus domesticus</i>	228,5	17	01
		254,4	10	02
		229,1	17	03

<sup>(1)</sup> Origin of imports:

- 01 Brazil
- 02 Thailand
- 03 Argentina
- 04 Chile
- 05 China.

**COMMISSION REGULATION (EC) No 484/2004**  
**of 15 March 2004**

**fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip <sup>(1)</sup>, and in particular Article 5(2)(a) thereof,

Whereas:

Pursuant to Article 2(2) and Article 3 of abovementioned Regulation (EEC) No 4088/87, Community import and producer prices are fixed each fortnight for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses and apply for two-weekly periods. Pursuant to Article 1b of Commission Regulation (EEC) No 700/88 of 17 March 1988 laying down detailed rules for the application of the arrangements for the import into the Community of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the

Gaza Strip <sup>(2)</sup>, those prices are determined for fortnightly periods on the basis of weighted prices provided by the Member States. Those prices should be fixed immediately so the customs duties applicable can be determined. To that end, provision should be made for this Regulation to enter into force immediately,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Community producer and import prices for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses as referred to in Article 1b of Regulation (EEC) No 700/88 for a fortnightly period shall be as set out in the Annex.

*Article 2*

This Regulation shall enter into force on 16 March 2004.

It shall apply from 17 to 30 March 2004.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 March 2004.

*For the Commission*  
J. M. SILVA RODRÍGUEZ  
*Agriculture Director-General*

<sup>(1)</sup> OJ L 382, 31.12.1987, p. 22. Regulation as last amended by Regulation (EC) No 1300/97 (OJ L 177, 5.7.1997, p. 1).

<sup>(2)</sup> OJ L 72, 18.3.1988, p. 16. Regulation as last amended by Regulation (EC) No 2062/97 (OJ L 289, 22.10.1997, p. 1).

## ANNEX

**to the Commission Regulation of 15 March 2004 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip**

(EUR/100 pieces)

Period: from 17 to 30 March 2004

Community producer price	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
	15,30	13,43	42,43	17,92
Community import prices	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
Israel	—	—	—	—
Morocco	—	—	—	—
Cyprus	—	—	—	—
Jordan	14,00	—	—	—
West Bank and Gaza Strip	10,58	—	—	—

**COMMISSION REGULATION (EC) No 485/2004  
of 15 March 2004**

**re-establishing the preferential customs duty on imports of uniflorous (bloom) carnations originating in Jordan**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco and the West Bank and the Gaza Strip <sup>(1)</sup>, and in particular Article 5(2)(b) thereof,

Whereas:

- (1) Regulation (EEC) No 4088/87 fixes conditions for the application of a preferential customs duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports of fresh cut flowers into the Community.
- (2) Council Regulation (EC) No 747/2001 <sup>(2)</sup> opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Egypt, Israel, Malta, Morocco and the West Bank and the Gaza Strip respectively.
- (3) Commission Regulation (EC) No 484/2004 <sup>(3)</sup> fixed Community producer and import prices for carnations and roses for application of the arrangements for importation from the countries in question.
- (4) Commission Regulation (EEC) No 700/88 <sup>(4)</sup> laid down detailed rules for the application of these arrangements.

- (5) The preferential customs duty fixed for uniflorous (bloom) carnations originating in Jordan by Regulation (EC) No 747/2001 was suspended by Commission Regulation (EC) No 188/2004 <sup>(5)</sup>.
- (6) On the basis of price recordings made as specified in Regulations (EEC) No 4088/87 and (EEC) No 700/88 it must be concluded that the requirement for reintroduction of the preferential customs duty laid down in Article 2(4) of Regulation (EEC) No 4088/87 is met for uniflorous (bloom) carnations originating in Jordan. The preferential customs duty should be reintroduced.
- (7) In between meetings of the Management Committee for Live Plants and Floriculture Products, the Commission must adopt such measures,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. For imports of uniflorous (bloom) carnations (CN code ex 0603 10 20) originating in Jordan the preferential customs duty set by Regulation (EC) No 747/2001 is reintroduced.
2. Regulation (EC) No 188/2004 is hereby repealed.

*Article 2*

This Regulation shall enter into force on 16 March 2004.

<sup>(1)</sup> OJ L 382, 31.12.1987, p. 22. Regulation as last amended by Regulation (EC) No 1300/97 (OJ L 177, 5.7.1997, p. 1).

<sup>(2)</sup> OJ L 109, 19.4.2001, p. 2. Regulation as last amended by Commission Regulation (EC) No 54/2004 (OJ L 7, 13.1.2004, p. 30).

<sup>(3)</sup> See page 16 of this Official Journal.

<sup>(4)</sup> OJ L 72, 18.3.1988, p. 16. Regulation as last amended by Regulation (EC) No 2062/97 (OJ L 289, 22.10.1997, p. 16).

<sup>(5)</sup> OJ L 29, 3.2.2004, p. 10.

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This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 March 2004.

*For the Commission*  
J. M. SILVA RODRÍGUEZ  
*Director-General for Fisheries*

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**COMMISSION REGULATION (EC) No 486/2004  
of 15 March 2004**

**suspending the preferential customs duties and re-establishing the Common Customs Tariff duty  
on imports of uniflorous (bloom) carnations originating in the West Bank and the Gaza Strip**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco and the West Bank and the Gaza Strip <sup>(1)</sup>, and in particular Article 5(2)(b) thereof,

Whereas:

(1) Regulation (EEC) No 4088/87 lays down the conditions for applying a preferential duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports into the Community of fresh cut flowers.

(2) Council Regulation (EC) No 747/2001 <sup>(2)</sup> opens and provides for the administration of Community tariff quotas for cut flowers and flower buds, fresh, originating in Cyprus, Egypt, Israel, Malta, Morocco and the West Bank and the Gaza Strip respectively.

(3) Commission Regulation (EC) No 484/2004 <sup>(3)</sup> fixes the Community producer and import prices for carnations and roses for the application of the import arrangements.

(4) Commission Regulation (EEC) No 700/88 <sup>(4)</sup> lays down the detailed rules for the application of the arrangements.

(5) On the basis of prices recorded pursuant to Regulations (EEC) No 4088/87 and (EEC) No 700/88, it must be concluded that the conditions laid down in Article 2(2) of Regulation (EEC) No 4088/87 for suspension of the preferential customs duty are met for uniflorous (bloom) carnations originating in the West Bank and the Gaza strip; the Customs duty should be re-established.

(6) The quota for the products in question covers the period 1 January to 31 December 2004. As a result, the suspension of the preferential duty and the reintroduction of the Common Customs Tariff duty apply up to the end of that period at the latest.

(7) In between meetings of the Management Committee for Live Plants and Floriculture Products, the Commission must adopt such measures,

HAS ADOPTED THIS REGULATION:

*Article 1*

For imports of uniflorous (bloom) carnations (CN code ex 0603 10 20) originating in the West Bank and the Gaza strip, the preferential customs duty fixed by Regulation (EC) No 747/2001 is hereby suspended and the Common Customs Tariff duty is hereby re-established.

*Article 2*

This Regulation shall enter into force on 16 March 2004.

<sup>(1)</sup> OJ L 382, 31.12.1987, p. 22. Regulation as last amended by Regulation (EC) No 1300/97 (OJ L 177, 5.7.1997, p. 1).

<sup>(2)</sup> OJ L 109, 19.4.2001, p. 2. Regulation as last amended by Commission Regulation (EC) No 54/2004 (OJ L 7, 13.1.2004, p. 30).

<sup>(3)</sup> See page 16 of this Official Journal.

<sup>(4)</sup> OJ L 72, 18.3.1988, p. 16. Regulation as last amended by Regulation (EC) No 2062/97 (OJ L 289, 22.10.1997, p. 1).

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This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 March 2004.

*For the Commission*  
J. M. SILVA RODRÍGUEZ  
*Director-General for Fisheries*

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## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DECISION

of 2 March 2004

**authorising the Member States to sign, ratify or accede to, in the interest of the European Community, the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992, and authorising Austria and Luxembourg, in the interest of the European Community, to accede to the underlying instruments**

(2004/246/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(c), in conjunction with Article 300(2), first subparagraph, and Article 300(3), second subparagraph, thereof,

Having regard to the proposal from the Commission,

Having regard to the assent of the European Parliament <sup>(1)</sup>,

Whereas:

- (1) The Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992, (hereinafter the Supplementary Fund Protocol), is aimed at ensuring adequate, prompt, and effective compensation of persons who suffer damage caused by oil spills caused by tankers. By significantly raising the limits of compensation available in the present international system, the Supplementary Fund Protocol addresses one of the most significant shortcomings in the international regulation of oil pollution liability.
- (2) Articles 7 and 8 of the Supplementary Fund Protocol affect Community legislation on jurisdiction and the recognition and enforcement of judgments, as laid down in Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters <sup>(2)</sup>.
- (3) The Community has exclusive competence in relation to Articles 7 and 8 of the Protocol, insofar as those Articles affect the rules laid down in Regulation (EC) No 44/

2001. The Member States retain their competence for matters covered by the Protocol which do not affect Community law.

- (4) Pursuant to the Supplementary Fund Protocol, only sovereign States may be party to it; it is not therefore possible for the Community to ratify or accede to the Protocol, nor is there a prospect that it will be able to do so in the near future.
- (5) The Council should therefore, exceptionally, authorise the Member States to sign and conclude the Supplementary Fund Protocol in the interest of the Community, under the conditions set out in this Decision.
- (6) The United Kingdom and Ireland are bound by Regulation (EC) No 44/2001 and are therefore taking part in the adoption and application of this Decision.
- (7) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Decision, and is not bound by it or subject to its application.
- (8) Only Contracting Parties to the underlying instruments may become Contracting Parties to the Supplementary Fund Protocol. Austria and Luxembourg are not currently parties to the underlying instruments. Since the underlying instruments contain provisions affecting Regulation (EC) No 44/2001, Austria and Luxembourg should also be authorised to accede to these instruments.

<sup>(1)</sup> Assent of 12 February 2004 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 12, 16.1.2001, p. 1.



- (9) Member States, with the exception of Austria and Luxembourg, should sign or ratify the Protocol, as far as possible before the end of June 2004. The choice of either signing and subsequently ratifying the Protocol, or signing it without reservation as to ratification, acceptance or approval, is left to the Member States.
- (10) The situation of Austria and Luxembourg is different in that they cannot become Contracting Parties to the Supplementary Fund Protocol until they have acceded to the underlying instruments. For this reason, Austria and Luxembourg should therefore accede to the underlying instruments and to the Supplementary Fund Protocol, as far as possible by 31 December 2005 <sup>(1)</sup>,

if possible, before 30 June 2004, with the exception of Austria and Luxembourg, which express their consent to be bound by the Protocol under the conditions laid down in paragraph 3 of this Article.

2. Member States shall exchange information with the Commission within the Council, by 30 April 2004, on the date on which they expect their internal procedures to be completed.

3. Austria and Luxembourg shall take the necessary steps to express their consent to be bound by the underlying instruments and the Supplementary Fund Protocol, as far as possible, by 31 December 2005.

HAS ADOPTED THIS DECISION:

#### *Article 1*

1. The Member States are hereby authorised to sign, ratify or accede to, in the interest of the European Community, the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992, (the Supplementary Fund Protocol) subject to the conditions set out in the following Articles.

2. In addition, Austria and Luxembourg are authorised to accede to the underlying instruments.

3. The text of the Supplementary Fund Protocol is attached in Annex I to this Decision. The text of the underlying instruments is attached in Annexes II and III to this Decision.

4. In this Decision, the term 'underlying instruments' shall mean the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 and the Protocol of 1992 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971.

5. In this Decision, 'Member State' means all the Member States with the exception of Denmark.

#### *Article 2*

1. Member States shall take the necessary steps to express their consent to be bound pursuant to Article 19(2) thereof by the Supplementary Fund Protocol within a reasonable time and,

#### *Article 3*

When signing, ratifying or acceding to the instruments referred to in Article 1, Member States shall inform the Secretary-General of the International Maritime Organisation in writing that such signature, ratification or accession has taken place in accordance with this Decision.

#### *Article 4*

Member States shall, at the earliest opportunity, use their best endeavours to ensure that the Supplementary Fund Protocol, and the underlying instruments, are amended in order to allow the Community to become a Contracting Party to them.

#### *Article 5*

This Decision is addressed to the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels, 2 March 2004.

*For the Council*

*The President*

M. CULLEN

<sup>(1)</sup> See Commission Declaration.

## ANNEX I

**Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992**

THE CONTRACTING STATES TO THE PRESENT PROTOCOL,

BEARING IN MIND the International Convention on Civil Liability for Oil Pollution Damage, 1992 (hereinafter the 1992 Liability Convention),

HAVING CONSIDERED the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (hereinafter the 1992 Fund Convention),

AFFIRMING the importance of maintaining the viability of the international oil pollution liability and compensation system,

NOTING that the maximum compensation afforded by the 1992 Fund Convention might be insufficient to meet compensation needs in certain circumstances in some Contracting States to that Convention,

RECOGNISING that a number of Contracting States to the 1992 Liability and 1992 Fund Conventions consider it necessary as a matter of urgency to make available additional funds for compensation through the creation of a supplementary scheme to which States may accede if they so wish,

BELIEVING that the supplementary scheme should seek to ensure that victims of oil pollution damage are compensated in full for their loss or damage and should also alleviate the difficulties faced by victims in cases where there is a risk that the amount of compensation available under the 1992 Liability and 1992 Fund Conventions will be insufficient to pay established claims in full and that as a consequence the International Oil Pollution Compensation Fund, 1992, has decided provisionally that it will pay only a proportion of any established claim,

CONSIDERING that accession to the supplementary scheme will be open only to Contracting States to the 1992 Fund Convention,

HAVE AGREED AS FOLLOWS:

**GENERAL PROVISIONS***Article 1*

For the purposes of this Protocol:

1. '1992 Liability Convention' means the International Convention on Civil Liability for Oil Pollution Damage, 1992;
2. '1992 Fund Convention' means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992;
3. '1992 Fund' means the International Oil Pollution Compensation Fund, 1992, established under the 1992 Fund Convention;
4. 'Contracting State' means a Contracting State to this Protocol, unless stated otherwise;
5. When provisions of the 1992 Fund Convention are incorporated by reference into this Protocol, 'Fund' in that Convention means 'Supplementary Fund', unless stated otherwise;
6. 'Ship', 'Person', 'Owner', 'Oil', 'Pollution Damage', 'Preventive Measures' and 'Incident' have the same meaning as in Article I of the 1992 Liability Convention;
7. 'Contributing Oil', 'Unit of Account', 'Ton', 'Guarantor' and 'Terminal installation' have the same meaning as in Article 1 of the 1992 Fund Convention, unless stated otherwise;
8. 'Established claim' means a claim which has been recognised by the 1992 Fund or been accepted as admissible by decision of a competent court binding upon the 1992 Fund not subject to ordinary forms of review and which would have been fully compensated if the limit set out in Article 4(4), of the 1992 Fund Convention had not been applied to that incident;
9. 'Assembly' means the Assembly of the International Oil Pollution Compensation Supplementary Fund, 2003, unless otherwise indicated;
10. 'Organisation' means the International Maritime Organisation;
11. 'Secretary-General' means the Secretary-General of the Organisation.

*Article 2*

1. An International Supplementary Fund for compensation for pollution damage, to be named 'The International Oil Pollution Compensation Supplementary Fund, 2003' (hereinafter 'the Supplementary Fund'), is hereby established.

2. The Supplementary Fund shall in each Contracting State be recognised as a legal person capable under the laws of that State of assuming rights and obligations and of being a party in legal proceedings before the courts of that State. Each Contracting State shall recognise the Director of the Supplementary Fund as the legal representative of the Supplementary Fund.

*Article 3*

This Protocol shall apply exclusively:

- (a) to pollution damage caused:
  - (i) in the territory, including the territorial sea, of a Contracting State, and
  - (ii) in the exclusive economic zone of a Contracting State, established in accordance with international law, or, if a Contracting State has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;
- (b) to preventive measures, wherever taken, to prevent or minimise such damage.

**SUPPLEMENTARY COMPENSATION***Article 4*

1. The Supplementary Fund shall pay compensation to any person suffering pollution damage if such person has been unable to obtain full and adequate compensation for an established claim for such damage under the terms of the 1992 Fund Convention, because the total damage exceeds, or there is a risk that it will exceed, the applicable limit of compensation laid down in Article 4(4) of the 1992 Fund Convention in respect of any one incident.

- 2. (a) The aggregate amount of compensation payable by the Supplementary Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount together with the amount of compensation actually paid under the 1992 Liability Convention and the 1992 Fund Convention within the scope of application of this Protocol shall not exceed 750 million units of account.

- (b) The amount of 750 million units of account mentioned in paragraph 2(a) shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date determined by the Assembly of the 1992 Fund for conversion of the maximum amount payable under the 1992 Liability and 1992 Fund Conventions.

3. Where the amount of established claims against the Supplementary Fund exceeds the aggregate amount of compensation payable under paragraph 2, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Protocol shall be the same for all claimants.

4. The Supplementary Fund shall pay compensation in respect of established claims as defined in Article 1(8), and only in respect of such claims.

*Article 5*

The Supplementary Fund shall pay compensation when the Assembly of the 1992 Fund has considered that the total amount of the established claims exceeds, or there is a risk that the total amount of established claims will exceed the aggregate amount of compensation available under Article 4(4) of the 1992 Fund Convention and that as a consequence the Assembly of the 1992 Fund has decided provisionally or finally that payments will only be made for a proportion of any established claim. The Assembly of the Supplementary Fund shall then decide whether and to what extent the Supplementary Fund shall pay the proportion of any established claim not paid under the 1992 Liability Convention and the 1992 Fund Convention.

*Article 6*

1. Subject to Article 15(2) and (3), rights to compensation against the Supplementary Fund shall be extinguished only if they are extinguished against the 1992 Fund under Article 6 of the 1992 Fund Convention.

2. A claim made against the 1992 Fund shall be regarded as a claim made by the same claimant against the Supplementary Fund.

*Article 7*

1. The provisions of Article 7(1), (2), (4), (5) and (6) of the 1992 Fund Convention shall apply to actions for compensation brought against the Supplementary Fund in accordance with Article 4(1) of this Protocol.

2. Where an action for compensation for pollution damage has been brought before a court competent under Article IX of the 1992 Liability Convention against the owner of a ship or his guarantor, such court shall have exclusive jurisdictional competence over any action against the Supplementary Fund for compensation under the provisions of Article 4 of this Protocol in respect of the same damage. However, where an action for compensation for pollution damage under the 1992 Liability Convention has been brought before a court in a Contracting State to the 1992 Liability Convention but not to this Protocol, any action against the Supplementary Fund under Article 4 of this Protocol shall at the option of the claimant be brought either before a court of the State where the Supplementary Fund has its headquarters or before any court of a Contracting State to this Protocol competent under Article IX of the 1992 Liability Convention.

3. Notwithstanding paragraph 1, where an action for compensation for pollution damage against the 1992 Fund has been brought before a court in a Contracting State to the 1992 Fund Convention but not to this Protocol, any related action against the Supplementary Fund shall, at the option of the claimant, be brought either before a court of the State where the Supplementary Fund has its headquarters or before any court of a Contracting State competent under paragraph 1.

#### Article 8

1. Subject to any decision concerning the distribution referred to in Article 4(3) of this Protocol, any judgment given against the Supplementary Fund by a court having jurisdiction in accordance with Article 7 of this Protocol, shall, when it has become enforceable in the State of origin and is in that State no longer subject to ordinary forms of review, be recognised and enforceable in each Contracting State on the same conditions as are prescribed in Article X of the 1992 Liability Convention.

2. A Contracting State may apply other rules for the recognition and enforcement of judgments, provided that their effect is to ensure that judgments are recognised and enforced at least to the same extent as under paragraph 1.

#### Article 9

1. The Supplementary Fund shall, in respect of any amount of compensation for pollution damage paid by the Supplementary Fund in accordance with Article 4(1), of this Protocol, acquire by subrogation the rights that the person so compensated may enjoy under the 1992 Liability Convention against the owner or his guarantor.

2. The Supplementary Fund shall acquire by subrogation the rights that the person compensated by it may enjoy under the 1992 Fund Convention against the 1992 Fund.

3. Nothing in this Protocol shall prejudice any right of recourse or subrogation of the Supplementary Fund against persons other than those referred to in the preceding paragraphs. In any event the right of the Supplementary Fund to subrogation against such person shall not be less favourable than that of an insurer of the person to whom compensation has been paid.

4. Without prejudice to any other rights of subrogation or recourse against the Supplementary Fund which may exist, a Contracting State or agency thereof which has paid compensation for pollution damage in accordance with provisions of national law shall acquire by subrogation the rights which the person so compensated would have enjoyed under this Protocol.

## CONTRIBUTIONS

#### Article 10

1. Annual contributions to the Supplementary Fund shall be made in respect of each Contracting State by any person who, in the calendar year referred to in Article 11(2)(a) or (b), has received in total quantities exceeding 150 000 tons:

- (a) in the ports or terminal installations in the territory of that State contributing oil carried by sea to such ports or terminal installations; and
- (b) in any installations situated in the territory of that Contracting State contributing oil which has been carried by sea and discharged in a port or terminal installation of a non-Contracting State, provided that contributing oil shall only be taken into account by virtue of this subparagraph on first receipt in a Contracting State after its discharge in that non-Contracting State.

2. The provisions of Article 10(2) of the 1992 Fund Convention shall apply in respect of the obligation to pay contributions to the Supplementary Fund.

#### Article 11

1. With a view to assessing the amount of annual contributions due, if any, and taking account of the necessity to maintain sufficient liquid funds, the Assembly shall for each calendar year make an estimate in the form of a budget of:

- (i) expenditure
  - (a) costs and expenses of the administration of the Supplementary Fund in the relevant year and any deficit from operations in preceding years;
  - (b) payments to be made by the Supplementary Fund in the relevant year for the satisfaction of claims against the Supplementary Fund due under Article 4, including repayments on loans previously taken by the Supplementary Fund for the satisfaction of such claims;

## (ii) income

- (a) surplus funds from operations in preceding years, including any interest;
- (b) annual contributions, if required to balance the budget;
- (c) any other income.

2. The Assembly shall decide the total amount of contributions to be levied. On the basis of that decision, the Director of the Supplementary Fund shall, in respect of each Contracting State, calculate for each person referred to in Article 10, the amount of that person's annual contribution:

- (a) in so far as the contribution is for the satisfaction of payments referred to in paragraph 1(i)(a) on the basis of a fixed sum for each ton of contributing oil received in the relevant State by such person during the preceding calendar year; and
- (b) in so far as the contribution is for the satisfaction of payments referred to in paragraph 1(i)(b) on the basis of a fixed sum for each ton of contributing oil received by such person during the calendar year preceding that in which the incident in question occurred, provided that State was a Contracting State to this Protocol at the date of the incident.

3. The sums referred to in paragraph 2 shall be arrived at by dividing the relevant total amount of contributions required by the total amount of contributing oil received in all Contracting States in the relevant year.

4. The annual contribution shall be due on the date to be laid down in the Internal Regulations of the Supplementary Fund. The Assembly may decide on a different date of payment.

5. The Assembly may decide, under conditions to be laid down in the Financial Regulations of the Supplementary Fund, to make transfers between funds received in accordance with paragraph 2(a) and funds received in accordance with paragraph 2(b).

*Article 12*

1. The provisions of Article 13 of the 1992 Fund Convention shall apply to contributions to the Supplementary Fund.

2. A Contracting State itself may assume the obligation to pay contributions to the Supplementary Fund in accordance with the procedure set out in Article 14 of the 1992 Fund Convention.

*Article 13*

1. Contracting States shall communicate to the Director of the Supplementary Fund information on oil receipts in accordance with Article 15 of the 1992 Fund Convention provided, however, that communications made to the Director of the 1992 Fund under Article 15(2), of the 1992 Fund Convention shall be deemed to have been made also under this Protocol.

2. Where a Contracting State does not fulfil its obligations to submit the communication referred to in paragraph 1 and this results in a financial loss for the Supplementary Fund, that Contracting State shall be liable to compensate the Supplementary Fund for such loss. The Assembly shall, on the recommendation of the Director of the Supplementary Fund, decide whether such compensation shall be payable by that Contracting State.

*Article 14*

1. Notwithstanding Article 10, for the purposes of this Protocol there shall be deemed to be a minimum receipt of 1 million tons of contributing oil in each Contracting State.

2. When the aggregate quantity of contributing oil received in a Contracting State is less than 1 million tons, the Contracting State shall assume the obligations that would be incumbent under this Protocol on any person who would be liable to contribute to the Supplementary Fund in respect of oil received within the territory of that State in so far as no liable person exists for the aggregated quantity of oil received.

*Article 15*

1. If in a Contracting State there is no person meeting the conditions of Article 10, that Contracting State shall for the purposes of this Protocol inform the Director of the Supplementary Fund thereof.

2. No compensation shall be paid by the Supplementary Fund for pollution damage in the territory, territorial sea or exclusive economic zone or area determined in accordance with Article 3(a)(ii), of this Protocol, of a Contracting State in respect of a given incident or for preventive measures, wherever taken, to prevent or minimize such damage, until the obligations to communicate to the Director of the Supplementary Fund according to Article 13(1) and paragraph 1 of this Article have been complied with in respect of that Contracting State for all years prior to the occurrence of that incident. The Assembly shall determine in the Internal Regulations the circumstances under which a Contracting State shall be considered as having failed to comply with its obligations.

3. Where compensation has been denied temporarily in accordance with paragraph 2, compensation shall be denied permanently in respect of that incident if the obligations to communicate to the Director of the Supplementary Fund under Article 13(1) and paragraph 1 of this Article, have not been complied with within one year after the Director of the Supplementary Fund has notified the Contracting State of its failure to report.

4. Any payments of contributions due to the Supplementary Fund shall be set off against compensation due to the debtor, or the debtor's agents.

## ORGANISATION AND ADMINISTRATION

### Article 16

1. The Supplementary Fund shall have an Assembly and a Secretariat headed by a Director.

2. Articles 17 to 20 and 28 to 33 of the 1992 Fund Convention shall apply to the Assembly, Secretariat and Director of the Supplementary Fund.

3. Article 34 of the 1992 Fund Convention shall apply to the Supplementary Fund.

### Article 17

1. The Secretariat of the 1992 Fund, headed by the Director of the 1992 Fund, may also function as the Secretariat and the Director of the Supplementary Fund.

2. If, in accordance with paragraph 1, the Secretariat and the Director of the 1992 Fund also perform the function of Secretariat and Director of the Supplementary Fund, the Supplementary Fund shall be represented, in cases of conflict of interests between the 1992 Fund and the Supplementary Fund, by the Chairman of the Assembly.

3. The Director of the Supplementary Fund, and the staff and experts appointed by the Director of the Supplementary Fund, performing their duties under this Protocol and the 1992 Fund Convention, shall not be regarded as contravening the provisions of Article 30 of the 1992 Fund Convention as applied by Article 16(2) of this Protocol insofar as they discharge their duties in accordance with this Article.

4. The Assembly shall endeavour not to take decisions which are incompatible with decisions taken by the Assembly of the 1992 Fund. If differences of opinion with respect to common administrative issues arise, the Assembly shall try to reach a consensus with the Assembly of the 1992 Fund, in a spirit of mutual cooperation and with the common aims of both organizations in mind.

5. The Supplementary Fund shall reimburse the 1992 Fund all costs and expenses arising from administrative services performed by the 1992 Fund on behalf of the Supplementary Fund.

## TRANSITIONAL PROVISIONS

### Article 18

1. Subject to paragraph 4, the aggregate amount of the annual contributions payable in respect of contributing oil received in a single Contracting State during a calendar year shall not exceed 20 % of the total amount of annual contributions pursuant to this Protocol in respect of that calendar year.

2. If the application of the provisions in Article 11(2) and (3) would result in the aggregate amount of the contributions payable by contributors in a single Contracting State in respect of a given calendar year exceeding 20 % of the total annual contributions, the contributions payable by all contributors in that State shall be reduced pro rata so that their aggregate contributions equal 20 % of the total annual contributions to the Supplementary Fund in respect of that year.

3. If the contributions payable by persons in a given Contracting State shall be reduced pursuant to paragraph 2, the contributions payable by persons in all other Contracting States shall be increased pro rata so as to ensure that the total amount of contributions payable by all persons liable to contribute to the Supplementary Fund in respect of the calendar year in question will reach the total amount of contributions decided by the Assembly.

4. The provisions in paragraphs 1 to 3 shall operate until the total quantity of contributing oil received in all Contracting States in a calendar year, including the quantities referred to in Article 14(1), has reached 1 000 million tons or until a period of 10 years after the date of entry into force of this Protocol has elapsed, whichever occurs earlier.

## FINAL CLAUSES

### Article 19

#### Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open for signature at London from 31 July 2003 to 30 July 2004.

2. States may express their consent to be bound by this Protocol by:

(a) signature without reservation as to ratification, acceptance or approval; or

(b) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or

(c) accession.

3. Only Contracting States to the 1992 Fund Convention may become Contracting States to this Protocol.

4. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument to that effect with the Secretary-General.

#### Article 20

##### Information on contributing oil

Before this Protocol comes into force for a State, that State shall, when signing this Protocol in accordance with Article 19(2)(a), or when depositing an instrument referred to in Article 19(4) of this Protocol, and annually thereafter at a date to be determined by the Secretary-General, communicate to the Secretary-General the name and address of any person who in respect of that State would be liable to contribute to the Supplementary Fund pursuant to Article 10 as well as data on the relevant quantities of contributing oil received by any such person in the territory of that State during the preceding calendar year.

#### Article 21

##### Entry into force

1. This Protocol shall enter into force three months following the date on which the following requirements are fulfilled:

(a) at least eight States have signed the Protocol without reservation as to ratification, acceptance or approval, or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General; and

(b) the Secretary-General has received information from the Director of the 1992 Fund that those persons who would be liable to contribute pursuant to Article 10 have received during the preceding calendar year a total quantity of at least 450 million tons of contributing oil, including the quantities referred to in Article 14(1).

2. For each State which signs this Protocol without reservation as to ratification, acceptance or approval, or which ratifies, accepts, approves or accedes to this Protocol, after the conditions in paragraph 1 for entry into force have been met, the Protocol shall enter into force three months following the date of the deposit by such State of the appropriate instrument.

3. Notwithstanding paragraphs 1 and 2, this Protocol shall not enter into force in respect of any State until the 1992 Fund Convention enters into force for that State.

#### Article 22

##### First session of the Assembly

The Secretary-General shall convene the first session of the Assembly. This session shall take place as soon as possible after the entry into force of this Protocol and, in any case, not more than 30 days after such entry into force.

#### Article 23

##### Revision and amendment

1. A conference for the purpose of revising or amending this Protocol may be convened by the Organisation.

2. The Organisation shall convene a Conference of Contracting States for the purpose of revising or amending this Protocol at the request of not less than one third of all Contracting States.

#### Article 24

##### Amendment of compensation limit

1. Upon the request of at least one quarter of the Contracting States, any proposal to amend the limit of the amount of compensation laid down in Article 4(2)(a), shall be circulated by the Secretary-General to all Members of the Organisation and to all Contracting States.

2. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organisation for consideration at a date at least six months after the date of its circulation.

3. All Contracting States to this Protocol, whether or not Members of the Organisation, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.

4. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided for in paragraph 3, on condition that at least one half of the Contracting States shall be present at the time of voting.

5. When acting on a proposal to amend the limit, the Legal Committee shall take into account the experience of incidents and in particular the amount of damage resulting therefrom and changes in the monetary values.

6. (a) No amendments of the limit under this Article may be considered before the date of entry into force of this Protocol nor less than three years from the date of entry into force of a previous amendment under this Article.

- (b) The limit may not be increased so as to exceed an amount which corresponds to the limit laid down in this Protocol increased by 6 % per year calculated on a compound basis from the date when this Protocol is opened for signature to the date on which the Legal Committee's decision comes into force.
- (c) The limit may not be increased so as to exceed an amount which corresponds to the limit laid down in this Protocol multiplied by three.

7. Any amendment adopted in accordance with paragraph 4 shall be notified by the Organisation to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of 12 months after the date of notification, unless within that period not less than one quarter of the States that were Contracting States at the time of the adoption of the amendment by the Legal Committee have communicated to the Organisation that they do not accept the amendment, in which case the amendment is rejected and shall have no effect.

8. An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force 12 months after its acceptance.

9. All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with Article 26(1) and (2), at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

10. When an amendment has been adopted by the Legal Committee but the 12-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 7. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Protocol enters into force for that State, if later.

#### Article 25

### Protocols to the 1992 Fund Convention

1. If the limits laid down in the 1992 Fund Convention have been increased by a Protocol thereto, the limit laid down in Article 4(2)(a), may be increased by the same amount by means of the procedure set out in Article 24. The provisions of Article 24(6), shall not apply in such cases.

2. If the procedure referred to in paragraph 1 has been applied, any subsequent amendment of the limit laid down in Article 4(2), by application of the procedure in Article 24 shall, for the purpose of Article 24(6)(b) and (c), be calculated on the basis of the new limit as increased in accordance with paragraph 1.

#### Article 26

### Denunciation

1. This Protocol may be denounced by any Contracting State at any time after the date on which it enters into force for that Contracting State.

2. Denunciation shall be effected by the deposit of an instrument with the Secretary-General.

3. A denunciation shall take effect 12 months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General.

4. Denunciation of the 1992 Fund Convention shall be deemed to be a denunciation of this Protocol. Such denunciation shall take effect on the date on which denunciation of the Protocol of 1992 to amend the 1971 Fund Convention takes effect according to Article 34 of that Protocol.

5. Notwithstanding a denunciation of the present Protocol by a Contracting State pursuant to this Article, any provisions of this Protocol relating to the obligations to make contributions to the Supplementary Fund with respect to an incident referred to in Article 11(2)(b), and occurring before the denunciation takes effect, shall continue to apply.

#### Article 27

### Extraordinary sessions of the Assembly

1. Any Contracting State may, within 90 days after the deposit of an instrument of denunciation the result of which it considers will significantly increase the level of contributions for the remaining Contracting States, request the Director of the Supplementary Fund to convene an extraordinary session of the Assembly. The Director of the Supplementary Fund shall convene the Assembly to meet not later than 60 days after receipt of the request.



2. The Director of the Supplementary Fund may take the initiative to convene an extraordinary session of the Assembly to meet within 60 days after the deposit of any instrument of denunciation, if the Director of the Supplementary Fund considers that such denunciation will result in a significant increase in the level of contributions of the remaining Contracting States.

3. If the Assembly at an extraordinary session convened in accordance with paragraph 1 or 2 decides that the denunciation will result in a significant increase in the level of contributions for the remaining Contracting States, any such State may, not later than 120 days before the date on which the denunciation takes effect, denounce this Protocol with effect from the same date.

#### Article 28

##### Termination

1. This Protocol shall cease to be in force on the date when the number of Contracting States falls below seven or the total quantity of contributing oil received in the remaining Contracting States, including the quantities referred to in Article 14(1), falls below 350 000 000 tons, whichever occurs earlier.

2. States which are bound by this Protocol on the day before the date it ceases to be in force shall enable the Supplementary Fund to exercise its functions as described in Article 29 and shall, for that purpose only, remain bound by this Protocol.

#### Article 29

##### Winding up of the Supplementary Fund

1. If this Protocol ceases to be in force, the Supplementary Fund shall nevertheless:

- (a) meet its obligations in respect of any incident occurring before the Protocol ceased to be in force;
- (b) be entitled to exercise its rights to contributions to the extent that these contributions are necessary to meet the obligations under paragraph 1(a), including expenses for the administration of the Supplementary Fund necessary for this purpose.

2. The Assembly shall take all appropriate measures to complete the winding up of the Supplementary Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the Supplementary Fund.

3. For the purposes of this Article the Supplementary Fund shall remain a legal person.

#### Article 30

##### Depositary

1. This Protocol and any amendments accepted under Article 24 shall be deposited with the Secretary-General.

2. The Secretary-General shall:

- (a) inform all States which have signed or acceded to this Protocol of:
  - (i) each new signature or deposit of an instrument together with the date thereof;
  - (ii) the date of entry into force of this Protocol;
  - (iii) any proposal to amend the limit of the amount of compensation which has been made in accordance with Article 24(1);
  - (iv) any amendment which has been adopted in accordance with Article 24(4);
  - (v) any amendment deemed to have been accepted under Article 24(7), together with the date on which that amendment shall enter into force in accordance with paragraphs 8 and 9 of that Article;
  - (vi) the deposit of an instrument of denunciation of this Protocol together with the date of the deposit and the date on which it takes effect;
  - (vii) any communication called for by any Article in this Protocol;
- (b) transmit certified true copies of this Protocol to all Signatory States and to all States which accede to the Protocol.

3. As soon as this Protocol enters into force, the text shall be transmitted by the Secretary-General to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

#### Article 31

##### Languages

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this sixteenth day of May, two thousand and three.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments for that purpose, have signed this Protocol.

## ANNEX II

**Protocol of 1992 to Amend the International Convention on Civil Liability for Oil Pollution Damage 1969**

THE PARTIES TO THE PRESENT PROTOCOL,

HAVING CONSIDERED the International Convention of Civil Liability for Oil Pollution Damage, 1969, and the 1984 Protocol thereto,

HAVING NOTED that the 1984 Protocol to that Convention, which provides for improved scope and enhanced compensation, has not entered into force,

AFFIRMING the importance of maintaining the viability of the international oil pollution liability and compensation system,

AWARE OF the need to ensure the entry into force of the content of the 1984 Protocol as soon as possible,

RECOGNISING that special provisions are necessary in connection with the introduction of corresponding amendments to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971,

HAVE AGREED AS FOLLOWS:

*Article 1*

The Convention which the provisions of this Protocol amend is the International Convention on Civil Liability for Oil Pollution Damage, 1969, hereinafter referred to as the '1969 Liability Convention'. For States Parties to the Protocol of 1976 to the 1969 Liability Convention, such reference shall be deemed to include the 1969 Liability Convention as amended by that Protocol.

*Article 2*

Article I of the 1969 Liability Convention is amended as follows:

1. paragraph 1 is replaced by the following:

'1. "Ship" means any sea-going vessel and seaborne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo, provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard.;

2. paragraph 5 is replaced by the following:

'5. "Oil" means any persistent hydrocarbon mineral oil such as crude oil, fuel oil, heavy diesel oil and lubricating oil, whether carried on board a ship as cargo or in the bunkers of such a ship.;

3. paragraph 6 is replaced by the following:

'6. "Pollution damage" means:

- (a) loss or damage caused outside the ship by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken;
- (b) the costs of preventive measures and further loss or damage caused by preventive measures.;

4. paragraph 8 is replaced by the following:

'8. "Incident" means any occurrence, or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing such damage.;

5. paragraph 9 is replaced by the following:

'9. "Organisation" means the International Maritime Organisation.;

6. after paragraph 9 a new paragraph is inserted reading as follows:

'10. "1969 Liability Convention" means the International Convention of Civil Liability for Oil Pollution Damage, 1969. For States Parties to the Protocol of 1976 to that Convention, the term shall be deemed to include the 1969 Liability Convention as amended by that Protocol.'

*Article 3*

Article II of the 1969 Liability Convention is replaced by the following:

*'Article II*

This Convention shall apply exclusively:

- (a) to pollution damage caused:
  - (i) in the territory, including the territorial sea, of a Contracting State, and
  - (ii) in the exclusive economic zone of a Contracting State, established in accordance with international law, or, if a Contracting State has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the base-lines from which the breadth of its territorial sea is measured;
- (b) to preventive measures, wherever taken, to prevent or minimise such damage.'

*Article 4*

Article III of the 1969 Liability Convention is amended as follows:

1. paragraph 1 is replaced by the following:

'1. Except as provided in paragraphs 2 and 3 of this Article, the owner of a ship at the time of an incident, or, where the incident consists of a series of occurrences, at the time of the first such occurrence, shall be liable for any pollution damage caused by the ship as a result of the incident.';

2. paragraph 4 is replaced by the following:

'4. No claim for compensation for pollution damage may be made against the owner otherwise than in accordance with this Convention. Subject to paragraph 5 of this Article, no claim for compensation for pollution damage under this Convention or otherwise may be made against:

- (a) the servants or agents of the owner or the members of the crew;
- (b) the pilot or any other person who, without being a member of the crew, performs services for the ship;
- (c) any charterer (howsoever described, including a bare-boat charterer), manager or operator of the ship;

(d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;

(e) any person taking preventive measures;

(f) all servants or agents of persons mentioned in subparagraphs (c), (d) and (e); unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.'

*Article 5*

Article IV of the 1969 Liability Convention is replaced by the following:

*'Article IV*

When an incident involving two or more ships occurs and pollution damage results therefrom, the owners of all the ships concerned, unless exonerated under Article III, shall be jointly and severally liable for all such damage which is not reasonably separable.'

*Article 6*

Article V of the 1969 Liability Convention is amended as follows:

1. paragraph 1 is replaced by the following:

'1. The owner of a ship shall be entitled to limit his liability under this Convention in respect of any one incident to an aggregate amount calculated as follows:

- (a) 3 000 000 units of account for a ship not exceeding 5 000 units of tonnage;
- (b) for a ship with a tonnage in excess thereof, for each additional unit of tonnage, 420 units of account in addition to the amount mentioned in subparagraph (a); provided, however, that this aggregate amount shall not in any event exceed 59 700 000 units of account.';

2. paragraph 2 is replaced by the following:

'2. The owner shall not be entitled to limit his liability under this Convention if it is proved that the pollution damage resulted from his personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.';

3. paragraph 3 is replaced by the following:

'3. For the purpose of availing himself of the benefit of limitation provided for in paragraph 1 of this Article the owner shall constitute a fund for the total sum representing the limit of his liability with the Court or other competent authority of any one of the Contracting States in which action is brought under Article IX or, if no action is brought, with any Court or other competent authority in any one of the Contracting States in which an action can be brought under Article IX. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the legislation of the Contracting State where the fund is constituted, and considered to be adequate by the Court or other competent authority.'

4. paragraph 9 is replaced by the following:

'9. (a) The "unit of account" referred to in paragraph 1 of this Article is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in paragraph 1 shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the constitution of the fund referred to in paragraph 3. The value of the national currency, in terms of the Special Drawing Right, of a Contracting State which is a member of the International Monetary Fund shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a Contracting State which is not a member of the International Monetary Fund shall be calculated in a manner determined by that State.

(b) Nevertheless, a Contracting State which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 9(a) may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the unit of account referred to in paragraph 9(a) shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.

(c) The calculation mentioned in the last sentence of paragraph 9(a) and the conversion mentioned in paragraph 9(b) shall be made in such manner as to express in the national currency of the Contracting State as far as possible the same real value for the amounts in paragraph 1 as would result from the application of the first three sentences of paragraph 9(a).

Contracting States shall communicate to the depositary the manner of calculation pursuant to paragraph 9(a), or the result of the conversion in paragraph 9(b) as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.'

5. paragraph 10 is replaced by the following:

'10. For the purpose of this Article the ships tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.'

6. the second sentence of paragraph 11 is replaced by the following text:

'Such a fund may be constituted even if, under the provisions of paragraph 2, the owner is not entitled to limit his liability, but its constitution shall in that case not prejudice the rights of any claimant against the owner.'

#### Article 7

Article VII of the 1969 Liability Convention is amended as follows:

1. the first two sentences of paragraph 2 are replaced by the following:

'A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a Contracting State has determined that the requirements of paragraph 1 have been complied with.

With respect to a ship registered in a Contracting State such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to at ship not registered in a Contracting State it may be issued or certified by the appropriate authority of any Contracting State.'

2. paragraph 4 is replaced by the following:

'4. The certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a Contracting State, with the authorities of the State issuing or certifying the certificate.'

3. the first sentence of paragraph 7 is replaced by the following:

'Certificates issued or certified under the authority of a Contracting State in accordance with paragraph 2 shall be accepted by other Contracting States for the purposes of this Convention and shall be regarded by other Contracting States as having the same force as certificates issued or certified by them even if issued or certified in respect of a ship not registered in a Contracting State.'

4. in the second sentence of paragraph 7 'with the State of a ship's registry' is replaced by 'with the issuing or certifying State';

5. the second sentence of paragraph 8 is replaced by the following:

'In such case the defendant may, even if the owner is not entitled to limit his liability according to Article V(2), avail himself of the limits of liability prescribed in Article V(1).'

#### Article 8

Article IX of the 1969 Liability Convention is amended as follows:

paragraph 1 is replaced by the following:

'1. Where an incident has caused pollution damage in the territory, including the territorial sea or an area referred to in Article II, of one or more Contracting States or preventive measures have been taken to prevent or minimize pollution damage in such territory including the territorial sea or area, actions for compensation may only be brought in the Courts of any such Contracting State or States. Reasonable notice of any such action shall be given to the defendant.'

#### Article 9

After Article XII of the 1969 Liability Convention two new Articles are inserted as follows:

'Article XIIIa

#### Transitional provisions

The following transitional provisions shall apply in the case of a State which at the time of an incident is a Party both to this Convention and to the 1969 Liability Convention:

- (a) where an incident has caused pollution damage within the scope of this Convention, liability under this Convention shall be deemed to be discharged if, and to the extent that, it also arises under the 1969 Liability Convention;
- (b) where an incident has caused pollution damage within the scope of this Convention, and the State is a Party both to this Convention and to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, liability remaining to be discharged after the application of subparagraph (a) of this Article shall arise under this Convention only to the extent that pollution damage remains uncompensated after application of the said 1971 Convention;

(c) in the application of Article III, Paragraph 4, of this Convention the expression "this Convention" shall be interpreted as referring to this Convention or the 1969 Liability Convention, as appropriate;

(d) in the application of Article V, paragraph 3, of this Convention the total sum of the fund to be constituted shall be reduced by the amount by which liability has been deemed to be discharged in accordance with subparagraph (a) of this Article.

#### Article XIIb

#### Final clauses

The final clauses of this Convention shall be Articles 12 to 18 of the Protocol of 1992 to amend the 1969 Liability Convention. References in this Convention to Contracting States shall be taken to mean references to the Contracting States of that Protocol.'

#### Article 10

The model of a certificate annexed to the 1969 Liability Convention is replaced by the model annexed to this Protocol.

#### Article 11

1. The 1969 Liability Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.

2. Articles I to XII ter, including the model certificate, of the 1969 Liability Convention as amended by this Protocol shall be known as the International Convention on Civil Liability for Oil Pollution Damage, 1992 (1992 Liability Convention).

#### FINAL CLAUSES

#### Article 12

#### Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open for signature at London from 15 January 1993 to 14 January 1994 by all States.

2. Subject to paragraph 4, any State may become a Party to this Protocol by:

- (a) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or
- (b) accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument to that effect with the Secretary-General of the Organisation.

4. Any Contracting State to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, hereinafter referred to as the 1971 Fund Convention, may ratify, accept, approve or accede to this Protocol only if it ratifies, accepts, approves or accedes to the Protocol of 1992 to amend that Convention at the same time, unless it denounces the 1971 Fund Convention to take effect on the date when this Protocol enters into force for that State.

5. A State which is a Party to this protocol but not a Party to the 1969 Liability Convention shall be bound by the provisions of the 1969 Liability Convention as amended by this Protocol in relation to other States Parties hereto, but shall not be bound by the provisions of the 1969 Liability Convention in relation to States Parties thereto.

6. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the 1969 Liability Convention as amended by this Protocol shall be deemed to apply to the Convention so amended, as modified by such amendment.

#### Article 13

#### Entry into force

1. This Protocol shall enter into force 12 months following the date on which 10 States including four States each with not less than 1 000 000 units of gross tanker tonnage have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organisation.

2. However, any Contracting State to the 1971 Fund Convention may, at the time of the deposit of its instrument of ratification, acceptance, approval or accession in respect of this Protocol, declare that such instrument shall be deemed not to be effective for the purposes of this Article until the end of the six-month period in Article 31 of the Protocol of 1992 to amend the 1971 Fund Convention. A State which is not a Contracting State to the 1971 Fund Convention but which deposits an instrument of ratification, acceptance, approval or accession in respect of the Protocol of 1992 to amend the 1971 Fund Convention may also make a declaration in accordance with this paragraph at the same time.

3. Any State which has made a declaration in accordance with the preceding paragraph may withdraw it at any time by means of a notification addressed to the Secretary-General of

the Organization. Any such withdrawal shall take effect on the date the notification is received, provided that such State shall be deemed to have deposited its instrument of ratification, acceptance, approval or accession in respect of this Protocol on that date.

4. For any State which ratifies, accepts, approves or accedes to it after the conditions in paragraph 1 for entry into force have been met, this Protocol shall enter into force 12 months following the date of deposit by such State of the appropriate instrument.

#### Article 14

#### Revision and amendment

1. A Conference for the purpose of revising or amending the 1992 Liability Convention may be convened by the Organisation.

2. The Organisation shall convene a Conference of Contracting States for the purpose of revising or amending the 1992 Liability Convention at the request of not less than one third of the Contracting States.

#### Article 15

#### Amendments of limitation amounts

1. Upon the request of at least one quarter of the Contracting States any proposal to amend the limits of liability laid down in Article V(1) of the 1969 Liability Convention as amended by this Protocol shall be circulated by the Secretary-General to all Members of the Organisation and to all Contracting States.

2. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization for consideration at a date at least six months after the date of its circulation.

3. All Contracting States to the 1969 Liability Convention as amended by this Protocol, whether or not Members of the Organisation, shall be entitled to participate in the proceeding of the Legal Committee for the consideration and adoption of amendments.

4. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided for in paragraph 3, on condition that at least one half of the Contracting States shall be present at the time of voting.

5. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and in particular the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance. It shall also take into account the relationship between the limits in Article V(1) of the 1969 Liability Convention as amended by this Protocol and those in Article 4(4), of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992.

6. (a) No amendment of the limits of liability under this Article may be considered before 15 January 1998 nor less than five years from the date of entry into force of a previous amendment under this Article. No amendment under this Article shall be considered before this Protocol has entered into force.

(b) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1969 Liability Convention as amended by this Protocol increased by 6 % per year calculated on a compound basis from 15 January 1993.

(c) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1969 Liability Convention as amended by this Protocol multiplied by three.

7. Any amendment adopted in accordance with paragraph 4 shall be notified by the Organisation to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of 18 months after the date of notification, unless within that period not less than one quarter of the States that were Contracting States at the time of the adoption of the amendment by the Legal Committee have communicated to the Organisation that they do not accept the amendment in which case the amendment is rejected and shall have no effect.

8. An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force 18 months after its acceptance.

9. All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with Article 16(1) and (2), at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

10. When an amendment has been adopted by the Legal Committee but the 18-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been

accepted in accordance with paragraph 7. In the case referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Protocol enters into force for that State, if later.

#### Article 16

#### Denunciation

1. This Protocol may be denounced by any Party at any time after the date on which it enters into force for that Party.

2. Denunciation shall be effected by the deposit of an instrument with the Secretary-General of the Organisation.

3. A denunciation shall take effect 12 months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General of the Organisation.

4. As between the Parties to this Protocol, denunciation by any of them of the 1969 Liability Convention in accordance with Article XVI thereof shall not be construed in any way as a denunciation of the 1969 Liability Convention as amended by this Protocol.

5. Denunciation of the Protocol of 1992 to amend the 1971 Fund Convention by a State which remains a Party to the 1971 Fund Convention shall be deemed to be a denunciation of this Protocol. Such denunciation shall take effect on the date on which denunciation of the Protocol of 1992 to amend the 1971 Fund Convention takes effect according to Article 34 of that Protocol.

#### Article 17

#### Depositary

1. This Protocol and any amendments accepted under Article 15 shall be deposited with the Secretary-General of the Organisation.

2. The Secretary-General of the Organisation shall:

(a) inform all States which have signed or acceded to this protocol of:

(i) each new signature or deposit of an instrument together with the date thereof;

(ii) each declaration and notification under Article 13 and each declaration and communication under Article 13 and each declaration and communication under Article V(9) of the 1992 Liability Convention;

(iii) the date of entry into force of this Protocol;

- (iv) any proposal to amend limits of liability which has been made in accordance with Article 15(1);
  - (v) any amendment which has been adopted in accordance with Article 15(4);
  - (vi) any amendment deemed to have been accepted under Article 15(7), together with the date on which that amendment shall enter into force in accordance with paragraphs 8 and 9 of that Article;
  - (vii) the deposit of any instrument of denunciation of this Protocol together with the date of the deposit and the date on which it takes effect;
  - (viii) any denunciation deemed to have been made under Article 16(5);
  - (ix) any communication called for by any Article of this Protocol;
- (b) transmit certified true copies of this Protocol to all Signatory States and to all States which accede to this Protocol.

3. As soon as this Protocol enters into force, the text shall be transmitted by the Secretary-General of the Organisation to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

*Article 18*

**Languages**

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON, this twenty-seventh day of November one thousand nine hundred and ninety-two.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments for that purpose, have signed this Protocol.



## Annex

**Certificate of insurance or other financial security in respect of civil liability for oil pollution damage**

Issued in accordance with the provisions of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Name of ship

Distinctive number of letters

Port of registry

Name and address of owner

This is to certify that there is in force in respect of the abovenamed ship a policy of insurance or other financial security satisfying the requirements of Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

Type of security.....

Duration of security.....

Name and address of the insurer(s) and/or guarantor(s)

Name.....

Address.....

This certificate is valid until.....

Issued or certified by the Government of.....

(Full designation of the State)

at ..... , on .....

(place)

(date)

(Signature and title of issuing or certifying official)

Explanatory notes:

1. If desired, the designation of the State may include a reference to the competent public authority of the country where the certificate is issued.
2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
3. If security is furnished in several forms, these should be enumerated.
4. The entry 'Duration of security' must stipulate the date on which such security takes effect.

## ANNEX III

**Protocol of 1992 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage of 1971**

THE PARTIES TO THE PRESENT PROTOCOL,

HAVING CONSIDERED the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, and the 1984 Protocol thereto,

HAVING NOTED that the 1984 Protocol to that Convention, which provides for improved scope and enhanced compensation, has not entered into force,

AFFIRMING the importance of maintaining the viability of the international oil pollution liability and compensation system,

AWARE OF the need to ensure the entry into force of the content of the 1984 Protocol as soon as possible,

RECOGNISING the advantage for the States Parties of arranging for the amended Convention to coexist with and be supplementary to the original Convention for a transitional period,

CONVINCED that the economic consequences of pollution damage resulting from the carriage of oil in bulk at sea by ships should continue to be shared by the shipping industry and by the oil cargo interests,

BEARING IN MIND the adoption of the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969,

HAVE AGREED AS FOLLOWS:

*Article 1*

The Convention which the provisions of this Protocol amend is the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, hereinafter referred to as the '1971 Fund Convention'. For States Parties to the Protocol of 1976 to the 1971 Fund Convention, such reference shall be deemed to include the 1971 Fund Convention as amended by that Protocol.

2. after paragraph 1 a new paragraph is inserted as follows:

'1a. "1971 Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971. For States Parties to the Protocol of 1976 to that Convention, the term shall be deemed to include the 1971 Fund Convention as amended by that Protocol.');

3. paragraph 2 is replaced by the following:

'2. "Ship", "Person", "Owner", "Oil", "Pollution Damage", "Preventive Measures", "Incident", and "Organization" have the same meaning as in Article I of the 1992 Liability Convention.');

*Article 2*

Article 1 of the 1971 Fund Convention is amended as follows:

1. paragraph 1 is replaced by the following:

'1. "1992 Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1992.;

4. paragraph 4 is replaced by the following:

'4. "Unit of account" has the same meaning as in Article V, paragraph 9, of the 1992 Liability Convention.');

5. paragraph 5 is replaced by the following:

'5. "Ship's tonnage" has the same meaning as in Article V(10) of the 1992 Liability Convention.');

6. paragraph 7 is replaced by the following:

'7. "Guarantor" means any person providing insurance or other financial security to cover an owner's liability in pursuance of Article VII(1) of the 1992 Liability Convention.'

#### Article 3

Article 2 of the 1971 Fund Convention is amended as follows:

paragraph 1 is replaced by the following:

'1. An International Fund for compensation for pollution damage, to be named "The International Oil Pollution Compensation Fund 1992" and hereinafter referred to as "the Fund", is hereby established with the following aims:

- (a) to provide compensation for pollution damage to the extent that the protection afforded by the 1992 Liability Convention is inadequate;
- (b) to give effect to the related purposes set out in this Convention.'

#### Article 4

Article 3 of the 1971 Fund Convention is replaced by the following:

#### 'Article 3

This Convention shall apply exclusively:

- (a) to pollution damage caused:
  - (i) in the territory, including the territorial sea, of a Contracting State, and
  - (ii) in the exclusive economic zone of a Contracting State, established in accordance with international law, or, if a Contracting State has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the base-lines from which the breadth of its territorial sea is measured;
- (b) to preventive measures, wherever taken, to prevent or minimise such damage.'

#### Article 5

The heading to Articles 4 to 9 of the 1971 Fund Convention is amended by deleting the words 'and indemnification'.

#### Article 6

Article 4 of the 1971 Fund Convention is amended as follows:

- 1. in paragraph 1 the five references to 'the Liability Convention' are replaced by references to 'the 1992 Liability Convention';

2. paragraph 3 is replaced by the following:

'3. If the Fund proves that the pollution damage resulted wholly or partially either from an act or omission done with the intent to cause damage by the person who suffered the damage or from the negligence of that person, the Fund may be exonerated wholly or partially from its obligation to pay compensation to such person. The Fund shall in any event be exonerated to the extent that the shipowner may have been exonerated under Article III(3) of the 1992 Liability Convention. However, there shall be no such exoneration of the Fund with regard to preventive measures.;

3. paragraph 4 is replaced by the following:

'4. (a) aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the 1992 Liability Convention for pollution damage within the scope of application of this Convention as defined in Article 3 shall to exceed 135 000 000 units of account.

(b) Except as otherwise provided in subparagraph (c), the aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional inevitable and irresistible character shall not exceed 135 000 000 units of account.

(c) The maximum amount of compensation referred to in subparagraphs (a) and (b) shall be 200 000 000 units of account with respect to any incident occurring during any period when there are three Parties to this Convention in respect of which the combined relevant quantity of contributing oil received by persons in the territories of such Parties, during the preceding calendar year, equalled or exceeded 600 000 000 tons.

(d) Interest accrued on a fund constituted in accordance with Article V(3) of the 1992 Liability Convention, if any, shall not be taken into account for the computation of the maximum compensation payable by the Fund under this Article.

(e) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the Fund as to the first date of payment of compensation.;

4. paragraph 5 is replaced by the following:

'5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.'

5. paragraph 6 is replaced by the following:

'6. The Assembly of the Fund may decide that, in exceptional cases, compensation in accordance with this Convention can be paid even if the owner of the ship has not constituted a fund in accordance with Article V(3) of the 1992 Liability Convention. In such case paragraph 4(e) of this Article applies accordingly.'

#### Article 7

Article 5 of the 1971 Fund Convention is deleted.

#### Article 8

Article 6 of the 1971 Fund Convention is amended as follows:

1. in paragraph 1 the paragraph number and 'or indemnification under Article 5' are deleted;
2. paragraph 2 is deleted.

#### Article 9

Article 7 of the 1971 Fund Convention is amended as follows:

1. in paragraphs 1, 3, 4 and 6 the seven references to 'the Liability Convention' are replaced by references to 'the 1992 Liability Convention';
2. in paragraph 1 'or indemnification under Article 5' is deleted;
3. in the first sentence of paragraph 3 'or indemnificati' and 'or 5' are deleted;
4. in the second sentence of paragraph 3 'or under Article 5(1)', 0146 is deleted.

#### Article 10

In Article 8 of the 1971 Fund Convention the reference to 'the Liability Convention' is replaced by a reference to 'the 1992 Liability Convention'.

#### Article 11

Article 9 of the 1971 Fund Convention is amended as follows:

1. paragraph 1 is replaced by the following:

'1. The Fund shall, in respect of any amount of compensation for pollution damage paid by the Fund in accordance with Article 4, paragraph 1, of this Convention, acquire by subrogation the rights that the person so compensated may enjoy under the 1992 Liability Convention against the owner or his guarantor.'

2. in paragraph 2 'or indemnification' is deleted.

#### Article 12

Article 10 of the 1971 Fund Convention is amended as follows:

the opening phrase of paragraph 1 is replaced by the following text:

'Annual contributions to the Fund shall be made in respect of each Contracting State by any person who, in the calendar year referred to in Article 12, paragraph 2(a) or (b), has received in total quantities exceeding 150 000 tons.'

#### Article 13

Article 11 of the 1971 Fund Convention is deleted.

#### Article 14

Article 12 of the 1971 Fund Convention is amended as follows:

1. in the opening phrase of paragraph 1 'for each person referred to in Article 10' is deleted;
2. in paragraph 1(i), subparagraphs (b) and (c), 'or 5' is deleted and '15 million francs' is replaced by 'four million units of account';
3. subparagraph 1(ii)(b) is deleted;
4. in paragraph 1(ii), subparagraph (c) becomes (b) and subparagraph (d) becomes (c);
5. the opening phrase in paragraph 2 is replaced by the following:

'The Assembly shall decide the total amount of contributions to be levied. On the basis of that decision, the Director shall, in respect of each Contracting State, calculate for each person referred to in Article 10 the amount of his annual contribution:'

6. paragraph 4 is replaced by the following:
- '4. The annual contribution shall be due on the date to be laid down in the Internal Regulations of the Fund. The Assembly may decide on a different date of payment.'
7. paragraph 5 is replaced by the following:
- '5. The Assembly may decide, under conditions to be laid down in the Financial Regulations of the fund, to make transfers between funds received in accordance with Article 12.2(a) and funds received in accordance with Article 12.2(b).';
8. paragraph 6 is deleted.

#### Article 15

Article 13 of the 1971 Fund Convention is amended as follows:

1. paragraph 1 is replaced by the following text:
- '1. The amount of any contribution due under Article 12 and which is in arrears shall bear interest at a rate which shall be determined in accordance with the Internal Regulations of the Fund, provided that different rates may be fixed for different circumstances.'
2. in paragraph 3 'Articles 10 and 11' is replaced by 'Articles 10 and 12' and 'for a period exceeding three month' is deleted.

#### Article 16

A new paragraph 4 is added to Article 15 of the 1971 Fund Convention:

'4. Where a Contracting State does not fulfil its obligations to submit to the Director the communication referred to in paragraph 2 and this results in a financial loss for the Fund, that Contracting State shall be liable to compensate the Fund for such loss. The Assembly shall, on the recommendation of the Director, decide whether such compensation shall be payable by that Contracting State.'

#### Article 17

Article 16 of the 1971 Fund Convention is replaced by the following text:

'The Fund shall have an Assembly and a Secretariat headed by a Director.'

#### Article 18

Article 18 of the 1971 Fund Convention is amended as follows:

1. in the opening sentence of the Article ', subject to the provisions of Article 26,' is deleted;

2. paragraph 8 is deleted;
3. paragraph 9 is replaced by the following text:
- '9. To establish any temporary or permanent subsidiary body it may consider to be necessary, to define its terms of reference and to give it the authority needed to perform the functions entrusted to it; when appointing the members of such body, the Assembly shall endeavour to secure an equitable geographical distribution of members and to ensure that the Contracting States, in respect of which the largest quantities of contributing oil are being received, are appropriately represented; the Rules of Procedure of the Assembly may be applied, *mutatis mutandis*, for the work of such subsidiary body.'
4. in paragraph 10 ', the Executive Committee,' is deleted;
5. in paragraph 11 ', the Executive Committee' deleted;
6. paragraph 12 is deleted.

#### Article 19

Article 19 of the 1971 Fund Convention is amended as follows:

1. paragraph 1 is replaced by the following:
- '1. Regular sessions of the Assembly shall take place once every calendar year upon convocation by the Director.'
2. in paragraph 2 'of the Executive Committee or' is deleted.

#### Article 20

Articles 21 to 27 of the 1971 Fund Convention and the heading to these Articles are deleted.

#### Article 21

Article 29 of the 1971 Fund Convention is amended as follows:

1. paragraph 1 is replaced by the following:
- '1. The Director shall be the chief administrative officer of the Fund. Subject to the instructions given to him by the Assembly, he shall perform those functions which are assigned to him by this Convention, the Internal Regulations of the Fund and the Assembly.'
2. in paragraph 2(e) 'or the Executive Committee' is deleted;
3. in paragraph 2(f) 'or to the Executive Committee, as the case may be,' is deleted;

4. paragraph 2(g) is replaced by the following:

'(g) prepare, in consultation with the Chairman of the Assembly, and publish a report of the activities of the Fund during the previous calendar year;'

5. in paragraph 2(h) 'the Executive Committee' is deleted.

#### Article 22

In Article 31(1), of the 1971 Fund Convention, the words 'on the Executive Committee and' is deleted.

#### Article 23

Article 32 of the 1971 Fund Convention is amended as follows:

1. in the opening phrase 'and the Executive Committee' is deleted;
2. in subparagraph (b) 'and the Executive Committee' is deleted.

#### Article 24

Article 33 of the 1971 Fund Convention is amended as follows:

1. paragraph 1 is deleted;
2. in paragraph 2 the paragraph number is deleted;
3. subparagraph (c) is replaced by the following:  
'(c) the establishment of subsidiary bodies, under Article 18(9), and matters relating to such establishment.'

#### Article 25

Article 35 of the 1971 Fund Convention is replaced by the following:

##### 'Article 35

Claims for compensation under Article 4 arising from incidents occurring after the date of entry into force of this Convention may not be brought against the Fund earlier than the one hundred and twentieth day after that date.'

#### Article 26

After Article 36 of the 1971 Fund Convention four new Articles are inserted as follows:

##### 'Article 36a

The following transitional provisions shall apply in the period, hereinafter referred to as the "transitional period", commencing with the date of entry into force of this

Convention and ending with the date on which the denunciations provided for in Article 31 of the 1992 Protocol to amend the 1971 Fund Convention take effect:

(a) in the application of paragraph 1(a) of Article 2 of this Convention, the reference to the 1992 Liability Convention shall include reference to the International Convention on Civil Liability for Oil Pollution Damage, 1969, either in its original version or as amended by the Protocol thereto of 1976 (referred to in this Article as the 1969 Liability Convention), and also the 1971 Fund Convention;

(b) where an incident has caused pollution damage within the scope of this Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person has been unable to obtain full and adequate compensation for the damage under the terms of the 1969 Liability Convention, the 1971 Fund Convention and the 1992 Liability Convention, provided that, in respect of pollution damage within the scope of this Convention in respect of a Party to this Convention but not a Party to the 1971 Fund Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person would have been unable to obtain full and adequate compensation had that State been party to each of the abovementioned Conventions;

(c) in the application of Article 4 of this Convention, the amount to be taken into account in determining the aggregate amount of compensation payable by the Fund shall also include the amount of compensation actually paid under the 1969 Liability Convention, if any, and the amount of compensation actually paid or deemed to have been paid under the 1971 Fund Convention;

(d) paragraph 1 of Article 9 of this Convention shall also apply to the rights enjoyed under the 1969 Liability Convention.

#### Article 36b

1. Subject to paragraph 4 of this Article, the aggregate amount of the annual contributions payable in respect of contributing oil received in a single Contracting State during a calendar year shall not exceed 27,5 % of the total amount of annual contributions pursuant to the 1992 Protocol to amend the 1971 Fund Convention, in respect of that calendar year.

2. If the application of the provisions in paragraphs 2 and 3 of Article 12 would result in the aggregate amount of the contributions payable by contributors in a single Contracting State in respect of a given calendar year exceeding 27,5 % of the total annual contributions, the contributions payable by all contributors in that State shall be reduced pro rata so that their aggregate contributions equal 27,5 % of the total annual contributions to the Fund in respect of that year.

3. If the contributions payable by persons in a given Contracting State shall be reduced pursuant to paragraph 2 of this Article, the contributions payable by persons in all other Contracting States shall be increased pro rata so as to ensure that the total amount of contributions payable by all persons liable to contribute to the Fund in respect of the calendar year in question will reach the total amount of contributions decided by the Assembly.

4. The provisions in paragraphs 1 to 3 of this Article shall operate until the total quantity of contributing oil received in all Contracting States in a calendar year has reached 750 000 000 tons or until a period of five years after the date of entry into force of the said 1992 Protocol has elapsed, whichever occurs earlier.

#### Article 36c

Notwithstanding the provisions of this Convention, the following provisions shall apply to the administration of the Fund during the period in which both the 1971 Fund Convention and this Convention are in force:

- (a) the Secretariat of the Fund, established by the 1971 Fund Convention (hereinafter referred to as the 1971 Fund), headed by the Director, may also function as the Secretariat and the Director of the Fund;
- (b) if, in accordance with subparagraph (a), the Secretariat and the Director of the 1971 Fund also perform the function of Secretariat and Director of the Fund, the Fund shall be represented, in cases of conflict of interests between the 1971 Fund and the Fund, by the Chairman of the Assembly of the Fund;
- (c) the Director and the staff and experts appointed by him, performing their duties under this Convention and the 1971 Fund Convention, shall not be regarded as contravening the provisions of Article 30 of this Convention in so far as they discharge their duties in accordance with this Article;
- (d) the Assembly of the Fund shall endeavour not to take decisions which are incompatible with decisions taken by the Assembly of the 1971 Fund. If differences of

opinion with respect to common administrative issues arise, the Assembly of the Fund shall try to reach a consensus with the Assembly of the 1971 Fund, in a spirit of mutual cooperation and with the common aims of both organisations in mind;

- (e) the Fund may succeed to the rights, obligations and assets of the 1971 Fund if the Assembly of the 1971 Fund so decides, in accordance with Article 44(2) of the 1971 Fund Convention;
- (f) the Fund shall reimburse to the 1971 Fund all costs and expenses arising from administrative services performed by the 1971 Fund on behalf of the Fund.

#### Article 36d

#### Final clauses

The final clauses of this Convention shall be Articles 28 to 39 of the Protocol of 1992 to amend the 1971 Fund Convention. References in this Convention to Contracting States shall be taken to mean references to the Contracting States of that Protocol.'

#### Article 27

1. The 1971 Fund Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.
2. Articles 1 to 36d of the 1971 Fund Convention as amended by this Protocol shall be known as the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (1992 Fund Convention).

#### FINAL CLAUSES

#### Article 28

#### Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open for signature at London from 15 January 1993 to 14 January 1994 by any State which has signed the 1992 Liability Convention.
2. Subject to paragraph 4, this Protocol shall be ratified, accepted or approved by States which have signed it.
3. Subject to paragraph 4, this Protocol is open for accession by States which did not sign it.

4. This Protocol may be ratified, accepted, approved or acceded to only by States which have ratified, accepted, approved or acceded to the 1992 Liability Convention.

5. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument to that effect with the Secretary-General of the Organisation.

6. A State which is a Party to this Protocol but is not a Party to the 1971 Fund Convention shall be bound by the provisions of the 1971 Fund Convention as amended by this Protocol in relation to other Parties hereto, but shall not be bound by the provisions of the 1971 Fund Convention in relation to Parties thereto.

7. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the 1971 Fund Convention as amended by this Protocol shall be deemed to apply to the Convention so amended, as modified by such amendment.

#### *Article 29*

##### **Information on contributing oil**

1. Before this Protocol comes into force for a State, that State shall, when depositing an instrument referred to in Article 28(5) and annually thereafter at a date to be determined by the Secretary-General of the Organisation, communicate to him the name and address of any person who in respect of that State would be liable to contribute to the Fund pursuant to Article 10 of the 1971 Fund Convention as amended by this Protocol as well as data on the relevant quantities of contributing oil received by any such person in the territory of that State during the preceding calendar year.

2. During the transitional period, the Director shall, for Parties, communicate annually to the Secretary-General of the Organisation data on quantities of contributing oil received by persons liable to contribute to the Fund pursuant to Article 10 of the 1971 Fund Convention as amended by this Protocol.

#### *Article 30*

##### **Entry into force**

1. This Protocol shall enter into force 12 months following the date on which the following requirements are fulfilled:

(a) at least eight States have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organisation; and

(b) the Secretary-General of the Organisation has received information in accordance with Article 29 that those persons who 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 450 000 000 tons of contributing oil.

2. However, this Protocol shall not enter into force before the 1992 Liability Convention has entered into force.

3. For each State which ratifies, accepts, approves or accedes to this Protocol after the conditions in paragraph 1 for entry into force have been met, the Protocol shall enter into force 12 months following the date of the deposit by such State of the appropriate instrument.

4. Any State may, at the time of the deposit of its instrument of ratification, acceptance, approval or accession in respect of this Protocol declare that such instrument shall not take effect for the purpose of this Article until the end of the six-month period in Article 31.

5. Any State which has made a declaration in accordance with the preceding paragraph may withdraw it at any time by means of a notification addressed to the Secretary-General of the Organisation. Any such withdrawal shall take effect on the date the notification is received, and any State making such a withdrawal shall be deemed to have deposited its instrument of ratification, acceptance, approval or accession in respect of this Protocol on that date.

6. Any State which has made a declaration under Article 13(2) of the Protocol of 1992 to amend the 1969 Liability Convention shall be deemed to have also made a declaration under paragraph 4 of this Article. Withdrawal of a declaration under the said Article 13(2), shall be deemed to constitute withdrawal also under paragraph 5 of this Article.

#### *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 Organisation, whether or not subject to Article 30(4); and



(b) the Secretary-General of the Organisation 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 750 000 000 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(4), shall, if Party thereto, denounce the 1971 Fund Convention and the 1969 Liability Convention with effect 12 months after the expiry of the abovementioned six-month period.

#### Article 32

##### Revision and amendment

1. A conference for the purpose of revising or amending the 1992 Fund Convention may be convened by the Organisation.
2. The Organisation shall convene a Conference of Contracting States for the purpose of revising or amending the 1992 Fund Convention at the request of not less than one third of all Contracting States.

#### Article 33

##### Amendment of compensation limits

1. Upon the request of at least one quarter of the Contracting States, any proposal to amend the limits of amounts of compensation laid down in Article 4(4) of the 1971 Fund Convention as amended by this Protocol shall be circulated by the Secretary-General to all Members of the Organisation and to all Contracting States.
2. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organisation for consideration at a date at least six months after the date of its circulation.
3. All Contracting States to the 1971 Fund Convention as amended by this Protocol, whether or not Members of the Organisation, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.

4. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided for in paragraph 3, on condition that at least one half of the Contracting States shall be present at the time of voting.

5. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and in particular the amount of damage resulting therefrom and changes in the monetary values. It shall also take into account the relationship between the limits in Article 4(4) of the 1971 Fund Convention as amended by this Protocol and those in Article V(1) of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

6. (a) No amendment of the limits under this Article may be considered before 15 January 1998 nor less than five years from the date of entry into force of a previous amendment under this Article. No amendment under this Article shall be considered before this Protocol has entered into force.
- (b) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1971 Fund Convention as amended by this Protocol increased by 6 % per year calculated on a compound basis from 15 January 1993.
- (c) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1971 Fund Convention as amended by this Protocol multiplied by three.

7. Any amendment adopted in accordance with paragraph 4 shall be notified by the Organisation to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of 18 months after the date of notification unless within that period not less than one quarter of the States that were Contracting States at the time of the adoption of the amendment by the Legal Committee have communicated to the Organisation that they do not accept the amendment in which case the amendment is rejected and shall have no effect.

8. An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force 18 months after its acceptance.

9. All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with Article 34(1) and (2), at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

10. When an amendment has been adopted by the Legal Committee but the 18-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 7. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Protocol enters into force for that State, if later.

#### Article 34

##### Denunciation

1. This Protocol may be denounced by any Party at any time after the date on which it enters into force for that Party.
2. Denunciation shall be effected by the deposit of an instrument with the Secretary-General of the Organisation.
3. A denunciation shall take effect 12 months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General of the Organisation.
4. Denunciation of the 1992 Liability Convention shall be deemed to be a denunciation of this Protocol. Such denunciation shall take effect on the date on which denunciation of the Protocol of 1992 to amend the 1969 Liability Convention takes effect according to Article 16 of that Protocol.
5. Any Contracting State to this Protocol which has not denounced the 1971 Fund Convention and the 1969 Liability Convention as required by Article 31 shall be deemed to have denounced this Protocol with effect 12 months after the expiry of the six-month period mentioned in that Article. As from the date on which the denunciations provided for in Article 31 take effect, any Party to this Protocol which deposits an instrument of ratification, acceptance, approval or accession to the 1969 Liability Convention shall be deemed to have denounced this Protocol with effect from the date on which such instrument takes effect.
6. As between the Parties to this Protocol, denunciation by any of them of the 1971 Fund Convention in accordance with Article 41 thereof shall not be construed in any way as a denunciation of the 1971 Fund Convention as amended by this Protocol.
7. Notwithstanding a denunciation of this Protocol by a Party pursuant to this Article, any provisions of this Protocol relating to the obligations to make contributions under Article 10 of the 1971 Fund Convention as amended by this Protocol with respect to an incident referred to in Article 12(2)(b), of that amended Convention and occurring before the denunciation takes effect shall continue to apply.

#### Article 35

##### Extraordinary sessions of the Assembly

1. Any Contracting State may, within 90 days after the deposit of an instrument of denunciation the result of which it considers will significantly increase the level of contributions for the remaining Contracting States, request the Director to convene an extraordinary session of the Assembly. The Director shall convene the Assembly to meet not later than 60 days after receipt of the request.
2. The Director may convene, on his own initiative, an extraordinary session of the Assembly to meet within sixty days after the deposit of any instrument of denunciation, if he considers that such denunciation will result in a significant increase in the level of contributions of the remaining Contracting States.
3. If the Assembly at an extraordinary session convened in accordance with paragraph 1 or 2 decides that the denunciation will result in a significant increase in the level of contributions for the remaining Contracting States, any such State may, not later than 120 days before the date on which the denunciation takes effect, denounce this Protocol with effect from the same date.

#### Article 36

##### Termination

1. This Protocol shall cease to be in force on the date when the number of Contracting States falls below three.
2. States which are bound by this Protocol on the day before the date it ceases to be in force shall enable the Fund to exercise its functions as described under Article 37 of this Protocol and shall, for that purpose only, remain bound by this Protocol.

#### Article 37

##### Winding up of the Fund

1. If this Protocol ceases to be in force, the Fund shall nevertheless:
  - (a) meet its obligations in respect of any incident occurring before the Protocol ceased to be in force;
  - (b) be entitled to exercise its rights to contributions to the extent that these contributions are necessary to meet the obligations under subparagraph (a), including expenses for the administration of the Fund necessary for this purpose.

2. The Assembly shall take all appropriate measures to complete the winding up of the Fund including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the Fund.

3. For the purposes of this Article the Fund shall remain a legal person.

#### *Article 38*

##### **Depositary**

1. This Protocol and any amendments accepted under Article 33 shall be deposited with the Secretary-General of the Organisation.

2. The Secretary-General of the Organisation shall:

- (a) inform all States which have signed or acceded to this Protocol of:
  - (i) each new signature or deposit of an instrument together with the date thereof;
  - (ii) each declaration and notification under Article 30 including declarations and withdrawals deemed to have been made in accordance with that Article;
  - (iii) the date of entry into force of this Protocol;
  - (iv) the date by which denunciations provided for in Article 31 are required to be made;
  - (v) any proposal to amend limits of amounts of compensation which has been made in accordance with Article 33(1);
  - (vi) any amendment which has been adopted in accordance with Article 33(4);

(vii) any amendment deemed to have been accepted under Article 33(7), together with the date on which that amendment shall enter into force in accordance with paragraphs 8 and 9 of that Article;

(viii) the deposit of an instrument of denunciation of this Protocol together with the date of the deposit and the date on which it takes effect;

(ix) any denunciation deemed to have been made under Article 34(5);

(x) any communication called for by any Article in this Protocol;

(b) transmit certified true copies of this Protocol to all Signatory States and to all States which accede to the Protocol.

3. As soon as this Protocol enters into force, the text shall be transmitted by the Secretary-General of the Organization to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

#### *Article 39*

##### **Languages**

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this twenty-seventh day of November one thousand nine hundred and ninety-two.

IN WITNESS WHEREOF the undersigned being duly authorised for that purpose have signed this Protocol.

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# COMMISSION

## COMMISSION DECISION

of 10 March 2004

**concerning the non-inclusion of simazine in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing this active substance**

(notified under document number C(2004) 727)

(Text with EEA relevance)

(2004/247/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market <sup>(1)</sup>, as last amended by Commission Directive 2003/119/EC <sup>(2)</sup>, and in particular the third and the fourth subparagraph of Article 8(2) thereof,

Having regard to Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the program of work referred to in Article 8(2) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market <sup>(3)</sup>, as last amended by Regulation (EC) No 2266/2000 <sup>(4)</sup>, and in particular Article 7(3A)(b) thereof,

Whereas:

(1) Article 8(2) of Directive 91/414/EEC provided for the Commission to carry out a programme of work for the examination of the active substances used in plant protection products which were already on the market on 25 July 1993. Detailed rules for the carrying out of this programme were established in Regulation (EEC) No 3600/92.

(2) Commission Regulation (EC) No 933/94 of 27 April 1994 laying down the active substances of plant protection products and designating the rapporteur Member States for the implementation of Commission Regulation (EEC) No 3600/92 <sup>(5)</sup>, as last amended by Regulation

(EC) No 2230/95 <sup>(6)</sup>, designated the active substances which should be assessed in the framework of Regulation (EEC) No 3600/92, designated a Member State to act as rapporteur in respect of the assessment of each substance and identified the producers of each active substance who submitted a notification in due time.

(3) Simazine is one of the 89 active substances designated in Regulation (EC) No 933/94.

(4) In accordance with Article 7(1)(c) of Regulation (EEC) No 3600/92, the United Kingdom, being the designated rapporteur Member State, submitted on 20 December 1996 to the Commission the report of its assessment of the information submitted by the notifiers in accordance with Article 6(1) of that Regulation.

(5) On receipt of the report of the rapporteur Member State, the Commission undertook consultations with experts of the Member States as well as with the main notifier Syngenta as provided for in Article 7(3) of Regulation (EEC) No 3600/92.

(6) The Commission organised a tripartite meeting with the main data submitter and the rapporteur Member State for this active substance on 6 June 2003.

(7) The assessment report prepared by the United Kingdom has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health. This review was finalised on 3 October 2003 in the format of the Commission review report for simazine.

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1.

<sup>(2)</sup> OJ L 325, 12.12.2003, p. 41.

<sup>(3)</sup> OJ L 366, 15.12.1992, p. 10.

<sup>(4)</sup> OJ L 259, 13.10.2000, p. 27.

<sup>(5)</sup> OJ L 107, 28.4.1994, p. 8.

<sup>(6)</sup> OJ L 225, 22.9.1995, p. 1.

(8) The dossier and the information from the review were also submitted to the Scientific Committee for Plants. The Committee was asked to comment on the aspects of possible contamination of groundwater by simazine. In its opinion <sup>(1)</sup>, the Scientific Committee on Plants did not accept the reported calculations of the environmental concentrations in groundwater. The Committee is also of the opinion that available monitoring data does not demonstrate that concentrations of simazine or its breakdown products will not exceed 0,1 µg/l in groundwater.

(9) Assessments made on the basis of the information submitted have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing simazine satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC. In particular available monitoring data were insufficient to demonstrate that in large areas concentrations of the active substance and its breakdown products will not exceed 0,1 µg/l in groundwater. Moreover it cannot be assured that continued use in other areas will permit a satisfactory recovery of groundwater quality where concentrations already exceed 0,1 µg/l in groundwater. These levels of the active substance exceed the limits in Annex VI to Directive 91/414/EEC and would have an unacceptable effect on groundwater.

(10) Simazine should therefore not be included in Annex I to Directive 91/414/EEC.

(11) Measures should be taken to ensure that existing authorisations for plant protection products containing simazine are withdrawn within a prescribed period and are not renewed and that no new authorisations for such products are granted.

(12) In the light of the information submitted to the Commission it appears that, in the absence of efficient alternatives for certain limited uses in certain Member States, there is a need for further use of the active substance so as to enable the development of alternatives. It is therefore justified in the present circumstances to prescribe under strict conditions aimed at minimising risk a longer period for the withdrawal of existing authorisations for the limited uses considered as essential for which no efficient alternatives appear currently to be available for the control of harmful organisms.

(13) Any period of grace for disposal, storage, placing on the market and use of existing stocks of plant protection products containing simazine allowed by Member States,

should be limited to a period no longer than 12 months to allow existing stocks to be used in no more than one further growing season.

(14) This Decision does not prejudice any action the Commission may undertake at a later stage for this active substance within the framework of Council Directive 79/117/EEC of 21 December 1978 prohibiting the placing on the market and use of plant protection products containing certain active substances <sup>(2)</sup>, as last amended by Regulation (EC) No 807/2003 <sup>(3)</sup>

(15) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

#### *Article 1*

Simazine shall not be included as active substance in Annex I to Directive 91/414/EEC.

#### *Article 2*

Member States shall ensure that:

1. authorisations for plant protection products containing simazine are withdrawn by 10 September 2004;
2. from 16 March 2004 no authorisations for plant protection products containing simazine are granted or renewed under the derogation provided for in Article 8(2) of Directive 91/414/EEC;
3. in relation to the uses listed in column B of the Annex, a Member State specified in column A may maintain in force authorisations for plant protection products containing simazine until 30 June 2007 provided that it:
  - (a) ensures that such plant protection products remaining on the market are relabelled in order to match the restricted use conditions;
  - (b) imposes all appropriate risk mitigation measures to reduce any possible risks in order to ensure the protection of human and animal health and the environment; and
  - (c) ensures that alternative products or methods for such uses are being seriously sought, in particular, by means of action plans.

<sup>(1)</sup> Opinion of the Scientific Committee on Plants on specific questions from the Commission concerning the evaluation of simazine in the context of Council Directive 91/414/EEC — SCP/SIMAZINE/002-Final — adopted on 30 January 2003.

<sup>(2)</sup> OJ L 33, 8.2.1979, p. 36.

<sup>(3)</sup> OJ L 122, 16.5.2003, p. 36.

The Member State concerned shall inform the Commission on 31 December 2004 at the latest on the application of this paragraph and in particular on the actions taken pursuant to points (a) to (c) and provide on a yearly basis estimates of the amounts of simazine used for essential uses pursuant to this Article.

*Article 3*

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and:

- (a) for the uses for which the authorisation is to be withdrawn on 10 September 2004, shall expire not later than 10 September 2005;

- (b) for the uses for which the authorisation is to be withdrawn by 30 June 2007, shall expire not later than 31 December 2007.

*Article 4*

This Decision is addressed to the Member States.

Done at Brussels, 10 March 2004.

*For the Commission*

David BYRNE

*Member of the Commission*

ANNEX

**List of authorisations referred to in Article 2(3)**

Column A	Column B
Member State	Use
Greece	Olives
United Kingdom	Beans, asparagus, rhubarb, hardy ornamental nursery stock
The Netherlands	Strawberry
Ireland	Potatoes, field beans, rhubarb, asparagus, soft fruit, tree fruit, ornamentals/amenity
Belgium	Scorsonera, asparagus, ornamentals, rhubarb
Spain	Pome fruit, citrus, hazelnut and vineyard

## COMMISSION DECISION

of 10 March 2004

**concerning the non-inclusion of atrazine in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing this active substance***(notified under document number C(2004) 731)***(Text with EEA relevance)**

(2004/248/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market <sup>(1)</sup>, as last amended by Commission Directive 2003/119/EC <sup>(2)</sup>, and in particular the third and the fourth subparagraphs of Article 8(2) thereof,

Having regard to Commission Regulation (EEC) No 3600/92 of 11 December 1992 laying down the detailed rules for the implementation of the first stage of the programme of work referred to in Article 8(2) of Council Directive 91/414/EEC concerning the placing of plant protection products on the market <sup>(3)</sup>, as last amended by Regulation (EC) No 2266/2000 <sup>(4)</sup>, and in particular Article 7(3A)(b) thereof,

Whereas:

- (1) Article 8(2) of Directive 91/414/EEC provided for the Commission to carry out a programme of work for the examination of the active substances used in plant protection products which were already on the market on 25 July 1993. Detailed rules for the carrying out of this programme were established in Regulation (EEC) No 3600/92.
- (2) Commission Regulation (EC) No 933/94 of 27 April 1994 laying down the active substances of plant protection products and designating the rapporteur Member States for the implementation of Commission Regulation (EEC) No 3600/92 <sup>(5)</sup>, as last amended by Regulation (EC) No 2230/95 <sup>(6)</sup>, designated the active substances which should be assessed in the framework of Regulation (EEC) No 3600/92, designated a Member State to act as rapporteur in respect of the assessment of each substance and identified the producers of each active substance who submitted a notification in due time.
- (3) Atrazine is one of the 89 active substances designated in Regulation (EC) No 933/94.
- (4) In accordance with Article 7(1)(c) of Regulation (EEC) No 3600/92, the United Kingdom, being the designated rapporteur Member State, submitted on 11 November

1996 to the Commission the report of its assessment of the information submitted by the notifiers in accordance with Article 6(1) of that Regulation.

- (5) On receipt of the report of the rapporteur Member State, the Commission undertook consultations with experts of the Member States as well as with the main notifier Syngenta as provided for in Article 7(3) of Regulation (EEC) No 3600/92.
- (6) The Commission organised a tripartite meeting with the main data submitter and the rapporteur Member State for this active substance on 6 June 2003.
- (7) The assessment report prepared by the United Kingdom has been reviewed by the Member States and the Commission within the Standing Committee on the Food Chain and Animal Health. This review was finalised on 3 October 2003 in the format of the Commission review report for atrazine.
- (8) The dossier and the information from the review were also submitted to the Scientific Committee for Plants. The Committee was asked to comment on the aspects of possible contamination of groundwater by atrazine. In its opinion <sup>(7)</sup>, the Scientific Committee on Plants did not accept the reported calculations of the environmental concentrations in groundwater. The Committee is also of the opinion that available monitoring data does not demonstrate that concentrations of atrazine or its breakdown products will not exceed 0,1 µg/l in groundwater and it expects that for soils with pH above six concentrations of atrazine and its breakdown products will not exceed 0,1 µg/l.
- (9) Assessments made on the basis of the information submitted have not demonstrated that it may be expected that, under the proposed conditions of use, plant protection products containing atrazine satisfy in general the requirements laid down in Article 5(1)(a) and (b) of Directive 91/414/EEC. In particular available monitoring data were insufficient to demonstrate that in large areas concentrations of the active substance and its breakdown products will not exceed 0,1 µg/l in groundwater. Moreover it cannot be assured that continued

<sup>(1)</sup> OJ L 230, 19.8.1991, p. 1.

<sup>(2)</sup> OJ L 325, 12.12.2003, p. 41.

<sup>(3)</sup> OJ L 366, 15.12.1992, p. 10.

<sup>(4)</sup> OJ L 259, 13.10.2000, p. 27.

<sup>(5)</sup> OJ L 107, 28.4.1994, p. 8.

<sup>(6)</sup> OJ L 225, 22.9.1995, p. 1.

<sup>(7)</sup> Opinion of the Scientific Committee on Plants on specific questions from the Commission concerning the evaluation of atrazine in the context of Council Directive 91/414/EEC — SCP/ATRAZINE/002-Final — adopted on 30 January 2003.

use in other areas will permit a satisfactory recovery of groundwater quality where concentrations already exceed 0,1 µg/l in groundwater. These levels of the active substance exceed the limits in Annex VI to Directive 91/414/EEC and would have an unacceptable effect on groundwater.

- (10) Atrazine should therefore not be included in Annex I to Directive 91/414/EEC.
- (11) Measures should be taken to ensure that existing authorisations for plant protection products containing atrazine are withdrawn within a prescribed period and are not renewed and that no new authorisations for such products are granted.
- (12) In the light of the information submitted to the Commission it appears that, in the absence of efficient alternatives for certain limited uses in certain Member States, there is a need for further use of the active substance so as to enable the development of alternatives. It is therefore justified in the present circumstances to prescribe, under strict conditions aimed at minimising risk, a longer period for the withdrawal of existing authorisations for the limited uses considered as essential for which no efficient alternatives appear currently to be available for the control of harmful organisms.
- (13) Any period of grace for disposal, storage, placing on the market and use of existing stocks of plant protection products containing atrazine allowed by Member States, should be limited to a period no longer than 12 months to allow existing stocks to be used in no more than one further growing season.
- (14) This Decision does not prejudice any action the Commission may undertake at a later stage for this active substance within the framework of Council Directive 79/117/EEC of 21 December 1978 prohibiting the placing on the market and use of plant protection products containing certain active substances <sup>(1)</sup>, as last amended by Regulation (EC) No 807/2003 <sup>(2)</sup>.
- (15) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS DECISION:

#### Article 1

Atrazine shall not be included as active substance in Annex I to Directive 91/414/EEC.

#### Article 2

Member States shall ensure that:

1. authorisations for plant protection products containing atrazine are withdrawn by 10 September 2004;
2. from 16 March 2004 no authorisations for plant protection products containing atrazine are granted or renewed under the derogation provided for in Article 8(2) of Directive 91/414/EEC;
3. in relation to the uses listed in column B of the Annex, a Member State specified in column A may maintain in force authorisations for plant protection products containing atrazine until 30 June 2007 provided that it:
  - (a) ensures that such plant protection products remaining on the market are relabelled in order to match the restricted use conditions;
  - (b) imposes all appropriate risk mitigation measures to reduce any possible risks in order to ensure the protection of human and animal health and the environment; and
  - (c) ensures that alternative products or methods for such uses are being seriously sought, in particular, by means of action plans.

The Member State concerned shall inform the Commission on 31 December 2004, at the latest, on the application of this paragraph and in particular on the actions taken pursuant to points (a) to (c) and provide, on a yearly basis, estimates of the amounts of atrazine used for essential uses pursuant to this Article.

#### Article 3

Any period of grace granted by Member States in accordance with the provisions of Article 4(6) of Directive 91/414/EEC, shall be as short as possible and:

- (a) for the uses for which the authorisation is to be withdrawn on 10 September 2004, shall expire not later than 10 September 2005;
- (b) for the uses for which the authorisation is to be withdrawn by 30 June 2007, shall expire not later than 31 December 2007.

#### Article 4

This Decision is addressed to the Member States.

Done at Brussels, 10 March 2004.

For the Commission

David BYRNE

Member of the Commission

<sup>(1)</sup> OJ L 33, 8.2.1979, p. 36.

<sup>(2)</sup> OJ L 122, 16.5.2003, p. 36.



## ANNEX

**List of authorisations referred to in Article 2(3)**

Column A	Column B
Member State	Use
Ireland	Maize, forestry
United Kingdom	Sweetcorn, forestry
Spain	Maize
Portugal	Maize

**COMMISSION DECISION****of 11 March 2004****concerning a questionnaire for Member States reports on the implementation of Directive 2002/96/EC of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE)***(notified under document number C(2004) 714)***(Text with EEA relevance)**

(2004/249/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 <sup>(1)</sup> on waste electrical and electronic equipment (WEEE), and in particular Article 12 thereof,

Whereas:

- (1) Under Directive 2002/96/EC Member States are to send to the Commission a report on the implementation of the Directive.
- (2) The report should cover in detail both the incorporation of the Directive into national law and its implementation. It should be drawn up on the basis of the questionnaire in this Decision.

- (3) The measures provided for in this Decision are in accordance with the opinion of the Committee established in accordance with Article 6 of Directive 91/692/EEC <sup>(2)</sup>,

HAS ADOPTED THIS DECISION:

*Article 1*

The Member States shall draw up their reports on the implementation of Directive 2002/96/EC on the basis of the questionnaire in the Annex.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 11 March 2004.

*For the Commission*

Margot WALLSTRÖM

*Member of the Commission*

<sup>(1)</sup> OJ L 37, 13.2.2003, p. 24. Directive as amended by Directive 2003/118/EC (OJ L 345, 31.12.2003, p. 106).

<sup>(2)</sup> OJ L 377, 23.12.1991, p. 48. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

## ANNEX

## QUESTIONNAIRE

**for the report of the Member States on the transposition and implementation of Directive 2002/96/EC on waste electrical and electronic equipment**

There is no need to repeat information already supplied, but please indicate where and when that information was provided.

## 1. INCORPORATION INTO NATIONAL LAW

1.1. Has the Commission been provided with the national laws and regulations that implement the Directive into national law? (Yes/No)

1.1.1. If the answer to question 1.1 is 'Yes', please provide details.

1.1.2. If the answer to question 1.1 is 'No', please state the reasons why.

1.2. Has the Member State transposed any provision listed in Article 17(3) concerning transposal by means of agreements between the competent authorities and the economic sector concerned? (Yes/No)

1.2.1. If the answer to question 1.2 is 'Yes', please provide details.

## 2. IMPLEMENTATION OF THE DIRECTIVE

The data on separate collection, re-use, recovery and recycling shall be reported separately under the format that shall be determined according to Article 12(1).

2.1. Have measures pursuant to Article 4, concerning product design, been taken? (Yes/No)

2.1.1. If the answer to question 2.1 is 'Yes', please provide details on measures taken.

These shall include measures so that producers do not prevent WEEE from being reused.

2.1.2. If the answer to question 2.1 is 'No', please state the reasons why.

2.1.3. Please give an evaluation of the positive and negative experiences with this article.

2.2. Have systems been set up allowing holders and distributors to return WEEE at least free of charge in accordance with Article 5 of the Directive? (Yes/No)

2.2.1. If the answer to question 2.2 is 'Yes', please provide details. This shall include:

- a general description of these systems,
- the way the free of charge return on a one to one basis to distributors is implemented or whether and what alternative provisions in line with Article 5(2b) have been taken,
- whether producers have set up and operate individual and/or collective take-back systems for WEEE from private households,
- whether and what specific arrangements for contaminated WEEE and WEEE not containing essential components have been made,
- Additionally, information on collection systems for WEEE from sources other than private households is invited.

2.2.2. If the answer to question 2.2 is 'No', please state the reasons why.

2.2.3. Please give an evaluation of the positive and negative experiences with the implementation of provisions under this article.

- 2.3. Have the necessary measures to ensure the environmentally sound treatment of WEEE according to Article 6 been taken?
- 2.3.1. If the answer to question 2.3 is 'Yes', please provide details. This shall include:
- a general description of treatment systems available in the Member State,
  - if treatment requirements or minimum quality standards for the treatment of collected WEEE in the Member State are different from or go beyond Annex II of the Directive, a description of these requirements or standards,
  - if the derogation from the permit requirement referred to in Article 11(1b) of Directive 75/442/EEC <sup>(1)</sup> is applied to recovery operations concerning WEEE, a description of the terms under which this derogation applies and how the foreseen inspections under Article 6(2) of Directive 2002/96/EC are carried out,
  - if the requirements for storage and treatment sites go beyond those set out in Annex III, a description of those,
  - a short description of the rules, procedures and controls applied to WEEE exported out of the Community to be counted for the fulfilment of the obligations and targets of Article 7(1) and (2) of the Directive, taking into account Article 6(5) of the Directive.
- 2.3.2. If the answer to question 2.3 is 'No', please state the reasons why.
- 2.3.3. Please give an evaluation of the positive and negative experiences with the implementation of provisions under this article.
- 2.4. Have the necessary measures to ensure the environmentally sound re-use, recovery and recycling of WEEE according to Article 7 of the Directive been taken?
- 2.4.1. If the answer to question 2.4 is 'Yes', please provide a general description of the national measures to encourage the achievement of the re-use, recovery and recycling targets.
- 2.4.2. If the answer to question 2.4 is 'No', please state the reasons why.
- 2.4.3. Please indicate any action taken in regard to Article 7(5) of the Directive.
- 2.4.4. Please give an evaluation of the positive and negative experiences with the implementation of provisions under this article.
- 2.5. Have the necessary measures to ensure the financing in respect to WEEE in accordance with Articles 8 and 9 of the Directive been taken?
- 2.5.1. If the answer to question 2.5 is 'Yes', please provide details. This shall include:
- a general overview of the financing arrangements in the Member State and of the main schemes to implement the financing requirement,
  - details concerning the use of visible fees for historical waste from private households, if these are applied,
  - details concerning particular arrangements for producers supplying electrical and electronic equipment by means of distance communication, if there are such arrangements.
- 2.5.2. If the answer to question 2.5 is 'No', please state the reasons why.
- 2.5.3. Please give an evaluation of the positive and negative experiences with the implementation of provisions under this article.
- 2.6. Have the necessary measures to inform users of EEE and encourage their participation in WEEE management in accordance with Article 10 of the Directive been taken?
- 2.6.1. If the answer to question 2.6 is 'Yes', please provide details.
- 2.6.2. If the answer to question 2.6 is 'No', please state the reasons why.
- 2.6.3. Please give an evaluation of the positive and negative experiences with the implementation of provisions under this article.

(1) OJ L 194, 25.7.1975, p. 39.

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- 2.7. Have the necessary measures to inform treatment facilities of WEEE in accordance with Article 11 of the Directive been taken?
    - 2.7.1. If the answer to question 2.7 is 'Yes', please provide details, especially as regards the type of information supplied and media through which this information is to be supplied.
    - 2.7.2. If the answer to question 2.7 is 'No', please state the reasons why.
    - 2.7.3. Please give an evaluation of the positive and negative experiences with the implementation of provisions under this article.
  - 2.8. Please provide details on the inspection and monitoring systems applied in the Member State to verify the proper implementation of this directive.
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