

# 1992 年設立油污損害國際賠償基金公約 2003 年議定書

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

London, 16 May 2003 ; Entered into Force on 3 March 2005

### FUND 2003

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,

RECOGNIZING 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

本議定書各締約國，

回顧 1992 年國際油污損害民事責任公約(以下簡稱“1992 年責任公約”)，

考量 1992 年設立國際油污損害賠償基金國際公約(以下簡稱“1992 年基金公約”)，

確認保持國際油污責任及賠償體系存續之重要性，

注意於某種情況下，1992 年基金公約所提供之最高賠償可能無法滿足該公約某些締約國之賠償要求，

承認 1992 年責任公約及 1992 年基金公約若干締約國認為，透過建立締約國自願加入之補充機制以建立一套便利之額外補償基金是一重要且迫切之任務，

相信補充機制應確保遭受油污損害之受害人就其損失及損害，於依據 1992 年責任公約及 1992 年基金公約可獲取之賠償數額不足以全額支付已確認之求償時，能獲得充足之補償，且 1992 年國際油污賠償基金已決定僅暫時提供任何已確認之求償之一部分時，應減輕受害人於該情況所面對之困境，

考慮到增加補充機制僅對 1992 年基金公約各締約國公開適用，謹達成協議如下：

#### 一般規定

##### 第 1 條

為本議定書之目的：

1. “1992 年責任公約”係指 1992 年國際油污損害民事責任公約；
2. “1992 年基金公約”係指 1992 年設立國際油污損害賠償基金國際公約；

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, paragraph 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. "Organization" means the International Maritime Organization;
  11. "Secretary-General" means the Secretary-General of the Organization.
3. "1992年基金"係指依1992年基金公約所設立之1992年國際油污賠償基金；
  4. "締約國"，除另有規定外，係指本議定書之締約國；
  5. 除另有規定外，將1992年基金公約之規定併入本議定書時，公約之"基金"係指"補充基金"；
  6. "船舶"、"人"、"所有人"、"油類"、"污染損害"、"預防措施"及"事件"等名詞之意義與1992年責任公約第1條規定意義相同；
  7. "攤款油"、"記帳單位"、"噸"、"保證人"及"裝卸設施"與1992年基金公約第1條規定之意義相同，然另有規定者除外；
  8. "已確認之求償"係指1992年基金所認可或被主管法院依1992年基金所作出不受普通方式審查之決定所接受之求償，且於1992年基金公約第4條第4項所規定之賠償限制不適用於該事故時，仍可獲得全額賠償之求償；
  9. "大會"係指2003年國際油污賠償"補充基金"大會，然另有規定者除外；
  10. "組織"係指國際海事組織；
  11. "秘書長"係指組織秘書長。

## 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 recognized 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 recognize 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

## 第 2 條

1. 國際油污損害賠償補充基金定名為"2003年國際油污賠償補充基金"(以下簡稱"補充基金")，並據此成立。
2. "補充基金"於各締約國應被承認依該國法律享有權利及承擔義務並能於向該國法院所提起之訴訟作為一方當事人之資格。各締約國應承認"補充基金"之董事為"補充基金"之法定代表。

## 第 3 條

本議定書專屬適用於：

- (a) 於下列區域內所致之污染損害：
  - (i) 締約國領土，包括領海；及
  - (ii) 締約國依國際法設立之專屬經濟區，或如締約國未設立該區域，則為該國依國際法所確定之超出其領海並與其領海相毗連之區域，且自該國測量其領海寬度的基線起向外延伸不超過200哩；

measured;  
(b) to preventive measures, wherever taken, to prevent or minimize such damage.

(b) 於任何地方採取為防止或減輕該損害之預防措施。

## Supplementary Compensation

## 補充賠償

### Article 4

### 第 4 條

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, paragraph 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, paragraph 8, and only in respect of such claims.

1. 就任一事故因損害超出或可能超出 1992 年基金公約第 4 條第 4 項所規定適用之賠償限額時，任何遭受污染損害之人，就其損害，依 1992 年基金公約規定無法獲得全額及足額賠償時，“補充基金”即應給付賠償。
2.
  - (a) “補充基金”依本條對任一事件應付之賠償總額應有限制，即該賠償金額與依 1992 年責任公約及 1992 年基金公約於本議定書適用範圍內對污染損害所實際支付之賠償金額之總合不應超過 750 百萬記帳單位。
  - (b) 第 2 項(a)款所述之 750 百萬記帳單位應依 1992 年基金公約大會依 1992 年公約為轉換應付最高賠償額為決定之日之特別提款權與該國貨幣之比值，折算成該國貨幣。
3. 如向“補充基金”提出已確認之求償金額超出第 2 項應付賠償總額時，賠償金額之分配應使任何經確認之求償與依本議定書所實際取得之賠償金額間之比例，對所有求償人均應一致。
4. “補充基金”應支付且僅用於支付第 1 條第 8 項所規定之賠償。

### Article 5

### 第 5 條

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, paragraph 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.

於 1992 年基金大會考慮到已確認之求償總額超出或有可能超出依 1992 年基金公約第 4 條第 4 項所能獲得之賠償總額，1992 年基金大會決定暫時或永久的僅支付已確認之求償之一部分時，“補充基金”應予以賠償。對於依 1992 年責任公約及 1992 年基金公約所無法支付之已確認之求償部分，“補充基金”大會應決定“補充基金”是否給予賠償及其賠償範圍。

### Article 6

### 第 6 條

1. Subject to article 15, paragraphs 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, paragraphs 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, paragraph 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, paragraph 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 recognized 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 recognized and enforced at least to the same extent as under paragraph 1.

## Article 9

1. 於適用第 15 條第 2 及 3 項情況下，僅依 1992 年基金公約第 6 條，向 1992 年基金提出賠償之權利喪失時，向“補充基金”提出賠償之權利才應隨之喪失。
2. 向 1992 年基金提出之求償應被認定為由同一求償人向“補充基金”提出之求償。

## 第 7 條

1. 依本議定書第 4 條第 1 項，1992 年基金公約第 7 條第 1、2、4、5、6 項之規定適用於向補充基金所提出之賠償訴訟。
2. 向 1992 年責任公約第 9 條規定之管轄法院提出對船舶所有人或其保證人請求污染損害賠償之訴訟時，該法院依本議定書第 4 條有關該同一損害對“補充基金”賠償之任何訴訟應具有專屬管轄權限。然於依 1992 年責任公約向 1992 年責任公約締約國而非本議定書締約國之法院提出油污損害賠償訴訟時，任何依本議定書第 4 條向“補充基金”提起之訴訟可由求償人選擇向“補充基金”總部設立所在之國家法院提出，或向本議定書締約國依 1992 年責任公約第 9 條規定之任何管轄法院提出。
3. 無論第 1 項規定為何，向 1992 年基金公約締約國而非本議定書締約國之法院針對 1992 年基金提出污染損害賠償訴訟時，向“補充基金”提起之任何相關訴訟，應由求償人選擇向“補充基金”總部設立所在之國家法院提出，或向第 1 項規定之締約國之任何管轄法院提出。

## 第 8 條

1. 於適用依本議定書第 4 條第 3 項所述有關分配問題之任何決定之情況下，依本議定書第 7 條，具有審判權之法院對“補充基金”所做出之任何判決，於該判決於原判國已可執行且於該國不再需通常再審程序時，應於與 1992 年責任公約第 10 條規定同等條件之各締約國獲得承認及執行。
2. 締約國可適用其他規定以承認及執行該判決，然適用該規定之效果應至少能確保判決與第 1 項所述相同程度之承認及執行。

## 第 9 條

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, paragraph 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.
1. 對於由本補充基金依本議定書第 4 條第 1 項對污染損害支付之任何賠償，本補充基金得代位取得受償人依 1992 年責任公約對船舶所有人或其擔保人所能享有之權益。
  2. “補充基金”應以代位方式取得受償人依 1992 年基金公約對 1992 基金所享有之權利。
  3. 本公約並無任何規定可損及補充基金針對前項所指以外之人之追償權利或代位權利。在任何情況下，基金對該人之代位權，其有利程度不應低於已付賠償或補償之保險人。
  4. 於不損及得向補充基金主張之任何可能存在之其他代位權或追償權利之情況下，締約國或其官署依其國內法已對污損為給付賠償者，得代位取得受賠償人依本議定書所能享有之權利。

## 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, paragraph 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 sub-paragraph on first receipt in a Contracting State after its discharge in that non-Contracting State.
2. The provisions of article 10, paragraph 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

## 攤款

### 第 10 條

1. 任一締約國對補充基金之年度攤款，應由於第 11 條第 2 項(a)或(b)款規定之曆年度內於下列地點收受油類總量超過 15 萬噸之人繳付：
  - (a) 於該國領土內之港口或裝卸設施收到從海上運至該港口或裝卸設施之攤款油；及
  - (b) 於位於締約國領土內之任何裝卸設施收受之由海上運來而卸於非締約國港口或裝卸設施之攤款油，然該攤款油僅應記入於該非締約國卸載後第一個收受該油類之締約國之攤款油量中。
2. 1992 年基金公約第 10 條第 2 項規定適用於向“補充基金”繳付攤款之責任。

### 第 11 條

1. 於估算應支付之每年攤款額(如有攤款)，並考慮及維持充足流動基金之必要，大會應就每一曆年以預算之方式為之：
  - (i) 支出
    - (a) 於相關曆年內“補充基金”之管理成本及費用，及先前年度業務之任何赤字；
    - (b) 於有關曆年度，應由“補充基金”支付為償還依第 4 條向

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, paragraph 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

“補充基金”提出之求償而應支付之款項，包括償還“補充基金”先前為償還該求償而借貸之款項。

(ii) 收入

- (a) 於以前曆年內所累計之剩餘基金，包括任何利息；
  - (b) 如需平衡預算時，年度攤款；
  - (c) 各項其他收入。
2. 大會應決定應收取之攤款總額。“補充基金”董事應依大會之決定，為每一締約國計算出第 10 條所述之每人年度攤款額：
- (a) 為滿足第 1 項第(i)款(a)之攤款，各相關國內各人於前一曆年間所收受每噸之攤款油，依一固定金額為基礎；及
  - (b) 為滿足本條第 1 項(i)(b)之攤款，以該人於有關事件發生之前一曆年度所接收之攤款油每噸之固定金額為基礎計算，然以事故發生日該國已屬本公約締約國為限。
3. 前述第 2 項所述金額，應以有關年度各締約國所接收攤款油總金額除所需攤款之總金額得出。
4. 年度攤款應於“補充基金”內部規則所規定之日期繳付之，大會另可確定不同的付款日期。
5. 大會可於“補充基金”財務規定所規定之條件下，於依第 2 項(a)款收到之基金及依第 2 項(b)款收到之基金間相互移撥。

## 第 12 條

1. 1992 年基金公約第 13 條規定適用於“補充基金”之攤款。
2. 締約國可依 1992 年基金公約第 14 條所規定之程序自行承擔應向“補充基金”交付攤款之義務。

## 第 13 條

1. 締約國應依 1992 年基金公約第 15 條規定向“補充基金”董事通知接收油料之資訊，然若已依 1992 年基金公約第 15 條第 2 項規定向 1992 年基金董事為通知，則應認為已履行本議定書之通知義務。
2. 如某締約國未履行第 1 項所述向董事提交通知義務，因而對“補充基金”造成財務損失，則該締約國應負有向“補充基金”賠償該損失之責任。大會應依董事之建議決定該締約國是

the Supplementary Fund, decide whether such compensation shall be payable by that Contracting State.

否應支付該賠償。

#### 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.

#### 第 14 條

1. 無論第 10 條規定為何，為本議定書之目的，應認為每締約國至少已接收 1 百萬噸之攤款油。
2. 於某締約國收受之攤款油總量少於 1 百萬噸時，而不存在為接收油總量以承擔攤款義務之人時，依本議定書規定，該締約國應代替於其領土內接收石油而對“補充基金”有攤款義務之任何人承擔攤款義務。

#### 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, paragraph 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, paragraph 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.

#### 第 15 條

1. 若某締約國內無人滿足第 10 條條件，該締約國仍應依本議定書規定，將此通知“補充基金”的董事。
2. 發生於締約國的領土、領海或專屬經濟區或依本議定書第 3 條(a)(ii)項設定之區域內之特定事件之污染損害，或無論於何地所採取防止或減輕該損害之預防措施，如該事件發生前該締約國未依第 13 條第 1 項及本條第 1 項規定向“補充基金”董事履行通知義務者，“補充基金”將不予賠償。大會應依內部規則決定締約國是否應被認定為未履行其義務。
3. 於依前述第 2 項規定被暫時取消獲得賠償之締約國，若於“補充基金”董事通知該國未報告之事實後之一年內，仍未依第 13 條第 1 項及本條第 1 項規定履行通知義務者，則應被永久取消對該次事件之賠償。
4. 向“補充基金”交付之任何攤款應與債務人或其代理人之賠償相抵銷。

### Organization and administration

### 組織及管理

#### 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.

#### 第 16 條

1. “補充基金”設一大會及一以董事為首之秘書處。
2. 1992 年基金公約第 17 至 20 條及第 28 至 33 條適用於“補充基金”之大會、秘書處及董事。
3. 1992 年基金公約第 34 條適用於“補充基金”。

## 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, paragraph 2, of this Protocol in so far 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 co-operation 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.

## Article 18 Transitional provisions

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, paragraphs 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, paragraph 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,

## 第 17 條

1. 以 1992 年基金所設立以董事為首之 1992 年基金秘書處，亦可執行“補充基金”秘書處及董事之職責。
2. 如依據第 1 項，1992 年基金的秘書處及董事亦履行“補充基金”秘書處及董事之職責，於 1992 年基金與“補充基金”利益發生衝突時，“補充基金”的代表應是本基金大會主席。
3. “補充基金”之董事及由其任命之工作人員及專家依本議定書及 1992 年基金公約履行職責，於依本條履行職責時，不應被認為違反由本議定書第 16 條第 2 項所適用之 1992 年基金公約第 30 條之規定。
4. 大會應盡力不作出與 1992 年基金大會決定不一致的決定。若對共同管理事務產生不同意見，大會應本於相互合作精神，慮及雙方共同宗旨之基礎上達成一致共識。
5. “補充基金”應將 1992 年基金為“補充基金”進行管理服務所產生之費用償還 1992 年基金。

## 第 18 條 過渡條款

1. 於適用本條第 4 項規定之情況下，對某一曆年度中於某單一締約國所收到之攤款油之應付合計年度攤款額，不應超過依本議定書規定於該曆年之年度攤款總額之 20%。
2. 如適用第 11 條第 2 及 3 項之規定會使某單一締約國之攤款人於某特定曆年度之應付合計攤款額超過年度攤款總額之 20%，則該國之所有攤款人應付攤款額應依比例減少，使其合計攤款額等於該曆年度向補充基金支付之總年度攤款額之 20%。
3. 如某特定締約國之攤款人之應付攤款額須依本條第 2 項予以減少，則所有其他締約國之攤款人之應付攤款額須作成比例之增加，以保證於所述曆年度所有攤款人之應付本補充基金攤款總額達到大會所確定之攤款總額。
4. 本條第 1 至第 3 項規定，應於所有締約國於某曆年度所收到之攤款油總量達到 1,000 百萬噸時實施，或從本議定書之生效日期起算滿十年時實施，以較早者為準。



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, paragraph 2(a), or when depositing an instrument referred to in article 19, paragraph 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, paragraph 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.

## 最後條款

### 第 19 條 簽署、批准、接受、認可或加入

1. 本議定書自 2003 年 7 月 31 日起至 2004 年 7 月 30 日止於倫敦開放供簽署。
2. 各國可經由下列方式表示其同意受議定書之拘束：
  - (a) 無保留地簽署從而批准、接受或認可；或
  - (b) 簽署而有待批准、接受或認可，隨後予以批准、接受或認可；或
  - (c) 加入。
3. 僅 1992 年基金公約締約國方可成為本議定書之締約國。
4. 批准、接受、認可或加入，應在正式文件交秘書長後生效。

### 第 20 條 攤款油資料

於本議定書對某國生效前，該國於依第 19 條規定簽署本議定書或交存第 19 條第 4 項所述文件，及此後每年依本組織秘書長決定之日期，應負責將該國依第 10 條應對補充基金交付攤款義務之人之名稱及地址，及其於前一曆年度於該國領土內接收有關攤款油量之資料，通知秘書長。

### 第 21 條 生效

1. 本議定書應自下列要求達到之日起 3 個月後生效：
  - (a) 至少已有 8 個國家無保留地簽署本議定書進而批准、接受、認可，或已向本組織秘書長交存批准、接受、核准或加入書；及
  - (b) 本組織秘書長從 1992 年基金董事收到的資料顯示，依第 10 條負責繳納攤款之人，於前一曆年度已收到之攤款油類總量已達到 450 百萬噸，包括第 14 條第 1 項規定之數量。
2. 於第 1 項規定生效條件達到後，無保留地簽署本議定書進而批准、接受、核准或加入本議定書之國家，本議定書應自該國交存有關文件之日起 3 個月後生效。

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 thirty 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 Organization.
2. The Organization 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, paragraph 2 (a), shall be circulated by the Secretary-General to all Members of the Organization 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 this Protocol, whether or not Members of the Organization, 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 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 six per cent 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

3. 無論前述第 1 項及第 2 項規定為何，本議定書僅對 1992 年基金公約已生效之國家生效。

### 第 22 條 大會第一次會議

秘書長應於本議定書生效後儘早籌組召開大會第一次會議。該會議於任何情況下，都不應遲於議定書生效後 30 天。

### 第 23 條 修訂及修正

1. 修訂或修正本議定書之會議，由本組織召開。
2. 經不少於 3 分之 1 締約國之請求，本組織應召開修訂或修正本議定書之締約國會議。

### 第 24 條 對賠償限額之修正

1. 經至少 4 分之 1 締約國之請求，對於經本議定書修正之公約第 4 條第 2 項(a)款所規定之賠償限額之任何修正案，應由秘書長發送給本組織所有會員國及所有締約國。
2. 依前述規定提出及發送及任何修正案，應在發送之日起至少 6 個月後交由本組織法律委員會審議。
3. 經本議定書修正本公約之所有締約國，不論是否為本組織成員國，均有權參加法律委員會審議及通過修正案之作業。
4. 修正案應於依第 3 項規定之擴大法律委員會上，經出席並投票之締約國 3 分之 2 多數通過，然投票時至少應有締約國半數出席會議。
5. 就修正限額提案採取作業時，法律委員會應考慮事故經驗，特別是事故所致損害金額及幣值變動。
6.
  - (a) 針對本條限額之任何修正案，不得於本議定書生效日前或依本條為前次修正案生效之日起 3 年之內予以審議。
  - (b) 任何限額之提高，不得超過依經本議定書規定之限額，自本議定書開放簽署之日起，至法律委員會決定生效日止，以每年遞增 6% 複利計算所得之數額。
  - (c) 任何限額之提高，不得超過經本議定書修正之本公約所規定限

multiplied by three.

7. Any amendment adopted in accordance with paragraph 4 shall be notified by the Organization to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of twelve 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 Organization 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 twelve months after its acceptance.
9. All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with article 26, paragraphs 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 twelve-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, paragraph 2(a), may be increased by the same amount by means of the procedure set out in article 24. The provisions of article 24, paragraph 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, paragraph 2, by application of the procedure in article 24 shall, for the purpose of article 24, paragraphs 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 twelve 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

額之 3 倍。

7. 依第 4 項所通過之任何修正案，應由本組織通知所有締約國。該修正案於通知之日起經過 12 個月，應被視為已獲接受，然於此期間內，有不少於 4 分之 1 於委員會通過該修正案時之締約國通知本組織拒絕接受該修正案者除外，於此情況下，該修正案即被拒絕，並屬無效。
8. 依第 7 項已被視為接受之修正案應於接受後 12 個月後生效。
9. 所有締約國均應受該修正案之拘束，然其依據第 26 條第 1 項及第 2 項，於修正案生效之前至少 6 個月退出本議定書者除外。而該退出，應在修正案生效時生效。
10. 於某修正案獲法律委員會通過，然 12 個月的接受期限尚未屆滿時，如該修正案生效，則於此期間成為締約國之國家應受其拘束。於此期間後成為締約國之國家，應受依據第 7 項獲得接受之修正案之拘束。於本項所指情況下，締約國應於修正案生效時，或於本議定書對該國生效時(如發生在後)，即受該修正案之拘束。

## 第 25 條 1992 年基金公約議定書

1. 如 1992 年基金公約所規定之限額經議定後提高，第 4 條第 2 項(a)款所規定之限額應依第 24 條規定之程序提高至相同數額。於此情況下，第 24 條第 6 項規定即不再適用。
2. 於適用前述第 1 項規定時，依第 24 條所規定之程序隨後對第 4 條第 2 項所規定之限額之任何修正，均應依第 24 條第 6 項(b)及(c)款，於前述第 1 項提高後之新限額基礎上進行計算。

## 第 26 條 退出

1. 任何締約國於在本議定書對其生效之日後，可隨時退出本議定書。
2. 退出本議定書，應於向本組織秘書長交存一份文件後，方為有效。
3. 退出本議定書，應於向本組織秘書長交存文件 12 個月後，或於退出文件中所載明之更長期限後生效。
4. 退出 1992 年基金公約應視為退出本議定書。該退出應於依修正 1971 年基金公約 1992 年議定書第 34 條退出該議定書之日生效。

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, paragraph 2(b), and occurring before the denunciation takes effect, shall continue to apply.
5. 無論締約國是否已依本條退出本議定書，本議定書關於應支付“補充基金”規定之攤款義務之任何規定，仍應繼續適用於本議定書第 11 條第 2 項第(b)款所規定並發生於退出生效前之事件。

## Article 27 Extraordinary sessions of the Assembly

1. Any Contracting State may, within ninety 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 sixty 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 sixty 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 one hundred and twenty days before the date on which the denunciation takes effect, denounce this Protocol with effect from the same date.
1. 任何締約國於交存退出文件後 90 天之內，認為該退出將導致仍為締約國國家之攤款幅度會大量增加，可要求補充基金董事召開大會特別會議。董事應於接到請求後 60 天內，召集大會開會。
2. 補充基金董事如認為某退出將導致仍為締約國國家之攤款幅度會大量增加，則可於該退出文件交存後 60 天內主動召開大會特別會議。
3. 如大會依第 1 或 2 項召開之特別會議上確定該退出會造成其餘締約國攤款水平之嚴重提高，則任何該國家可於不遲於該退出生效之日前 120 天退出本議定書並於同一日期生效。

## 第 27 條 大會特別會議

## 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, paragraph 1, falls below 350 million 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.
1. 本議定書應於締約國數目降至不足 7 個或剩下之締約國所收到包括依第 14 條第 1 項數量在內之攤款油總量低於 350 百萬噸之日起，二者以較早者為準，終止其效力。
2. 於本議定書終止其效力之日前受本議定書拘束之國家，應使本補充基金能夠行使其於本議定書第 29 條所規定之職責，並應僅為此目的而繼續受本議定書之拘束。

## 第 28 條 終止

## 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
1. 如本公約失效，本補充基金仍應：
  - (a) 履行其對於本公約失效前發生之任何事故之義務；
  - (b) 於攤款係為履行第 1 項(a)款規定之責任(包括為此目的所需之本基金管理費用)所需範圍內有權行使其攤款權利。
2. 大會應採取一切適當措施完成本補

## 第 29 條 “補充基金”之解散

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 Depository

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, paragraph 1;

- (iv) any amendment which has been adopted in accordance with article 24, paragraph 4;

- (v) any amendment deemed to have been accepted under article 24, paragraph 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.

充基金之解散工作，包括向本補充基金交付攤款之人之間公平分配任何剩餘資產。

3. 為本條目的，本補充基金應仍然是法人。

### 第 30 條 保存

1. 本議定書及依第 24 條獲接受之任何修正案，應交本組織秘書長保存。

2. 秘書長應：

- (a) 通知所有已簽署或加入本議定書之國家；

- (i) 任一新的簽署或新的文件之交存及其日期；

- (ii) 本議定書的生效日期；

- (iii) 依第 24 條第 1 項所提出之修正賠償限額之任何提案；

- (iv) 依第 24 條第 4 項獲得通過之任何修正案；

- (v) 依據第 24 條第 7 項被視為已被接受之任何修正及其依該條第 8 項及第 9 項生效之日期；

- (vi) 交存退出本議定書之文件及其交存日期及退出生效日期；

- (vii) 本議定書任何條款所要求之任何通知；

- (b) 將本議定書核正無誤之副本分送所有簽署國及所有加入本議定書之國家。

3. 本議定書一經生效，本組織秘書長應依聯合國憲章第 102 條規定將本議定書文本送交聯合國秘書處，以供登記及公佈。

### 第 31 條 文字

本議定書正本一份，以阿拉伯文、中文、英文、法文、俄文及西班牙文寫成，各文本均具同等效力。

2003 年 5 月 16 日訂於倫敦。

下列具名者，均經各自政府正式授權，特簽署本議定書，以昭信守。