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WINDING UP OF THE 1971 FUND

Note by the Director

Summary:

The 1971 Fund Convention ceased to be in force on 24 May 2002 and does not apply to incidents occurring after that date. Before the 1971 Fund can be wound up all pending claims will have to be settled and any remaining assets will have to be distributed in an equitable manner between contributors.

This document sets out the developments towards the winding up of the 1971 Fund, in particular as regards the outstanding incidents. It deals with certain issues which will have to be addressed in respect of the winding-up, namely the time scale for the settlement of all remaining claims in respect of pending incidents, the recourse actions taken by the 1971 Fund in respect of certain incidents and the distribution to contributors of the surpluses on the General Fund, if any, and on certain Major Claims Funds. The problem caused by a number of States not having fulfilled their treaty obligations under the 1971 Fund Convention to submit reports on contributing oil receipts is reviewed and what action should be taken in respect of the contributors in arrears is considered.

Action to be taken:

- (a) to decide on what basis the remaining assets in the General Fund should be distributed;
- (b) to decide how to address the problem resulting from States not fulfilling their obligations to submit oil reports; and
- (c) to decide what actions should be taken in respect of contributors in arrears.

1 Introduction

- 1.1 Pursuant to Article 43.1 of the 1971 Fund Convention, as amended by the 2000 Protocol thereto, the Convention ceased to be in force on 24 May 2002 when the number of States Parties fell below 25. The Convention does not apply to incidents occurring after that date.
- 1.2 The termination of the 1971 Fund Convention will not in itself result in the winding up of the 1971 Fund, since this can only take place once all the claims arising from pending incidents have been settled and all expenses have been paid.
- 1.3 The 1971 Fund Assembly and the 1971 Fund Executive Committee have not been able to achieve a quorum in recent years. Since April 2000 the functions of these bodies have been carried out by

a special body, the 1971 Fund Administrative Council, which was established by 1971 Fund Resolution N°13 adopted by the 1971 Fund Assembly in April/May 1998.

- 1.4 In Resolution N°13 the 1971 Fund Assembly gave the Administrative Council *inter alia* the mandate to take all appropriate measures to complete the winding up of the 1971 Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the 1971 Fund, at the earliest possible opportunity.
- 1.5 The text of Resolution N°13 as amended by the Administrative Council at its 7th session held in April/May 2002 is contained in Annex I.
- 1.6 At its 9th and 12th sessions, held in October 2002 and October 2003 respectively, the Administrative Council considered certain issues relating to the winding up of the 1971 Fund on the basis of documents presented by the Director (documents 71FUND/AC.9/14 and 71FUND/AC.12/15). The discussions at that session are summarised in the respective Record of Decisions (documents 71FUND/AC.9/20, paragraphs 16.1-16.17 and 71 FUND/AC.12/22, paragraphs 17.1-17.16).
- 1.7 The Director considers it appropriate to submit also to this session of the Administrative Council some of the issues which in his view will have to be addressed before the 1971 Fund can be wound up. These issues relate *inter alia* to the time scale for resolving all outstanding claims and other issues in respect of pending incidents, the liquidation of the Organisation, including the distribution of any surpluses on the General Fund, the problems caused by a number of States not having fulfilled their treaty obligations under the 1971 Fund Convention to submit reports on receipt of contributing oil and what action should be taken in respect of contributors in arrears.

2 Pending incidents

- 2.1 In the document presented to the October 2003 session of the Administrative Council it was indicated that there were outstanding claims or other issues in respect of 15 incidents.
- 2.2 As at 20 September 2004, there were eleven incidents involving the 1971 Fund for which there were issues to be resolved before the winding-up of the 1971 Fund can be accomplished. These incidents are as follows:

<u>Ship</u>	<u>Place and date of incident</u>	<u>Outstanding issues</u>
<i>Vistabella</i>	Caribbean 7 March 1991	Recourse action
<i>Aegean Sea</i>	Spain 3 December 1992	Costs
<i>Braer</i>	United Kingdom 5 January 1993	Costs
<i>Iliad</i>	Greece 9 October 1993	Indemnification
<i>Yeo Myung</i>	Republic of Korea 3 August 1995	Costs
<i>Kriti Sea</i>	Greece 9 August 1996	Costs

<i>Nissos Amorgos</i>	Venezuela 28 February 1997	Compensation/indemnification
<i>Katja</i>	France 7 August 1997	Costs
<i>Pontoon 300</i>	United Arab Emirates 7 January 1998	Compensation/indemnification; recourse action
<i>Al Jaziah 1</i>	United Arab Emirates 24 January 2000	Recourse action
<i>Alambra</i>	Estonia 17 September 2000	Compensation/indemnification

- 2.3 The *Iliad* incident may result in payments of indemnification and costs by the 1971 Fund up to some £715 000.
- 2.4 The remaining claims arising out of the *Nissos Amorgos* and *Pontoon 300* incidents are, in the Director's view, for the most part inadmissible. However, these claims, which are subject to court proceedings, are for significant amounts, and it is very difficult to estimate the total payments to be made by the 1971 Fund in respect of these incidents. It may take some time before the outstanding claims will be resolved.
- 2.5 As for the *Nissos Amorgos* incident the Administrative Council decided, at its May 2004 session, that the 1971 Fund should postpone making a decision as to whether or not the Fund should take recourse action against the Instituto Nacional de Canalizaciones, the government agency responsible for the maintenance of the Maracaibo channel in Venezuela (document 71FUND/AC.14.4, paragraph 3.1.93).
- 2.6 With respect to the *Alambra* incident, the 1971 Fund and the shipowner/his insurer have argued that the 1969 Civil Liability Convention and the 1971 Fund Convention do not apply to this incident since they have not been properly ratified and do therefore not form part of Estonian law. In addition, the shipowner's insurer has in court proceedings in Estonia maintained that the insurer is not liable to pay any compensation on the grounds that the shipowner had deliberately failed to maintain the ship in a seaworthy condition. The insurer has nevertheless settled and paid some claims. If the Estonian Courts were to consider that the Conventions form part of Estonian law and if the insurer's position as to its liability were to be accepted by the Estonian Courts, the 1971 Fund may have to pay up to £1.6 million in compensation plus significant legal costs, due to the shipowner being financially incapable of fulfilling his obligations. It is not possible to predict when these issues will be resolved.
- 2.7 The 1971 Fund will have to take the appropriate steps to enforce a judgement in its favour against the insurer of the *Vistabella*.
- 2.8 As for the *Aegean Sea* and *Braer* incidents the 1971 Fund may incur some legal costs in respect of ongoing litigation, although the Fund will not be called upon to pay any compensation or indemnification.
- 2.9 The only outstanding issue in respect of the *Yeo Myung* incident is the termination of the limitation proceedings in the Korean Court, which is anticipated to take at least six months.
- 2.10 The *Kriti Sea* incident will not result in payments of compensation and/or indemnification by the 1971 Fund, but the Fund will incur some costs. However, it may take some time before the claims arising from this incident are resolved by the Greek Courts.
- 2.11 The 1971 Fund will not be called upon to pay any compensation or indemnification as regards the *Katja* incident but will incur some costs. However, the legal proceedings taken by some

claimants against the shipowner, his insurer and the 1971 Fund may not be concluded for some time.

- 2.12 In summary, it is anticipated that by the end of 2005 there will only be outstanding compensation and/or indemnification claims in respect of the *Nissos Amorgos* incident and, possibly, in respect of the *Iliad*, *Pontoon 300* and *Alambra* incidents. Issues relating to costs may be outstanding in respect of some incidents. The 1971 Fund may still be involved in recourse proceedings in respect of the *Pontoon 300* and *Al Jaziah 1* incidents and, possibly, the *Nissos Amorgos* incident. The enforcement of the judgement in the 1971 Fund's favour in respect of the *Vistabella* incident may not be completed by the end of 2005.

3 Financial situation in respect of pending incidents

- 3.1 Any further costs arising with regard to the *Aegean Sea*, *Braer*, *Yeo Myung* and *Katja* incidents will be paid from the General Fund. Payments in respect of the *Iliad*, *Kriti Sea* and *Al Jaziah 1* incidents (estimated not to exceed £735 000, £15 000 and £30 000 respectively) will also be made from the General Fund.
- 3.2 With respect to the *Alambra* incident, payments would be made from the General Fund for a total of £917 680 and any payments in excess of that amount from a Major Claims Fund to be established for that incident. This incident occurred after the end of the transitional period when the denunciation of the 1971 Fund Convention by a large number of States resulted in a major reduction in the contribution base. For this reason there are only relatively few contributors against whom contributions could be levied to a Major Claims Fund in respect of this incident.
- 3.3 Further payments relating to the *Nissos Amorgos* and *Pontoon 300* will be made from the respective Major Claims Funds as will the payment of costs in respect of the *Vistabella* incident.

4 Distribution of the 1971 Fund's remaining assets

- 4.1 The distribution of the 1971 Fund's remaining assets is dealt with in Article 44.2 of the 1971 Fund Convention which reads:

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.

- 4.2 The Assembly has delegated this function to the Administrative Council, as set out in paragraph 4 (e) of the Council's mandate referred to in paragraph 1.4 above.
- 4.3 The remaining assets will consist of the balance on the General Fund, if any, and the balances on certain Major Claims Funds.

Major Claims Funds

- 4.4 The distribution of surpluses on any Major Claims Fund is governed by Financial Regulation 4.4. If, after the period for bringing legal actions under Article 6 of the 1971 Fund Convention in respect of a particular incident has expired, and all claims and expenses arising out of that incident have been paid, there remains a substantial amount on that Major Claims Fund, the Assembly shall decide whether that amount shall be reimbursed *pro rata* to the persons who made contributions to that Major Claims Fund, or whether the amount shall be credited to the accounts of these persons. The same shall apply if, after the settlement of all claims known to the 1971 Fund, the Executive Committee (now the Administrative Council) is satisfied that no more claims in respect of that incident will be made against the 1971 Fund and no more expenses will have to be met.
- 4.5 At its October 2003 session, the Administrative Council decided to reimburse the surpluses on six Major Claims Funds provided, however, that reimbursements to contributors in those States which had any oil reports outstanding should be postponed until all such reports had been

submitted (document 71FUND/AC.12/22, paragraphs 17.11 and 22.4). The reimbursements were made at 1 March 2004, subject to the proviso in respect of States having outstanding oil reports.

- 4.6 There will be a surplus on the *Keumdong N°5* Major Claims Fund. The Director has submitted a proposal to the Administrative Council on the distribution of this surplus (document 71FUND/AC.15/2).
- 4.7 There remain only two other Major Claims Funds, namely those established for the *Nissos Amorgos* and *Pontoon 300* incidents. It is not possible to predict whether more contributions will have to be levied to these Major Claims Funds.

General Fund

- 4.8 There are no provisions in the Financial Regulations on the distribution of any surplus on the General Fund. The contributions to the General Fund have been made over a period of 20 years (1979-1998) by various contributors and on the basis of varying quantities of contributing oil. In the Director's view there is no obvious method for the distribution of this surplus. Several options have been considered by the Administrative Council in the past.
- 4.9 At its October 2002 session, the Administrative Council considered a proposal by the Director that any surplus on the General Fund should be distributed between the contributors in the 76 States that were Members of the 1971 Fund at the end of the transitional period (15 May 1998), on the basis of the quantities of contributing oil reported as having been received during 1997.
- 4.10 During the discussion of this issue, one delegation stated that the issue of reimbursement of funds was an important one to contributors and that its preference was for a more perfect system, preferably by taking into account the amounts actually paid by individual contributors over the lifetime of the 1971 Fund. Some delegations considered that every effort should be made to find the most equitable solution. One delegation suggested that in addition to basing reimbursements to contributors on the quantities of oil reported for 1997, a weighting factor to reflect the number of years that contributors had been paying into the General Fund could be introduced.
- 4.11 The Administrative Council instructed the Director to carry out a study of the different options for distributing the surplus on the General Fund and the ramifications for contributors. The Director carried out such a study, and his conclusions as set out in paragraphs 4.12-4.14 below were presented to the Administrative Council's October 2003. The Council decided, however, to consider this issue at a future session.
- 4.12 The first levy of contributions to the General Fund was decided by the 1971 Fund at its October 1979 session for payment in 1980. Fifteen subsequent levies for contributions to the General Fund have been made, the last levy being decided by the Assembly at its October 1998 session. Decisions not to levy for contributions were taken in 1984 and 1992. At their October 1996 and October 1997 sessions, the 1971 Fund Assembly decided to reduce the working capital of the General Fund by reimbursing contributors some £5 million and some £2 million respectively, the reimbursement made the following year.
- 4.13 Over the years, a total amount of some £39.6 million has been levied to the General Fund from contributors in 50 Member States. As has been indicated above, out of this amount some £7 million has been reimbursed to contributors, leaving a total net levy of £32.6 million. Annex II provides a summary of the net contributions levied to the General Fund given by means of the percentage of the total paid by the contributors in each State.
- 4.14 Over the years contributions to the General Fund have been made by a large number of contributors, who have paid a varying number of times and on the basis of varying quantities of contributing oil. In addition some contributors have either merged or ceased to exist. In view of these complications, the Director considers that the most equitable and practicable solution would be first to distribute any surplus on the General Fund between the States on the basis of the

percentage of the total contributions made to the General Fund by contributors in the respective State. The amount allocated to a given State should then be distributed between the contributors in that State on the basis of the quantities of contributing oil reported as having been received during 1997 by each contributor in that State, ie the last full year before the end of the transitional period (15 May 1998).

5 Non-submission of oil reports

- 5.1 The non-submission of oil reports by a number of 1971 Fund Member States has been a serious problem for a number of years. This issue is considered under agenda item 11 (document 71FUND/AC.15/9).
- 5.2 As mentioned above, at its October 2003 session the Administrative Council decided that reimbursement to contributors in States with outstanding reports of surpluses from any Major Claims Funds (after offset had been made against any arrears) should be postponed until all contributing oil reports for that State had been submitted. The Council also considered what action should be taken in the event that outstanding reports had not been submitted by the time all pending incidents had been resolved and the 1971 Fund could be wound up, but the Council did not reach any conclusion on this point.
- 5.3 In the document dealing with assessment of contributions to certain Major Claims Funds the Director has invited the Administrative Council to confirm that the decision to postpone reimbursements referred to in paragraph 5.2 above should apply also to any reimbursements which the Council may decide at its 15th session (document 71FUND/AC.15/19, paragraph 9.6).

6 Contributors in arrears

Present situation

- 6.1 The contributions to the 1971 Fund have over the years largely been paid. However, with some 400 contributors it is inevitable that there will be some arrears. The situation in respect of unpaid contributions has been reported annually to the 1971 Fund's governing bodies at their October sessions. A detailed report on the present situation will be given to the Administrative Council in document 71FUND/AC.15/8.
- 6.2 At 20 September 2004 there were 19 contributors in arrears for the principal amount of contributions of £386 760. The arrears (excluding interest) as at 20 September 2004 relate to contributors in various States as set out below:

Member State	Number of contributors	Total amount of arrears (excluding interest) £
Colombia (2003 contributions only)	1	2 351
France (2003 contributions only)	1	682
Germany	1	9 166
Greece	1	17 555
Hong Kong ^{<1>}	1	3 624

<1> Previously dependent territory of the United Kingdom, now Hong Kong Special Administrative Region, People's Republic of China

Japan (2003 contributions only)	1	145
Kenya	1	22 179
Kuwait	1	15 758
Portugal (2003 contributions only)	1	360
Russian Federation	2	47 921
Former USSR<2>	5	136 465
Former Socialist Federal Republic of Yugoslavia	3	130 554
Total	19	386 760

- 6.3 The total amount levied in contributions to the 1971 Fund during the period 1978–2003 was £386 million. The arrears therefore represent some 0.10% of the total amount levied.

Previous consideration of the issue

- 6.4 At its October 2002 session, the Administrative Council considered what action should be taken against the 31 contributors which at that time were in arrears, 27 of which were for the principal of contributions and four for interest only. It was noted that the amount owed by many of these contributors was relatively small. Consideration was given as to whether the 1971 Fund should write off debts which were for less than a specific amount, say £25 000, including interest. It was noted that in many cases the costs that the Fund would incur in attempting to recover small amounts would exceed the amount of the debt. It was considered, however, that simply writing off small debts would send the wrong message to the defaulters, that before adopting such an approach, further efforts should be made to recover the amounts due and that the States where the defaulting contributors were located should exercise pressure on them to pay.
- 6.5 It was generally considered that in the final analysis a pragmatic solution would have to be found. One delegation suggested that the status of each of the defaulting contributors should be investigated, since it was possible that a number of them were insolvent or no longer existed, and that the 1971 Fund should focus its efforts on those that were still operating, particularly those that owed substantial sums of money.
- 6.6 The Council invited the Director to investigate each of the defaulting contributors and to make a judgement as to which ones should be pursued in court for arrears on the basis of a cost benefit analysis. The Director was authorised to take legal action against defaulters where appropriate and to present a report to the Council giving reasons why others should not be pursued.
- 6.7 At its October 2002 session, the Administrative Council also considered the Director's analysis in respect of the obligations of defaulting contributors that were previously located in the former Union of Soviet Socialist Republics (USSR) and the former Socialist Federal Republic of Yugoslavia, as set out in document 71FUND/AC.9/10. The Council decided that these contributors were under an obligation to pay their outstanding contributions (document 71FUND/AC.9/20, paragraph 16.13).
- 6.8 The issue of contributions in arrears was again considered by the Administrative Council at its October 2003 session. The Council instructed the Director to concentrate his efforts on the remaining contributors in arrears and consider, on a case-by-case basis, whether legal action

<2> To the extent not part of the Russian Federation

should be taken against a particular contributor and present a report on the developments to the Council's October 2004 session (document 71FUND/AC.12/22, paragraph 17.15).

- 6.9 As set out in paragraph 4.2.4 of document 71FUND/AC.15/19, there is a significant surplus on the *Keumdong N°5* Major Claims Fund, which should be distributed to contributors. With the exception of two contributors, one in Hong Kong entitled to £1 300 and one in the Russian Federation entitled to £3 000, the reimbursements of the surplus will not affect the contributors in arrears since they have not contributed to that Major Claims Fund.
- 6.10 It should be noted that 69% of the amount outstanding are arrears due from contributors in the former Union of Soviet Socialist Republics (USSR) and the former Socialist Federal Republic of Yugoslavia.

Director's considerations

- 6.11 Since the October 2003 session the Director has continued his efforts to make those contributors who are in arrears pay the amounts due. Contributors are reminded at least twice annually by telefax or letter of their outstanding contributions. The Director sometimes makes direct contact with persons within some defaulting entities to press for payments. Assistance has also been given by members of the delegations of the States concerned to the governing bodies. In addition the Director has written to the contributors with significant arrears, explaining the legal basis for their obligations to pay and making it clear that unless payment is made by a specified date, the 1971 Fund may take legal action to recover outstanding amounts. In some cases the Fund's lawyers in the States concerned have contacted the contributor in arrears and pressed for payment.
- 6.12 In the Director's view, there has been a considerable improvement in the situation over the last two years. The total amount of the principal in arrears has decreased from £930 000 in October 2002 to £781 000 in October 2003 and to £368 760 in September 2004. The significant reduction from 2003 to 2004 was to a large extent due to the payment of the contribution by the Nigerian contributor (£225 611). Although the number of contributors in arrears at present in respect of the principal (19) is the same as in October 2003, four of these contributors are in arrears only for contributions due on 1 March 2004 and the Director expects that these contributors will pay the amounts due in the near future.
- 6.13 The Director will continue his efforts and consider, on a case by case basis, whether legal action should be taken against a particular contributor and present a report on the developments to the Administrative Council's October 2005 session.

7 Action to be taken by the Administrative Council

The Administrative Council is invited:

- (a) to take note of the information contained in this document;
- (b) to decide on what basis the remaining assets of the 1971 Fund should be distributed as regards the General Fund;
- (c) to consider how to address the problem caused by a number of States not having submitted oil reports;
- (d) to consider what action should be taken against contributors in arrears; and
- (e) to make such other decisions as it may deem appropriate to ensure the proper winding up of the 1971 Fund.

ANNEX I

1971 Fund Resolution N° 13:

Operation of the 1971 Fund from 16 May 1998

Adopted by the 1971 Fund Assembly at its 4th extraordinary session, held in May 1998 as amended by the Administrative Council at its 7th session (acting on behalf of the Assembly's 9th extraordinary session) held in April/May 2002

THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND 1971 (1971 FUND),

NOTING that there are 76 States Parties to the 1971 Fund Convention;

AWARE that 24 of these States will cease to be Members of the 1971 Fund from 16 May 1998 and that a number of other States will in the near future also cease to be Members of the 1971 Fund,

RECOGNISING that, as a result of these States leaving the 1971 Fund, it is likely, despite considerable efforts to be made by the Director, that the Assembly of the Organisation will no longer be able to achieve a quorum and that the same may in the near future apply to its Executive Committee,

ACKNOWLEDGING that this would result in the 1971 Fund's being unable to operate in a normal way,

MINDFUL that the 1971 Fund's objective is to pay compensation to victims of oil pollution damage in Member States,

RECALLING that it is the task of the Assembly, under Article 18.14 of the 1971 Fund Convention, to perform such functions as are necessary for the proper operation of the 1971 Fund,

AWARE that the Assembly may allocate functions to the Executive Committee in accordance with Article 26.1(c) of the 1971 Fund Convention,

NOTING that, under Article 44.2, the Assembly should take all appropriate measures to complete the winding up of the 1971 Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the Fund,

CONSCIOUS of the need to establish a structure which will permit the 1971 Fund to operate from 16 May 1998 until such time as it is wound up,

RECOGNISING that it is the general responsibility of the Assembly to ensure the proper operation of the 1971 Fund and that it is therefore the duty of the Assembly to take the necessary measures to achieve this,

CONSIDERING that it is important to ensure that the interests of States which remain Members of the 1971 Fund are protected,

RECALLING Resolution N°11 of the 1971 Fund on co-operation between the 1971 Fund and its former Member States, in which it is recognised that former States Parties which have been affected by incidents covered by the 1971 Fund Convention but in respect of which settlements have not yet been finalised, should be entitled to present their views on pending cases in the competent bodies of the 1971 Fund,

- 1 **INSTRUCTS** the Director to convene a regular session of the Assembly of the 1971 Fund once every calendar year, and in the invitations to urge States to make every effort to be represented at the meeting, and to draw attention to the consequences of a quorum not being achieved.
- 2 **RESOLVES** that, in addition to those functions which are allocated to the Executive Committee pursuant to Article 26.1 of the 1971 Fund Convention, the following functions of the Assembly shall be delegated to the Executive Committee with effect from the first session of the Assembly at which the latter is unable to achieve a quorum, on the condition that if the Assembly were to achieve a quorum at a later session or sessions, the Assembly would resume the functions previously allocated to the Committee:
 - (a) to adopt the annual budget and fix the annual contributions;
 - (b) to appoint auditors and approve the accounts of the 1971 Fund;
 - (c) to supervise the proper execution of the 1971 Fund Convention and of its own decisions;
 - (d) to perform such other functions as are otherwise necessary for the proper operation of the 1971 Fund;
 - (e) to take all appropriate measures to complete the winding up of the 1971 Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the 1971 Fund;
- 3 **RESOLVES ALSO** that, whenever the Executive Committee fails to achieve a quorum, all functions undertaken by the Committee (ie those allocated by the Assembly and those allocated in accordance with the 1971 Fund Convention) shall revert to the Assembly;
- 4 **HEREBY CREATES** a body to be known as the Administrative Council, which shall have the following mandate:
 - (a) to perform such functions as are allocated to the Assembly under the 1971 Fund Convention or which are otherwise necessary for the proper operation of the 1971 Fund;
 - (b) to establish a subsidiary body to consider the settlement of claims;
 - (c) to give instructions to the Director concerning the administration of the 1971 Fund;
 - (d) to supervise the proper execution of the Convention and of its own decisions;
 - (e) to take all appropriate measures to complete the winding up of the 1971 Fund, including the distribution in an equitable manner of any

remaining assets among those persons who have contributed to the 1971 Fund, at the earliest possible opportunity;

5 **FURTHER RESOLVES** that the Administrative Council shall assume its functions whenever the Assembly fails to achieve a quorum after the functions allocated to the Executive Committee in accordance with paragraph 2 have reverted to the Assembly pursuant to paragraph 3, on the condition that, if the Assembly were to achieve a quorum at a later session, it would resume its functions;

6 **DECIDES** that the following States and organisations shall be invited to take part in sessions of the Administrative Council:

- (a) 1971 Fund Member States;
- (b) former 1971 Fund Member States;
- (c) other States which would be invited to attend sessions of the 1971 Fund Assembly as observers; and
- (d) intergovernmental organisations and international non-governmental organisations which have observer status with the 1971 Fund;

7 **FURTHER DECIDES** :

- (a) that decisions of the Administrative Council shall be taken by majority vote of all States having at any time been Members of the 1971 Fund present and voting, provided that, in respect of issues relating to incidents, States shall have the right to vote only as regards incidents which occurred while the 1971 Fund Convention was in force for that State;
- (b) that there shall be no quorum requirement for the Administrative Council;
- (c) that the Administrative Council shall meet at least once every calendar year at thirty days' notice upon convocation by the Director, either at his own initiative or at the request of its Chairman;
- (d) that the Rules of Procedure of the Administrative Council shall be those of the Assembly, to the extent applicable;
- (e) that the States invited to a session of the Administrative Council shall inform the Director of the person or persons who will attend; and
- (f) that the sessions of the Administrative Council shall be held in public, unless the Council decides otherwise;

8 **FURTHER RESOLVES** that the Director of the 1971 Fund shall *ex officio* be the person who holds the post of Director of the 1992 Fund, provided that the Assembly of the 1992 Fund agrees thereto and that the Director of the 1992 Fund agrees to carry out the functions of the Director of the 1971 Fund also, or, if these conditions are not met, that the Director shall be appointed by the Executive Committee in accordance with paragraph 2 above, or by the Administrative Council in accordance with paragraph 4 above.

* * *

ANNEX II
Payments of contributions to the General Fund

Member State	Date of joining 1971 Fund	Date of leaving 1971 Fund (or the date when 1971 Fund Convention ceased to be in force)	Total Net Levy General Fund	% Levy General Fund
Algeria	16-Oct-78	03-Aug-99	14,513	0.044
<1> Australia	08-Jan-95	15-May-98	0	0.000
Bahamas	16-Oct-78	15-May-98	349,002	1.070
<1> Barbados	04-Aug-94	07-Jul-99	0	0.000
Belgium	01-Mar-95	06-Oct-99	13,176	0.040
Cameroon	12-Aug-84	24-May-02	36,685	0.112
Canada	24-Apr-89	29-May-99	694,327	2.128
China (HKSAR)	01-Jul-97	05-Jan-00	1,590	0.005
Colombia	11-Jun-97	24-May-02	1,018	0.003
Cote d'Ivoire	03-Jan-88	24-May-02	83,651	0.256
Croatia	08-Oct-91	30-Jul-99	40,073	0.123
Cyprus	24-Oct-89	15-May-98	27,591	0.085
Denmark	16-Oct-78	15-May-98	226,409	0.694
Finland	08-Jan-81	15-May-98	350,954	1.076
France	16-Oct-78	15-May-98	3,269,217	10.020
Gabon	21-Apr-82	24-May-02	5,029	0.015
Germany	16-Oct-78	15-May-98	1,017,387	3.118
Ghana	16-Oct-78	24-May-02	34,249	0.105
Greece	16-Mar-87	15-May-98	452,568	1.387
India	08-Oct-90	21-Jun-01	774,488	2.374
Indonesia	30-Nov-78	26-Jun-99	367,243	1.126
Ireland	17-Feb-93	15-May-98	34,675	0.106
Italy	28-May-79	08-Oct-00	4,903,246	15.029
Japan	16-Oct-78	15-May-98	8,972,615	27.501
Kenya	15-Mar-93	07-Jul-01	26,584	0.081
Liberia	16-Oct-78	15-May-98	1,868	0.006
<1> Malaysia	06-Apr-95	24-May-02	0	0.000
Malta	26-Dec-91	06-Jan-01	8,991	0.028
<1> Mauritius	05-Jul-95	06-Dec-00	0	0.000
Mexico	11-Aug-94	15-May-98	81,637	0.250
Morocco	31-Mar-93	25-Oct-01	85,199	0.261
Netherlands	02-Nov-82	15-May-98	2,794,810	8.566
New Zealand	20-Feb-97	25-Jun-99	6,065	0.019
Nigeria	10-Dec-87	24-May-02	20,706	0.063
Norway	16-Oct-78	15-May-98	606,502	1.859
Papua New Guinea	10-Jun-80	23-Jan-02	2,899	0.009
Poland	15-Dec-85	21-Dec-00	130,645	0.400
Portugal	10-Dec-85	24-May-02	347,703	1.066
Republic of Korea	08-Mar-93	15-May-98	988,990	3.031
Russian Federation	26-Dec-91	20-Mar-01	6,791	0.021
Slovenia	25-Jun-91	19-Jul-01	6,010	0.018

<1> Nil net contributions to General Fund due to reimbursements

<2> Based on oil received while Hong Kong a dependent territory of the United Kingdom

Member State	Date of joining 1971 Fund	Date of leaving 1971 Fund (or the date when 1971 Fund Convention ceased to be in force)	Total Net Levy General Fund	% Levy General Fund
Spain	06-Feb-82	15-May-98	1,658,613	5.084
Sri Lanka	11-Jul-83	22-Jan-00	53,013	0.162
Sweden	16-Oct-78	15-May-98	655,494	2.009
Syrian Arab Republic	16-Oct-78	24-May-02	45,038	0.138
Tunisia	16-Oct-78	15-May-98	91,400	0.280
United Kingdom	16-Oct-78	15-May-98	2,843,798	8.716
<2> Hong Kong	16-Oct-78	01-Jul-97	16,185	0.050
USSR	15-Sep-87	24-May-02	189,030	0.579
Venezuela	20-Apr-92	22-Jul-99	87,478	0.268
Yugoslavia	16-Oct-78	24-May-02	201,003	0.616
			32,626,158	100

<1> Nil net contributions to General Fund due to reimbursements

<2> Based on oil received while Hong Kong a dependent territory of the United Kingdom