



BUDGET FOR 2006

Note by the Director

Summary:	This document deals with the administrative budget of the 1971 Fund for the financial year 2006. The draft budget totals £535 000. An estimate is made of the payments to be made from the General Fund in respect of various incidents.
Action to be taken:	Adopt the administrative budget for 2006.

1 Introduction

- 1.1 Article 18.5 of the 1971 Fund Convention requires the Assembly of the 1971 Fund to adopt the annual budget of the Organisation.
- 1.2 Financial Regulation 3 of the Organisation provides that the financial period of the 1971 Fund shall be the calendar year. The draft budget proposed by the Director therefore covers the period 1 January to 31 December 2006.
- 1.3 Article 12 of the 1971 Fund Convention provides that the Assembly shall determine the amount of contributions to be levied, if any.
- 1.4 The 1971 Fund Convention ceased to be in force on 24 May 2002 and so it has not been possible to levy further contributions to the General Fund since 2003.
- 1.5 The 1971 Fund's expenditure consists of:
 - (a) costs and expenses of the administration of the 1971 Fund, and any deficit from preceding years;
 - (b) payments of claims and claims related expenses up to 1 million SDR per incident (minor claims); and
 - (c) payments of claims and claims related expenses to the extent that the aggregate amount of the payments in respect of any one incident is in excess of 1 million SDR (major claims).
- 1.6 Expenses mentioned in sub-paragraphs (a) and (b) of paragraph 1.5 above have to be met from the General Fund (Financial Regulation 7.1(c)) and expenses with respect to major claims as defined in sub-paragraph (c) above have to be met from Major Claims Funds (Financial Regulation 7.2(d)).

- 1.7 This document relates to payments from the General Fund only. The assessment of contributions to Major Claims Funds is dealt with in a separate document (document 71FUND/AC.17/18).
- 1.8 As for the individual incidents, reference is made to the information contained in the Financial Statements (document 71FUND/AC.17/5, Annex IV, Schedule II) and to the various documents relating to incidents submitted to the 17th session of the Administrative Council.
- 1.9 It should be noted that any estimate in this document of amounts to be paid by the 1971 Fund in compensation has been made solely for the purpose of the assessment of the balance on the General Fund as at 31 December 2006, without prejudice to the position of the 1971 Fund in respect of the claims.

2 Income

2.1 Surplus as at 31 December 2005

- 2.1.1 The estimated surplus at 31 December 2005 of £5 217 135 is arrived at as shown in the table below.
- 2.1.2 As can be seen from Annex I, it is anticipated that no payments of compensation or indemnification from the General Fund will be made during 2005. It is expected that fees will be incurred during 2005 in respect of four incidents involving the 1971 Fund.

	£	£
Surplus as at 1 January 2004		4 891 635
<i>Plus</i>		
2004 General Fund contributions receivable in 2005	0	
Previous years' General Fund contributions receivable in 2005	0	
Interest to be earned in 2005 (estimate)	200 000	
Transfer from Major Claims Funds closed in 2005 (cf paragraph 2.2.2)	550 000	
	750 000	750 000
		5 641 635
<i>Less</i>		
Estimated administrative expenses including management fee, for 2005 (cf paragraph 2.1.3)	362 500	
Minor claims expenditure in 2005 (Annex I)	62 000	
	424 500	424 500
Estimated surplus as at 31 December 2005		5 217 135

- 2.1.3 The administrative expenses for 2005 is estimated to be some £362 500 as set out below:
- Management fee payable to 1992 Fund (cf document 71FUND/AC.15/21, paragraph 18.1) for £325 000.
 - External audit fees for 2004 Financial Statements payable in 2005 for £12 500.
 - Costs for winding up the 1971 Fund. No payment had been made as of 30 June 2005. An estimated amount of £25 000 has been included for the remaining six month period.

2.2 Transfer from Major Claims Funds

- 2.2.1 At its October 2004 session the Administrative Council decided that, after certain reimbursements had been made to contributors to the Major Claims Funds referred to in paragraph 2.2.2 below, the remaining balances should be transferred to the General Fund on 1 March 2005 (documents 71FUND/AC.12/22, paragraph 22.7 and 71FUND/AC.15/21, paragraphs 21.4 and 21.5).

2.2.2 The balances transferred from the four Major Claims Funds closed in 2005 to the General Fund are estimated at £550 000 as follows:

- from the *Aegean Sea* Major Claims Fund £130 000
- from the *Keumdong N°5* Major Claims Fund £170 000
- from the *Sea Empress* Major Claims Fund £120 000
- from the *Nakhodka* Major Claims Fund £130 000

2.3 Interest to be earned in 2006

The income in interest during 2006 from the 1971 Fund's investment of the assets of the General Fund is estimated at £180 000. This estimated yield is based on an average principal of approximately £4.2 million.

3 Expenditure

3.1 Administrative expenditure 2006

3.1.1 At their March 2005 sessions, the 1992 Fund Assembly, the 1971 Fund Administrative Council and the Supplementary Fund Assembly agreed that the three Funds should have a joint Secretariat and that the 1992 Fund Secretariat should administer, in addition to the 1971 Fund, also the Supplementary Fund (documents 92FUND/A/ES.9/28, paragraph 7.3, 71FUND/AC.16/15, paragraph 4.4 and SUPPFUND/A.1/39, paragraphs 11.2 and 11.3).

3.1.2 The draft administrative budget for the joint Secretariat, excluding the External Auditors' fee and expenses directly related to the respective Organisations, has been estimated at £3 541 400 (document 92FUND/A.10/28, Annex II) for 2006. This figure is £223 800 (6.7%) higher than the 2005 budget figure of £3 317 600.

3.1.3 A summary of the administrative budget for the joint Secretariat is given below.

CHAPTER	2006 Appropriation £	2005 Appropriation £	% Increase/(decrease) Appropriation on 2005
I Personnel	2 086 500	1 977 900	5.5%
II General services	757 400	709 700	6.7%
III Meetings	150 000	145 000	3.4%
IV Travel	160 000	125 000	28.0%
V Miscellaneous expenditure (excluding external audit fees)	327 500	300 000	9.2%
VI Unforeseen expenditure	60 000	60 000	0%
Total Expenditure Chapters I-VI	3 541 400	3 317 600	6.7%

3.1.4 As set out in document 71FUND/AC.17/16, the Director proposes that the 1971 Fund should, in accordance with the approach adopted for the financial year 2005, pay a management fee for the period 1 January-31 December 2006 in respect of the costs of running the joint Secretariat. It has been proposed that the management fee should be set at £275 000 for the 1971 Fund, a reduction of some 15% on the 2005 fee of £325 000. The draft budget has been prepared on that basis. If

the Assembly were to decide on a different apportionment of costs between the three Organisations, the draft budget would have to be revised accordingly.

- 3.1.5 An appropriation of £250 000 has been retained in the draft budget for the 1971 Fund to cover fees of lawyers and other experts and travel pertaining to the winding up of the 1971 Fund.
- 3.1.6 The External Auditor has provisionally indicated an audit fee of £10 000 for the audit of the 1971 Fund's Financial Statements for 2005 which will be payable in 2006. This is a reduction of 20% on the 2005 estimate of £12 500.
- 3.1.7 The draft administrative budget relating to only the 1971 Fund for 2006 totalling £535 000, compared to £587 500 in 2005, is set out in Annex II.

3.2 Minor claims expenditure 2006

- 3.2.1 The incidents in respect of which payments may have to be made from the General Fund during 2006 are listed in Annex III.
- 3.2.2 With respect to the *Iliad* incident, the Director is of the view that the 1971 Fund will not be called upon to pay compensation but may have to pay indemnification up to some £715 000 and will incur some costs.
- 3.2.3 As regards the *Kriti Sea* incident, the 1971 Fund will not be called upon to pay compensation or indemnification but will incur some costs.
- 3.2.4 As for the *Katja* incident, it is unlikely that the 1971 Fund will be called upon to pay compensation or indemnification but will incur some costs.
- 3.2.5 As regards the *Al Jaziah 1* incident which occurred in the United Arab Emirates on 24 January 2000, both the 1971 Fund Convention and the 1992 Fund Convention apply. The governing bodies of the 1971 Fund and the 1992 Fund have decided that the liabilities should be distributed between the two Funds on a 50:50 basis. All claims arising from this incident have been paid and the 1971 Fund will not be required to make any further compensation payments. Dependent on the outcome of a recourse action against the owner of the *Al Jaziah 1*, the 1971 Fund may recover a part of the amount it has paid in compensation in respect of this incident.
- 3.2.6 Concerning the *Alambra* incident, the shipowner's insurer has maintained in legal proceedings that the pollution was due to the shipowner's intentional wrongful act and that the insurer therefore had no liability under the insurance contract nor under Estonian law. The shipowner and his insurer did nevertheless settle and pay some claims in 2004. If the insurer were to be exonerated from liability the remaining claims would fall under the 1971 Fund Convention. The balance on the General Fund (some £727 000) may therefore be paid in 2006.
- 3.2.7 It is estimated that the payments by the 1971 Fund from the General Fund in 2006 relating to specific incidents will total £1 477 000. This estimate does not include any provision for the payments which, although envisaged as not being due before 2007, actually have to be made earlier.

3.3 Working capital

- 3.3.1 The governing bodies of the 1971 Fund have decided to maintain the working capital at £5 million, most recently in October 2002 (document 71FUND/AC.9/20, paragraph 18).
- 3.3.2 At its October 2002 session the Administrative Council decided not to levy contributions to the General Fund (document 71FUND/AC.9/20, paragraph 19.5). As stated in paragraph 1.4 above, since the 1971 Fund Convention ceased to be in force on 24 May 2002 it has not been possible to levy further contributions to the General Fund since 2003.

4 General Fund Balance

4.1 The General Fund balance as at 31 December 2006 is estimated as follows:

		£	£
	ESTIMATED INCOME		
<i>Plus</i>	Surplus as at 31 December 2005	5 217 135	
	Interest to be earned in 2006	180 000	
	Total estimated income 2006		5 397 135
<i>LESS</i>	ESTIMATED EXPENDITURE		
	Administrative expenses including management fee, Budget 2006(Annex II)	535 000	
<i>Plus</i>	Minor claims expenditure 2006 (Annex III)	1 477 000	
	Total estimated expenditure 2006		2 012 000
	GENERAL FUND BALANCE 31 DECEMBER 2006		3 385 135

4.2 As shown in the table above, the General Fund balance as at 31 December 2006 is estimated at some £3.4 million.

4.3 The Director takes the view that the surplus on the General Fund as at 31 December 2006 should be sufficient to cover any payments of compensation, indemnification or other incident related expenses to be made after 31 December 2006 as well as the 1971 Fund's share of the administrative expenditure until the 1971 Fund is wound up.

4.4 At its 15th session in October 2004 the Administrative Council approved the Director's proposal for the distribution of any surplus on the General Fund once all the incidents involving the 1971 Fund have been settled (document 71FUND/AC.15/21, paragraph 17.11).

5 Action to be taken by the Administrative Council

The Administrative Council is invited, in accordance with Article 12 of the 1971 Fund Convention:

- (a) to take note of the information contained in this document;
- (b) to consider for adoption the draft budget for 2006 in respect of the administrative expenses of the 1971 Fund as set out in Annex II;
- (c) to take note of the Director's observations as regards the balance on the General Fund (paragraph 4.3); and
- (d) to authorise the Director to use the balance of the working capital to pay for the administrative and minor claims expenses.

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ANNEX I

General Fund claims expenditure in 2005

(Figures in Pounds Sterling)

Incident	Date	Maximum Payable from General Fund: 1 million SDR	Expenditure up to 31/12/04		Balance Payable from General Fund at 31/12/2004	2005 Expenditure				Estimated Total General Fund Expenditure in 2005	Estimated Total General Fund Expenditure up to 31/12/05	Estimated Balance Payable from General Fund 31/12/05
			Compensation paid up to 31/12/04	Claims related expenses paid up to 31/12/04		Compensation/Indemnification		Claims related expenses				
						Paid 1/1/05-30/6/05	Estimate 1/7/05-31/12/05	Paid 1/1/05-30/6/05	Estimate 1/7/05-31/12/05			
<i>Iliad</i>	09/10/93	930 977	0	(50 757)	880 220	0	0	0	0	0	(51 000)	880 000
<i>Kriti Sea</i>	09/08/96	943 599	0	(176 078)	767 521	0	0	(21 930)	0	(22 000)	(199 000)	745 000
<i>Katja</i>	07/08/97	839 335	0	(11 713)	827 622	0	0	(3 958)	(6 000)	(10 000)	(22 000)	818 000
<i>Al Jaziah 1</i>	24/01/00	826 950	(566 166)	(77 027)	183 757	0	0	(1 475)	(8 000)	(10 000)	(654 000)	173 000
<i>Alambra</i>	17/09/00	917 680	0	(170 908)	746 772	0	0	(3 511)	(16 000)	(20 000)	(191 000)	727 000
										(62 000)		

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ANNEX II

DRAFT 2006 ADMINISTRATIVE BUDGET FOR 1971 FUND

(Figures in Pounds Sterling)

STATEMENT OF EXPENDITURE		Actual 2004 Expenditure	2004 budget Appropriations	2005 budget Appropriations	2006 budget Appropriations
(a)	Management fee payable to 1992 Fund by 1971 Fund	325 000	325 000	325 000	275 000
(b)	Costs for Winding up of the 1971 Fund	17 145	250 000	250 000	250 000
(c)	External audit fees for Financial Statements	15 000	15 000	12 500	10 000
	TOTAL for 2004	357 145	590 000		
	1971 Fund Budget Appropriation			587 500	535 000

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ANNEX III

General Fund claims expenditure in 2006

(Figures in Pounds Sterling)

Incident	Date	Maximum Payable from General Fund: 1 million SDR	Estimated Balance Payable from General Fund at 31/12/2005	2006 Estimated Expenditure			Estimated Total General Fund Expenditure in 2006	Estimated Total General Fund Expenditure up to 31/12/06	Estimated Balance Payable from General Fund at 31/12/2006
				Compensation	Indemnification	Claims related expenses			
<i>Iliad</i>	09/10/93	930 977	880 000	0	(715 000)	(5 000)	(720 000)	(771 000)	160 000
<i>Kriti Sea</i>	09/08/96	943 599	745 000	0	0	(10 000)	(10 000)	(209 000)	735 000
<i>Katja</i>	07/08/97	839 335	818 000	0	0	(10 000)	(10 000)	(32 000)	808 000
<i>Al Jaziah 1</i>	24/01/00	826 950	173 000	0	0	(10 000)	(10 000)	(664 000)	163 000
<i>Alambra</i>	17/09/00	917 680	727 000	(702 000)	0	(25 000)	(727 000)	(917 680)	0
							(1 477 000)		