



## BUDGET FOR 2007

### Note by the Director

|                 |  |
|-----------------|--|
| <b>Summary:</b> | This document deals with the draft administrative budget of the 1971 Fund for the financial year 2007. 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. |
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| <b>Action to be taken:</b> | Adopt the administrative budget for 2007. |
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### 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 – 31 December 2007.
- 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.20/17).
- 1.8 As for the individual incidents, reference is made to the information contained in the Financial Statements (document 71FUND/AC.20/5, Annex V, Schedule II) and to the various documents relating to incidents submitted to the 20th 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 2007, without prejudice to the position of the 1971 Fund in respect of the claims.

## 2 **Income**

### 2.1 Surplus as at 31 December 2006

- 2.1.1 The estimated surplus at 31 December 2006 of £5 050 494 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 2006. It is expected that fees will be incurred during 2006 in respect of six incidents involving the 1971 Fund.

|   | £       | £         |
|---|---------|-----------|
| Balance brought forward as at 1 January 2006  |         | 5 249 494 |
| <i>Plus</i>   |         |           |
| Previous years' General Fund contributions receivable in 2006                             | 0       |           |
| Interest to be earned in 2006 (estimate)  | 200 000 |           |
|   | 200 000 | 200 000   |
|   |         | 5 449 494 |
| <i>Less</i>   |         |           |
| Estimated administrative expenses including management fee, for 2006 (cf paragraph 2.1.3) | 295 000 |           |
| Minor claims expenditure in 2006 (Annex I)  | 104 000 |           |
|   | 399 000 | 399 000   |
| Estimated balance as at 31 December 2006  |         | 5 050 494 |

- 2.1.3 The administrative expenses for 2006 are estimated to be some £295 000 as set out below:
- Management fee payable to 1992 Fund (cf document 71FUND/AC.17/20, paragraph 18.4) of £275 000.
  - External audit fees for 2005 Financial Statements payable in 2006 of £10 000.
  - Costs for winding up the 1971 Fund. No payment had been made as of 30 June 2006. An estimated amount of £10 000 has been included for the remaining six month period.

### 2.2 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 £200 000. This estimated yield is based on an average principal of approximately £4.5 million.

### 3 Expenditure

#### 3.1 Administrative expenditure 2007

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 Auditor's fee and expenses directly related to the respective Organisations, has been estimated at £3 530 250 (document 92FUND/A.11/26, Annex I) for 2007. This figure is £11 150 (0.30%) lower than the 2006 budget figure of £3 541 400.

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

| CHAPTER  | Proposed 2007<br>Appropriation<br>£ | 2006<br>Appropriation<br>£ | % Increase/(decrease)<br>Appropriation on 2005 |
|--|-------------------------------------|----------------------------|--|
| <b>I</b> Personnel   | 2 042 350                           | 2 086 500                  | (2.1%)   |
| <b>II</b> General services   | 740 400                             | 757 400                    | (2.3%)   |
| <b>III</b> Meetings  | 200 000                             | 150 000                    | 33.3%  |
| <b>IV</b> Travel   | 160 000                             | 160 000                    | 0%   |
| <b>V</b> Miscellaneous expenditure<br>(excluding external audit<br>fees) | 327 500                             | 327 500                    | 0%   |
| <b>VI</b> Unforeseen expenditure   | 60 000                              | 60 000                     | 0%   |
| <b>Total Expenditure Chapters<br/>I-VI</b>                               | <b>3 530 250</b>                    | <b>3 541 400</b>           | <b>(0.3%)</b>                                  |

3.1.4 As set out in document 71FUND/AC.20/15, the Director proposes that the 1971 Fund should, in accordance with the approach adopted for the financial years 2005 and 2006, pay a management fee for the period 1 January – 31 December 2007 in respect of the costs of running the joint Secretariat. It has been proposed that the management fee should be maintained at the 2006 level of £275 000. 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 that the audit fee will be the same as 2006, i.e. £10 000 for the audit of the 1971 Fund's Financial Statements for 2006 which will be payable in 2007.

3.1.7 The draft administrative budget relating to only the 1971 Fund for 2007 totalling £535 000 is set out in Annex II.

3.2 Minor claims expenditure 2007

3.2.1 The incidents in respect of which payments may have to be made from the General Fund during 2007 are listed in Annex III.

3.2.2 It is envisaged the compensation /indemnification will be paid in respect of two incidents, namely the *Iliad* and *Alambra*.

3.2.3 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.

3.2.4 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 £722 000) may therefore be paid in 2007.

3.2.5 It is envisaged that only costs will be incurred in respect of the *Kriti Sea*, *Plate Princess*, *Katja* and *Al Jaziah 1* incidents.

3.2.6 It is estimated that the payments by the 1971 Fund from the General Fund in 2007 relating to specific incidents will total £1 512 000. 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, most recently in October 2002, to maintain the working capital at £5 million (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 2007 is estimated as follows:

|      |  | £         | £         |
|------|--|-----------|-----------|
|      | ESTIMATED INCOME   |           |           |
| Plus | Balance as at 31 December 2006   | 5 050 494 |           |
|      | Interest to be earned in 2007  | 175 000   |           |
|      | Total estimated income 2007  |           | 5 225 494 |
| LESS | ESTIMATED EXPENDITURE  |           |           |
| Plus | Administrative expenses including management fee, Budget 2007 (Annex II) | 535 000   |           |
|      | Minor claims expenditure 2007 (Annex III)                                | 1 512 000 |           |
|      | Total estimated expenditure 2007   |           | 2 047 000 |
|      | GENERAL FUND BALANCE 31 DECEMBER 2007                                    |           | 3 178 494 |

4.2 As shown in the table above, the General Fund balance as at 31 December 2007 is estimated at some £3.2 million.

- 4.3 The Director takes the view that the surplus on the General Fund as at 31 December 2007 should be sufficient to cover any payments of compensation, indemnification or other incident related expenses to be made after 31 December 2007 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 2007 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 2006**

*(Figures in Pounds Sterling)*

| Incident              | Date     | Maximum Payable from General Fund: 1 million SDR | Expenditure up to 31/12/05       |   | Balance Payable from General Fund at 31/12/2005 | 2006 Expenditure             |                          |                         |                          | Estimated Total General Fund Expenditure in 2006 | Estimated Total General Fund Expenditure up to 31/12/06 | Estimated Balance Payable from General Fund 31/12/06 |
|-----------------------|----------|--|----------------------------------|---|---|------------------------------|--------------------------|-------------------------|--------------------------|--|---|--|
|                       |          |  | Compensation paid up to 31/12/05 | Claims related expenses paid up to 31/12/05 |   | Compensation/Indemnification |                          | Claims related expenses |                          |  |   |  |
|                       |          |  |                                  |   |   | Paid 1/1/06-30/6/06          | Estimate 1/7/06-31/12/06 | Paid 1/1/06-30/6/06     | Estimate 1/7/06-31/12/06 |  |   |  |
| <i>Iliad</i>          | 09/10/93 | 930,977  | 0                                | (53,130)                                    | 877,847   | 0                            | 0                        | (12,813)                | (10,000)                 | (23,000)   | (77,000)  | 854,000  |
| <i>Kriti Sea</i>      | 09/08/96 | 943,599  | 0                                | (212,616)                                   | 730,983   | 0                            | 0                        | (731)                   | (10,000)                 | (11,000)   | (224,000)   | 719,000  |
| <i>Plate Princess</i> | 27/05/97 | 851,165  | 0                                | (33,263)                                    | 817,902   | 0                            | 0                        | (6,786)                 | (15,000)                 | (22,000)   | (56,000)  | 795,000  |
| <i>Katja</i>          | 07/08/97 | 839,335  | 0                                | (18,588)                                    | 820,747   | 0                            | 0                        | (654)                   | (10,000)                 | (11,000)   | (30,000)  | 810,000  |
| <i>Al Jaziah 1</i>    | 24/01/00 | 826,950  | (566,166)                        | (89,683)                                    | 171,101   | 0                            | 0                        | (5,618)                 | (10,000)                 | (16,000)   | (672,000)   | 155,000  |
| <i>Alambra</i>        | 17/09/00 | 917,680  | 0                                | (174,419)                                   | 743,261   | 0                            | 0                        | (765)                   | (20,000)                 | (21,000)   | (196,000)   | 722,000  |
|                       |          |  |                                  |   |   |                              |                          |                         |                          | <b>(104,000)</b>                                 |   |  |

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**ANNEX II**

**DRAFT 2007 ADMINISTRATIVE BUDGET FOR 1971 FUND**

*(Figures in Pounds Sterling)*

| STATEMENT OF EXPENDITURE              |  | ACTUAL 2005 EXPENDITURE | 2005 BUDGET APPROPRIATIONS | 2006 BUDGET APPROPRIATIONS | 2007 BUDGET APPROPRIATIONS |
|---------------------------------------|--|-------------------------|----------------------------|----------------------------|----------------------------|
| I                                     | Management fee payable to 1992 Fund by 1971 Fund | 325 000                 | 325 000                    | 275 000                    | 275 000                    |
| II                                    | Costs for Winding up of the 1971 Fund            | -                       | 250 000                    | 250 000                    | 250 000                    |
| III                                   | External audit fees for Financial Statements     | 12 500                  | 12 500                     | 10 000                     | 10 000                     |
| <b>1971 Fund Budget Appropriation</b> |  | <b>337 500</b>          | <b>587 500</b>             | <b>535 000</b>             | <b>535 000</b>             |

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**ANNEX III**

**General Fund claims expenditure in 2007**

*(Figures in Pounds Sterling)*

| Incident              | Date     | Maximum Payable from General Fund: 1 million SDR | Estimated Balance Payable from General Fund at 31/12/2006 | 2007 Estimated Expenditure |                 |                         | Estimated Total General Fund Expenditure in 2007 | Estimated Total General Fund Expenditure up to 31/12/07 | Estimated Balance Payable from General Fund at 31/12/2007 |
|-----------------------|----------|--|---|----------------------------|-----------------|-------------------------|--|---|---|
|                       |          |  |   | Compensation               | Indemnification | Claims related expenses |  |   |   |
| <i>Iliad</i>          | 09/10/93 | 930,977  | 854,000   | 0                          | (715,000)       | (5,000)                 | (720,000)  | (797,000)   | 134,000   |
| <i>Kriti Sea</i>      | 09/08/96 | 943,599  | 719,000   | 0                          | 0               | (10,000)                | (10,000)   | (234,000)   | 709,000   |
| <i>Plate Princess</i> | 27/05/97 | 851,165  | 795,000   | 0                          | 0               | (40,000)                | (40,000)   | (96,000)  | 755,000   |
| <i>Katja</i>          | 07/08/97 | 839,335  | 810,000   | 0                          | 0               | (10,000)                | (10,000)   | (40,000)  | 800,000   |
| <i>Al Jaziah 1</i>    | 24/01/00 | 826,950  | 155,000   | 0                          | 0               | (10,000)                | (10,000)   | (682,000)   | 145,000   |
| <i>Alambra</i>        | 17/09/00 | 917,680  | 722,000   | (702,000)                  | 0               | (20,000)                | (722,000)  | (917,680)   | 0   |
|                       |          |  |   |                            |                 |                         | <b>(1,512,000)</b>                               |   |   |