



## BUDGET FOR 2009 AND ASSESSMENT OF CONTRIBUTIONS TO THE GENERAL FUND

### Note by the Director

<b>Summary:</b>	The draft administrative budget for 2009 is presented, with the Director's comments thereon. The draft budget (excluding External Auditor's fees) for the joint Secretariat for 2009 totals £3 661 225. An assessment is made of the likely compensation payments and other incident-related expenses. The resulting need for 2008 Contributions to the General Fund is examined and a levy of £10 million is proposed.
<b>Action to be taken:</b>	Adopt the administrative budget for 2009 (Annex I) and decide on the levy of 2008 General Fund contributions.  To consider the Director's proposal not to establish a Major Claims Fund in respect of the <i>Slops</i> incident.

### 1 Introduction

- 1.1 Article 18.5 of the 1992 Fund Convention requires the Assembly of the 1992 Fund to adopt the annual budget of the Organisation.
- 1.2 Article 12 of the 1992 Fund Convention provides that the Assembly shall determine the amount of contributions to be levied, if any. For this purpose the Assembly shall make an estimate in the form of a budget of the 1992 Fund's expenditure and income for each calendar year, taking into account the necessity to maintain sufficient liquid funds.
- 1.3 The 1992 Fund's expenditure consists of:
  - (a) costs and expenses of the administration of the 1992 Fund, and any deficit from preceding years;
  - (b) payments of claims and claims-related expenses up to 4 million SDR<sup><1></sup> per incident (minor claims); and

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<sup><1></sup> The SDR which is the unit of account used in the Conventions referred to in paragraph 1.3 is valued on the basis of a basket of key international currencies and serves as the unit of account of the International Monetary Fund (IMF) and a number of other intergovernmental organisations.

(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 4 million SDR (major claims).

1.4 Expenses mentioned in sub-paragraphs (a) and (b) of paragraph 1.3 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)).

1.5 This document incorporates in the draft budget the assessment of contributions to the General Fund, in accordance with Article 12.2(a) of the 1992 Fund Convention. The assessment of contributions to Major Claims Funds is dealt with in a separate document (document 92FUND/A.13/20).

1.6 As for the individual incidents, reference is made to the information contained in the 2007 Financial Statements (document 92FUND/A.13/9, Annex V, Schedule II) and to the various documents relating to incidents submitted to the 42nd session of the Executive Committee.

1.7 It should be noted that any estimate in this document of amounts to be paid by the 1992 Fund in compensation has been made solely for the purpose of the assessment of annual contributions, without prejudice to the position of the 1992 Fund in respect of the claims.

## **2 Joint Secretariat**

2.1 In June 1996 the 1971 Fund Assembly and the 1992 Fund Assembly decided that the 1971 Fund and the 1992 Fund should have a joint Secretariat. Since 16 May 1998 the 1992 Fund Secretariat has been responsible for the administration of these two Funds (documents 92FUND/A.2/29, paragraph 13.1 and 71FUND/A.19/30, paragraph 11).

2.2 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).

2.3 As set out in document 92FUND/A.13/18, the Director proposes that, in accordance with the approach taken by the governing bodies of the three Funds, the 1971 Fund and the Supplementary Fund should pay management fees to the 1992 Fund for the period 1 January – 31 December 2009 in respect of the costs of running the joint Secretariat.

## **3 Budget for administrative expenditure in 2009**

3.1 Financial Regulation 3 of the Organisation provides that the financial period of the 1992 Fund shall be the calendar year. The draft budget proposed by the Director therefore covers the period 1 January – 31 December 2009.

3.2 The presentation of the budget follows the requirements of Financial Regulations 5.2 and 5.3. Comparative figures of the joint Secretariat's administrative expenses for 2007 (actual expenditure and budget appropriations) and for 2008 (budget appropriations) are also given.

3.3 The draft administrative budget for the three Organisations totals £3 661 225. This amount does not include the External Auditor's fees which are paid directly by each Fund. This budget figure is 2.2% higher than the corresponding 2008 budget appropriations of £3 584 000. The administrative budget, including the total cost of the external audit for all three Organisations (£62 400), is £3 723 625, compared to £3 646 000 in the 2008 budget.

3.4 It should be noted that some 68% (£2 517 225) of the total appropriations in the draft administrative budget (including External Auditor's fees) of £3 723 625 relate to personnel and office accommodation costs.

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

<b>CHAPTER</b>	<b>Proposed 2009 Appropriation £</b>	<b>2008 Appropriation £</b>	<b>% Increase/(decrease) Appropriation on 2008</b>
<b>I</b> Personnel	2 197 925	2 152 700	2.1%
<b>II</b> General services	763 300	748 800	1.9%
<b>III</b> Meetings	175 000	175 000	0.0%
<b>IV</b> Travel	150 000	150 000	0.0%
<b>V</b> Miscellaneous expenditure (excluding External Audit fees)	315 000	297 500	5.9%
<b>VI</b> Unforeseen expenditure	60 000	60 000	0.0%
<b>Total Expenditure Chapters I-VI</b>	<b>3 661 225</b>	<b>3 584 000</b>	<b>2.2%</b>

3.6 The Director submits for consideration by the Assembly an administrative budget covering the expenses for 2009 of the joint Secretariat. The draft budget is at Annex I.

3.7 Notes on the individual appropriations are set out in Annex II.

3.8 Information on the developments in the joint Secretariat's administrative budget and actual expenses during the eight-year period 2000 – 2007 is given in Annex V.

3.9 At its October 2007 session the 1992 Fund Assembly renewed its authorisation to the Director to create positions in the General Service category as required, provided that the resulting cost would not exceed 10% of the figure for salaries in the budget (document 92FUND/A.12/28, paragraph 23.4). One such post was created in 2004 and the Director has used this authority in 2008 to create one further post.

3.10 The Director considers that the authority given to him referred to in paragraph 3.9 above to create additional posts in the General Service category is valuable and gives him certain flexibility in the management of the Secretariat. The Assembly may wish to consider whether to grant the Director the corresponding authority for 2009.

#### **4 Estimated balance as at 31 December 2008**

##### **4.1 Estimated balance**

The balance on the General Fund at 31 December 2008 is estimated at £22 049 985 as shown in the table overleaf:

	£	£
Balance b/f at 1 January 2008		
Working Capital	22 000 000	
Surplus / (deficit)	3 893 602	25 893 602
<i>Plus</i>		
2007 General Fund contributions receivable in 2008	2 913 539	
Previous years' General Fund contributions receivable in 2008	117 500	
Interest to be earned in 2008 (estimate)	1 400 000	
Management fee payable by 1971 Fund	210 000	
Management fee payable by Supplementary Fund	50 000	
		30 584 641
<i>Less</i>		
Estimated 2008 administrative expenditure including External Auditor's fees	3 046 656	
Minor claims expenditure in 2008 (Annex III)	5 488 000	
		8 534 656
Estimated balance as at 31 December 2008		22 049 985

#### 4.2 Income

##### *Contributions*

- 4.2.1 The Assembly decided at its 12th session in October 2007 to levy contributions of £3.0 million for receipt by 1 March 2008.

##### *Interest to be earned in 2008*

- 4.2.2 Interest earned for the period 1 January – 30 June 2008 amounts to some £600 000. Based on the current interest rates applicable to the 1992 Fund investments, interest income for 2008 is estimated at £1.4 million based on an average capital of £24 million.

##### *Management fee payable to the 1992 Fund in 2008*

- 4.2.3 The management fee payable to the 1992 Fund for 2008 was set by the governing bodies at £210 000 for the 1971 Fund and at £50 000 for the Supplementary Fund (document 92FUND/A.12/28, paragraph 22.3).

#### 4.3 Expenditure

##### *Administrative costs*

- 4.3.1 The administrative costs of the joint Secretariat, excluding the External Audit fees, was set in the budget at £3 584 000 for 2008. Based on information to date the total expenditure for 2008 is estimated to be some £2 999 656, which is 16.3% lower than the 2008 budget appropriation, and is made up as set out in the table overleaf:

CHAPTER	2008 Appropriation £	Expenditure to 30 June 2008 £	Projected total 2008 expenditure £	%
<b>I</b> Personnel	2 152 700	771 097	1 802 708	83.7%
<b>II</b> General services	748 800	220 540	664 448	88.7%
<b>III</b> Meetings	175 000	45 335	175 000	100.0%
<b>IV</b> Travel	150 000	8 073	60 000	40.0%
<b>V</b> Miscellaneous expenditure (excluding External Audit fees)	297 500	150 242	297 500	100.0%
<b>VI</b> Unforeseen expenditure	60 000	0	0	0%
<b>Total Expenditure Chapters I-VI</b>	<b>3 584 000</b>	<b>1 195 287</b>	<b>2 999 656</b>	<b>83.7%</b>

4.3.2 Including the External Audit fee of £47 000 in respect of the 1992 Fund's Financial Statements for 2007, payable in 2008, the total expenditure for the 1992 Fund for the 2008 financial year is estimated at £3 046 656.

*Minor claims expenditure 2008*

4.3.3 As can be seen from Annex III, compensation from the General Fund will be paid during 2008 in respect of four incidents. It is expected that fees will be incurred during 2008 in respect of eight incidents involving the 1992 Fund. The total claims and claims-related expenses during 2008 are estimated at £5 488 000 net of the reimbursements received from the shipowner/P&I Club under the Small Tanker Oil Pollution Indemnification Agreement (STOPIA 2006) and joint costs with respect to the *Solar 1* incident.

4.3.4 The *Solar 1* incident, which occurred on 12 August 2006 in the Philippines, falls under STOPIA 2006. The effect of STOPIA 2006 is that the maximum amount of compensation payable by owners of all ships of 29 548 tonnage or less falling under the agreement is 20 million SDR. The 1992 Fund is not a party to the Agreement, but the Agreement confers legally enforceable rights on the 1992 Fund of indemnification from the shipowner involved. The 1992 Fund will nevertheless be liable to compensate claimants in accordance with the 1992 Fund Convention but is entitled to indemnification by the shipowner of the difference between the limitation amount applicable to the ship under the 1992 Civil Liability Convention (1992 CLC) and the total amount of the admissible claims or 20 million SDR, whichever is the less. The amount received/receivable from the shipowner/P&I Club under the Agreement is also set out in the Annex III.

4.3.5 The 4 million SDR amount payable for the *Slops* incident under the General Fund is £3 535 920. In February 2008 the Court of Appeal rendered its judgement confirming the judgement of the Court of first instance, which had awarded the claimants the claimed amount, ie € 323 360 plus legal interests and costs. The judgement by the Court of Appeal was final (ie enforceable against the 1992 Fund under Article 8 of the 1992 Fund Convention). A private agreement was signed on 9 July 2008 and payment of € 022 098.74 (£3 217 422), including legal interest and costs, was paid by the 1992 Fund on 18 July 2008. Including this payment the overall cost for this incident would exceed the amount payable under the General Fund by some £36 000 thereby necessitating the establishment of a Major Claims Fund for this incident. The Director is of the view that, given the relatively small amount, no Major Claims Fund should be established for this incident and that the excess amount should be met by the General Fund.

**5 Estimates for 2009**

**5.1 Income**

*Interest to be earned in 2009*

- 5.1.1 Interest income during 2009 from the 1992 Fund's investment of the assets of the General Fund is estimated at £1.1 million. This estimated yield is based on an average principal of approximately £20 million.

*Management fee payable to the 1992 Fund*

- 5.1.2 It has been proposed that the management fees payable to the 1992 Fund for 2009 be set at £210 000 for the 1971 Fund and at £50 000 for the Supplementary Fund (document 92FUND/A.13.18) as in 2008. 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.

**5.2 Expenditure**

- 5.2.1 The administrative expenditure (excluding External Audit fees) for 2009 totals £3 661 225, as detailed in section 3, and the External Audit fee for the 1992 Fund only has been estimated at £48 500.

*Minor claims expenditure 2009*

- 5.2.2 The known incidents in respect of which payments may have to be made from the General Fund during 2009 are listed in Annex IV.

- 5.2.3 It is estimated that the payments by the 1992 Fund from the General Fund in 2009 relating to five incidents will total £7 984 000. This is net of the reimbursement receivable from the shipowner/P&I Club under STOPIA 2006 with respect to the *Solar 1* incident (cf paragraph 4.3.4 above).

- 5.2.4 At its 13th extraordinary session, held in June 2008, the Assembly decided that funding of the *Volgoneft 139* incident would be reviewed at the next session of the Assembly in October 2008 since the Executive Committee had not yet authorised compensation payments in respect of this incident. Claims-related expenses (eg costs related to legal and technical fees) are momentarily being paid from the General Fund. If the Executive Committee were to decide to authorise the Director to make payments of compensation, it is expected that the total amount payable from the General Fund in respect of the *Volgoneft 139* incident of £3 059 508 would be reached in 2009.

- 5.2.5 This estimate does not include any provision for the payment of claims and claims-related expenses in respect of incidents which may occur after the drafting of this document for which payments may have to be made before the end of 2009. Such payments would have to be met from the working capital. This would also apply to payments which, although envisaged as not being due before 2009, actually have to be made earlier.

5.3 Loans to the HNS Fund

- 5.3.1 At its 6th session held in October 2001, the Assembly instructed the Director to develop a system in the form of a website or CD-ROM to assist States and potential contributors in the identification and reporting of contributing cargo under the HNS Convention. The Assembly granted an extra appropriation of £150 000 for this purpose, provided that the costs, including interest, would be reimbursed to the 1992 Fund by the HNS Fund when the HNS Fund Convention entered into force. It was noted that these costs would be paid from the General Fund (document 92FUND/A.6/28, paragraphs 28.5 and 28.6).
- 5.3.2 At its 1st session in May 2003 the Administrative Council instructed the Director to continue to study issues on the administrative preparations for the setting up of the HNS Fund (document 92FUND/AC.1/A/ES.7/7, paragraph 6.8). A further appropriation of £50 000 was included in the administrative budget for each of the years 2004 – 2006 for this purpose and £30 000 each for 2007 and 2008. Of the total appropriation of £360 000 some £160 000 (including interest) had been used as at 30 June 2008.
- 5.3.3 Under the budgetary principles applied by the 1992 Fund, an unused portion of an appropriation for a particular financial year may not be carried over to the following year. The balance on the appropriations for the period 2003 – 2008 relating to the preparations for setting up the HNS Fund can therefore not be used to cover payments during 2009. For this reason it is necessary to include in the 2009 budget an appropriation to cover the costs for these preparations and an amount similar to that made in 2008 of £30 000 has been included for this purpose. All costs incurred by the 1992 Fund in this regard will be reimbursed by the HNS Fund with interest.

5.4 Working capital

- 5.4.1 The working capital is needed to cover claim payments not included in the estimated expenses for minor claims, and to make loans to Major Claims Funds for the satisfaction of claims and claims-related expenses to the extent that sufficient money is not available in the Major Claims Fund in question pending the levy of contributions to that Major Claims Fund.
- 5.4.2 The Director considers that the prompt payment of compensation is of crucial importance. The 1992 Fund should, in the Director's view, hold sufficient liquid funds to enable it to pay claims without having to wait for the next payment of contributions. In addition, the Director considers that the working capital should be sufficiently large so that bank loans are not required for the prompt payment of settled claims, at least not in normal circumstances.
- 5.4.3 As a result of STOPIA 2006 it may be possible to lower the working capital at a future date. In the Director's view it is premature at this stage to assess the impact that STOPIA 2006 may have on future liquidity of funds to meet compensation payments that need to be made by the 1992 Fund to claimants in accordance with the 1992 Fund Convention. The Director will keep this issue under review.
- 5.4.4 At its 9th session in October 2004 the 1992 Fund Assembly set the working capital at £22 million. The Director proposes that the working capital be maintained at £22 million. If the Assembly were to decide otherwise, the Director would revise his proposal in respect of the 2009 budget accordingly.

5.5 Estimated balance

5.5.1 The estimates for the General Fund for 2009 are set out in the table below:

		£	£
	<b>ESTIMATED INCOME</b>		
	Balance at 31 December 2008 (paragraph 4.1 )	22 049 985	
<i>Plus</i>	Interest to be earned in 2009	1 100 000	
	Management fee payable by 1971 Fund for 2009	210 000	
	Management fee payable by Supplementary Fund for 2009	50 000	
	Total estimated income 2009		23 409 985
<i>LESS</i>	<b>ESTIMATED EXPENDITURE</b>		
	Joint administrative expenditure 2009 (excluding external audit fee for all three Organisations) (Annex I)	3 661 225	
<i>Plus</i>	External Audit fee for 1992 Fund	48 500	
<i>Plus</i>	Minor claims expenditure 2009 (Annex IV)	7 984 000	
	Loans to HNS Fund (cf paragraph 5.3.3)	30 000	
<i>Plus</i>	Working capital (cf paragraph 5.4.4)	22 000 000	
	Total estimated expenditure 2009		33 723 725
	<b>ESTIMATED EXPENDITURE OVER INCOME</b>		10 313 740

5.5.2 The balance as at 31 December 2008 is estimated at £22 049 985 which exceeds the working capital by £49 985. When assessing the need for levying contributions for payment in the following year (2009) any estimated surplus or deficit brought forward in the General Fund is taken into account, thereby decreasing or increasing the amount that needs to be levied, ie any deficit/surplus is taken into account each year to determine the following year's requirements.

5.5.3 As shown from the estimates in the table above, contributions of £10 313 740 would be needed to balance the 2009 budget of the General Fund on the assumption that the Assembly decides to maintain the working capital at £22 million as set out above.

## **6 Director's proposal on assessment of 2008 contributions to the General Fund**

In the light of the estimate set out in paragraph 5.5.1 the Director proposes that there should be a levy of 2008 Contributions of £10 million payable in 2009 to the General Fund.

## **7 Action to be taken by the Assembly**

The Assembly is invited, in accordance with Article 12 of the 1992 Fund Convention:

- (a) to take note of the information contained in this document;
- (b) to consider the Director's proposal not to establish a Major Claims Fund for the *Slops* incident and for payments to be met by the General Fund (paragraph 4.3.5);
- (c) to consider for adoption the draft budget for 2009 for the administrative expenses of the 1992 Fund (section 3 and Annex I);
- (d) to consider the Director's proposal that the working capital of the 1992 Fund be maintained at £22 million (paragraph 5.4.4);
- (e) to decide in respect of the assessment of 2008 contributions to the General Fund (paragraph 6);



- (f) to renew the authorisation given to the Director to create additional posts in the General Service category as required provided that the resulting cost would not exceed 10% of the figure for salaries in the budget (ie up to £153 000 based on the draft 2009 budget) (paragraph 3.10); and
- (g) to note the Director's estimate of the expenses to be incurred in respect of the preparation for the entry into force of the HNS Convention (paragraph 5.3.3).

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## ANNEX I

## DRAFT 2009 ADMINISTRATIVE BUDGET FOR 1992 FUND

STATEMENT OF EXPENDITURE		Actual 2007 expenditure for 1992 Fund		2007 budget appropriations for 1992 Fund		2008 budget appropriations for 1992 Fund		2009 budget appropriations for 1992 Fund	
		£		£		£		£	
	<b>SECRETARIAT</b>								
<b>I</b>	<b>Personnel</b>								
(a)	Salaries	1 289 229		1 433 650		1 485 034		1 548 995	
(b)	Separation and recruitment	20 574		35 000		35 000		35 000	
(c)	Staff benefits, allowances and training	437 078		573 700		632 666		613 930	
	<b>Sub-total</b>		<b>1 746 881</b>		<b>2 042 350</b>		<b>2 152 700</b>		<b>2 197 925</b>
<b>II</b>	<b>General Services</b>								
(a)	Rent of office accommodation (including service charges and rates)	277 299		280 400		316 300		319 300	
(b)	Office machines (IT hardware/software) / maintenance	61 293		110 000		80 000		71 500	
(c)	Furniture and other office equipment	3 704		17 500		15 000		25 000	
(d)	Office stationery and supplies	13 922		22 000		22 000		22 000	
(e)	Communications (courier, telephone, postage, e-mail/internet)	47 357		68 000		73 000		68 000	
(f)	Other supplies and services	25 925		37 500		37 500		32 500	
(g)	Representation (hospitality)	17 704		25 000		25 000		25 000	
(h)	Public Information	66 171		180 000		180 000		200 000	
	<b>Sub-total</b>		<b>513 375</b>		<b>740 400</b>		<b>748 800</b>		<b>763 300</b>
<b>III</b>	<b>Meetings</b>								
	Sessions of the 1992, Supplementary and 1971 Fund Governing Bodies and Intersessional Working Groups		228 548		200 000		175 000		175 000
<b>IV</b>	<b>Travel</b>								
	Conferences, seminars and missions		102 733		160 000		150 000		150 000
<b>V</b>	<b>Miscellaneous expenditure</b>								
(a)	External audit fees for IOPC Funds	60 500		60 500		62 000		62 400	
(b)	Consultants' fees	136 921		180 000		150 000		150 000	
(c)	Audit Body	101 170		110 000		110 000		120 000	
(d)	Investment Advisory Bodies	37 500		37 500		37 500		45 000	
	<b>Sub-total</b>		<b>336 091</b>		<b>388 000</b>		<b>359 500</b>		<b>377 400</b>
<b>VI</b>	<b>Unforeseen expenditure (such as consultants' and lawyers' fees, cost of extra staff and cost of equipment)</b>		-		60 000		60 000		60 000
<b>Total Expenditure I-VI</b>			<b>2 927 628</b>		<b>3 590 750</b>		<b>3 646 000</b>		<b>3 723 625</b>
<b>Total Expenditure I-VI excluding External Audit fees for IOPC Funds</b>							<b>3 584 000</b>		<b>3 661 225</b>
<b>VII</b>	<b>Due from 71Fund</b>								
	Management fee payable to 1992 Fund by 1971 Fund		275 000		275 000		(210 000)		(210 000)
<b>VIII</b>	<b>Due from Supplementary Fund</b>								
	Management fee payable to 1992 Fund by Supplementary Fund		70 000		70 000		(50 000)		(50 000)
<b>1992 Fund Budget Appropriation excluding External audit fee for IOPC Funds</b>							<b>3 324 000</b>		<b>3 401 225</b>
<b>1992 Fund Budget Appropriation including External audit fee for 1992 Fund only</b>							<b>3 372 500</b>		<b>3 449 725</b>

## ANNEX II

### NOTES ON THE INDIVIDUAL APPROPRIATIONS BY CHAPTER

#### **1 Personnel (Chapter I)**

2009 Appropriation £	2008 Appropriation £	% Increase /(Decrease) on 2008 Appropriation
2 197 925	2 152 700	2.1%

- 1.1 Staff Regulation 17 of the 1992 Fund provides that the emoluments of members of staff of the 1992 Fund should follow the United Nations common system as applied by the International Maritime Organization (IMO). The calculation of the appropriation for salaries is based, therefore, on the United Nations salary system as applied by IMO, including all grants, allowances, overtime and other benefits. The relevant salary scales and the relevant schedules of post adjustments are reproduced as Annexes to document 92FUND/A.13/14, 'Secretariat Matters'. The Provident Fund contributions are calculated in accordance with 1992 Fund Staff Rule VIII.5.
- 1.2 The Assembly at its October 2007 session approved the establishment of an additional professional post in the External Relations and Conference Department. The establishment of the post was part of the restructuring of the Department, details of which are provided in document 92FUND/A.13/14, 'Secretariat Matters'.
- 1.3 At its 5th session held in October 2000 the Assembly approved the Director's proposal to engage a Spanish in-house translator. No appointment has been made to this post. The post of French Translator has been vacant since May 2003. Translations into French and Spanish are carried out exclusively by freelance translators. The Director does not intend to fill the vacant posts of in-house translators but will continue to use freelance translators. Since the 2005 budget the costs of the two posts of in-house translators had not been included in the budget. It is for this reason that the Director is of the view that the two posts of in-house translators no longer be retained as established posts of the Secretariat.
- 1.4 Under the authority renewed to him by the Assembly at the October 2007 session the Director in 2008 established a new post of Finance Assistant within the Finance and Administration Department due to one of the two Finance Assistants returning to work, after maternity leave, on a part-time basis. This results in there being two full-time and one part-time (2/5) Finance Assistant posts within the Department.
- 1.5 Taking into account the changes in the posts set out in the above paragraphs the number of established posts within the Secretariat remains at 31.
- 1.6 As at 21 August 2008 six posts (five in the Professional category and one in the General Service category) remain vacant. Appointments to four out of the six posts are expected to be made prior to the Assembly meeting in October 2008 or soon thereafter; namely one professional post in the Director's Office/Claims Department (Technical Advisor/Claims Manager), two in the professional category in the External Relations and Conference Department, namely that of Senior Information Officer and Information Officer and one post in the General Service category in the Claims Department, namely that of Claims Assistant. The costs of the above four vacant posts have been included in the draft budget for 2009.
- 1.7 The remaining two vacant posts are that of Deputy Director and Claims Manager. The Director does not intend to fill the post of Deputy Director in the foreseeable future and therefore the cost of this post has not been included in the 2009 budget. Appointment to the post of Claims Manager would only be made should there be an increase in workload and the cost of this post has been included in the draft budget for 2009 since an urgent need to fill the post at some stage cannot be ruled out.

- 1.8 At its 3rd session held in October 1998, the 1992 Fund Assembly decided to authorise the Director to determine the grades of individual posts in the general service category and in the professional category up to Grade P5 and to decide on promotions for these categories (document 92FUND/A.3/27, paragraph 23.6). The 1971 Fund Executive Committee, acting on behalf of the Assembly, noted this decision at its 59th session (document 71FUND/EXC.59/17/A.21/24, paragraph 22.3). Since the governing bodies' October 2007 sessions one post has been regraded in the General Service category following the restructuring of the External Relations and Conference Department.
- 1.9 In order to cover any increase in salaries which may be decided within the United Nations common system, it has been considered appropriate to include in the draft budget a provision for such increases of 3% for staff in all categories, in addition to the annual increments which, in accordance with the Staff Regulations, are awarded to staff members (other than the Director) on satisfactory performance of duties (Staff Rule IV.1).
- 1.10 It may be necessary to make continued use of temporary assistance. Such assistance is needed not only when there is an additional heavy workload, but also to cover leave periods (including maternity leave) and to fill any vacancies temporarily until new incumbents are appointed. As in 2008, an amount of £40 000 has been included for this purpose in the appropriation for salaries in the draft 2009 budget.
- 1.11 The budget appropriation also includes expenses which would be incurred in the event that recruitment was to be made to the vacant post of Claims Manager in 2009.
- 1.12 An appropriation of £613 930 (decrease of 3% on 2008) has been included under the heading for Staff benefits, allowances and training. This appropriation covers mainly the 1992 Fund's contributions to the Provident Fund, education grants, home leave, insurance (accident, medical and national) and staff training. A provision of £80 000 (decrease of 20% on 2008) has been included in this appropriation for staff training. It is envisaged that there will be substantial training costs associated with moving from Microsoft Office 2003 to Office 2007 which is planned for 2009 in addition to the ongoing human resource development needs.

## 2 **General services (Chapter II)**

2009 Appropriation £	2008 Appropriation £	% Increase / (Decrease) on 2008 Appropriation
763 300	748 800	1.9 %

- 2.1 The appropriations under (a) to (h) below amounting to £763 300 are for the general expenses of the joint Secretariat, including rent of the IOPC Funds' offices and related expenses, maintenance and replacement of office machines, office equipment, stationery, communications and public information.
- (a) **Office accommodation**
- 2.2 The appropriation of £319 300 under this heading has been calculated on the space occupied in Portland House, the space retained in the IMO building and rental of outside storage space.
- 2.3 The office premises occupied on the 23rd floor of Portland House consist of 11 000 square feet of office space, 700 square feet, used to house the printing machinery and the main IT hardware and storage space of 600 square feet in the basement of Portland House.
- 2.4 The premises are subject to a lease dated 26 June 2000 and covering the period June 2000 – June 2010. Under the lease agreement, a rent review was to be undertaken in June 2005 and any increase would be effective from 24 June 2005. The rent prior to the rent review was £445 000 per

annum (exclusive of VAT) for the 23rd floor and £6 000 per annum for the storage space in the basement.

- 2.5 The rent review for the 23rd floor was concluded, with the assistance of the United Kingdom Government, at the end of 2006 at £469 000 per annum (exclusive of VAT) with effect from June 2005. There was no increase in the rent in respect of the basement storage area. The additional amount due to the landlord as a result of the review was paid by the 1992 Fund at the end of 2006, with the United Kingdom Government refunding 80% of this sum.
- 2.6 In accordance with the recommendation of the Fund's chartered surveyors and in agreement with the United Kingdom Government, the 1992 Fund and the landlord agreed to surrender the lease dated 26 June 2000 for nil consideration and a new lease up to 24 March 2015 has been entered into on the following terms:
- a single new lease to cover the 11 000 square feet of office space at £41.30 per square foot and 700 square feet at £20.65 per square foot of auxiliary space on the 23rd floor as well as the 600 square feet of storage space at £12.50 per square foot in the basement. The total rent will therefore be £476 500 per annum (exclusive of VAT) with a rent review fixed at 24 June 2010;
  - in addition, two car parking spaces (at £2 000 per car space) in the basement, the cost of which will be borne by the 1992 Fund only;
  - One free motorcycle parking space will be provided in the basement of Portland House, subject to availability.
- 2.7 The United Kingdom Government refunds 80% of the rent for the 23rd floor and for the storage space. The United Kingdom Government will refund 80% of £476 500 pa resulting in 20% or £95 300 pa being payable by the 1992 Fund.
- 2.8 Service charges are also payable for the premises in Portland House. The service charges, which cover building insurance, gas, water and sewerage, building maintenance and renovations, security services and management fees, are estimated at £110 000. This includes an additional service charge payable in respect of the surrounding Cardinal Place estate, which Portland House forms part of.
- 2.9 Local taxes ('rates') are also payable for the premises. Like diplomatic missions and other intergovernmental organisations, the 1992 Fund pays only a minor portion of the rates. An appropriation of £10 000 has been included for rates.
- 2.10 Following the completion of the refurbishment of the IMO building in 2008 office space of some 1 065 (reduced from 1 300) square feet has been retained in the IMO building. The present lease of these premises covers the period to 31 October 2012. The appropriation covers rent, rates and service charges in respect of these offices, calculated on the basis of the space occupied. It also covers the costs of general services given by IMO, including the services of a staff doctor and nurse and all information necessary to implement the Staff Regulations and Staff Rules in accordance with the United Nations common system as applied by IMO. The rent for these offices has been calculated as in previous years at £8.23 per square foot (£8 765). Now that the refurbishment of the IMO building is complete the rent of the office space in the IMO building has been calculated for the full year along with the costs of the general services provided by IMO. An appropriation of £30 000 has been included compared to £31 000 in 2008.
- 2.11 Other costs relating to the accommodation in Portland House consisting of £15 000 for general maintenance, £18 000 for the daily cleaning of the premises, £15 000 for electricity and £10 000 for office contents insurance.

(b) Office machines

2.12 In the 2009 budget this item is envisaged to cover only IT Costs of £71 500 broken down as follows: hardware (£25 500), software (£18 000); maintenance (hardware and software) £24 500; and IT related consumables of £3 500. The rental cost of photocopying/printing machinery included in this budget head in 2008 is now included under Furniture and Other Office Equipment. This appropriation has been reduced by £9 500 compared to £80 000 in 2008.

(c) Furniture and other office equipment

2.13 This appropriation has been increased to £25 000 from £15 000 in 2008 to also cover the rental cost of photocopying/printing machinery, which mirrors the reduction of the appropriation for office machines. The appropriation further includes costs for office equipment (other than IT equipment), office equipment maintenance, repairs and replacement of furniture.

(d) Office stationery and supplies

2.14 This appropriation has been maintained at £22 000.

(e) Communications

2.15 The appropriation, has been reduced to £68 000 from £73 000, and covers the cost of courier, postage, telephone and e-mail/internet connections. The appropriation includes costs associated with new technology eg VOIP (voice over internet protocol).

(f) Other supplies and services

2.16 This item covers supplies and services not included under items (a) to (e) and miscellaneous expenditure, bank charges, books for the library, periodicals and newspapers. The appropriation has been reduced by £5 000 to £32 500 compared to 2008.

(g) Representation (hospitality)

2.17 This appropriation relates to hospitality not covered by the Director's representation allowance, eg receptions to be given in connection with meetings of the IOPC Funds and official entertainment by the Organisations. The appropriation has been maintained at £25 000.

(h) Public information

2.18 The governing bodies of the Organisations have considered that the IOPC Funds should continue to strengthen their activities in the field of information and public relations.

2.19 Under this heading funds are provided for the publication of a joint Annual Report of the IOPC Funds, for the printing of publications and documents (other than those prepared for the sessions of the Funds' governing bodies) and for the Organisations' website and Public Relations projects.

2.20 The total appropriation under this heading has been increased by £20 000 to £200 000 and is broken down as follows:

(i) The cost of printing, publication and bulk mailings has been estimated at £100 000. This appropriation covers the cost of the Annual Report in the three official languages.

(ii) An amount of £100 000 is included for public information to cover the cost of the ongoing development of the Organisations' website and document server as well as expenditure in relation to other public relations projects such as participation at

'Interspill 2009 Conference & Exhibition' to be held in Marseille, France in May 2009.

### 3 Meetings (Chapter III)

2009 Appropriation £	2008 Appropriation £	% Increase / (Decrease) on 2008 Appropriation
175 000	175 000	(0.0)%

- 3.1 The meetings of the governing bodies of the IOPC Funds, as well as those of any intersessional Working Groups, have over the years taken place in the IMO conference rooms. The refurbishment of the IMO building was completed in April/May 2008. The March 2008 meetings were hosted by the Government of Monaco during the refurbishment of the IMO building. The budget for 2009 has been prepared on the basis that the sessions of the governing bodies in 2009 will be held in the conference rooms of the IMO.
- 3.2 The total appropriation for 2009 has been maintained at £175 000, on the basis of the following meeting schedule of 15 days:
- (i) ordinary sessions of the governing bodies of the 1992 Fund, 1971 Fund and Supplementary Fund in October 2009: five days;
  - (ii) further sessions of the Executive Committee of the 1992 Fund, the Administrative Council of the 1971 Fund and intersessional Working Groups: ten days.

### 4 Travel (Chapter IV)

2009 Appropriation £	2008 Appropriation £	% Increase / (Decrease) on 2008 Appropriation
150 000	150 000	(0.0)%

- 4.1 This appropriation covers the costs for missions and for attendance at conferences and seminars in which it is in the interest of the IOPC Funds to participate.
- 4.2 Where possible, travel for missions, conferences and seminars is combined with travel in relation to the various incidents handled by the IOPC Funds, and the costs are apportioned between travel and the incident in question. With the reduced number of incidents involving the Funds such cost sharing is no longer possible to the same extent.
- 4.3 There is an increasing demand from Member States, as well as States which are interested to become Member States, for participation by the IOPC Funds in seminars and conferences and for Fund staff conducting training courses. The appropriation has been maintained at £150 000. Though the estimated expenditure for 2008 (£60 000) falls below that of the budget appropriation of £150 000, the two large incidents in late 2007 and staff vacancies in 2007/2008 had prevented IOPC Funds from participating at conferences or organising claims handling workshops as would otherwise have been the case. The Director is of the view that the level of participation at such events is likely to increase in 2009. The IOPC Funds continue to make efforts to obtain funding to cover the cost of travel from organisers of conferences and seminars.

### 5 Miscellaneous expenditure (Chapter V)

2009 Appropriation £	2008 Appropriation £	% Increase / (Decrease) on 2008 Appropriation
377 400	359 500	(5.0)%

(a) External audit

- 5.1 The fee for auditing the accounts of the 1992 Fund, 1971 Fund and Supplementary Fund for the 2008 financial period which is payable in 2009 has been provisionally advised by the United Kingdom National Audit Office as £48 500 in respect of the 1992 Fund, £10 300 in respect of the 1971 Fund and £3 600 in respect of the Supplementary Fund. The External Auditor has stated that if visits to, for example, the Claims Handling Offices, were to be required the fee may have to be increased. The amounts of £10 300 and £3 600 in respect of the 1971 Fund and Supplementary Fund will be paid directly by the respective Fund.

(b) Consultants' fees

- 5.2 It will be necessary to engage consultants if work which cannot be undertaken by the permanent staff members has to be carried out. The use of consultants might be required, for example, in connection with the continuing efforts to improve the operation of the Secretariat and to undertake studies of a general nature, which are not related to specific incidents. The appropriation in the draft budget for consultants' fees has been maintained at £150 000. In 2007 a large proportion of the consultants' fee was earmarked for the development of the bespoke web-based claims management system (WCMS) in order to further improve the claims handling process. In 2008 consultant fees have been earmarked for further development work on the WCMS as a result of its implementation at the end of 2007, for the development of a new Personnel Database and work on the Record of Decisions database.
- 5.3 Fees for consultants engaged in connection with individual incidents are charged against the respective incidents.
- 5.4 Increased efforts to pursue contributors in arrears may result in additional lawyers' fees.

(c) Audit Body

- 5.5 As decided by the governing bodies, the three Funds have a joint Audit Body consisting of six members and a member not related to the Organisations ('outsider') with expertise and experience in financial matters. The Audit Body holds three regular sessions a year. A new Audit Body is to be elected at the October 2008 session.
- 5.6 An appropriation of £120 000 is included in the draft 2009 budget to cover the costs resulting from the operation of this Body ie the travel and subsistence costs of the members, the fee for the 'outsider/expert' member and a honorarium for the members nominated by Member States which was fixed by the governing bodies at their October 2005 sessions at £3 000 per member (document 92FUND/A.10/37, paragraph 30.3). It is proposed that the remuneration of the 'outsider/expert' member, which has been at the same level for the last six years, be increased from £25 000 to £30 000. An appropriation to this effect has been included in the draft budget.

(d) Investment Advisory Body

- 5.7 As decided by the respective governing bodies, the three Funds have a joint Investment Advisory Body, composed of three external experts with specific knowledge in financial matters.
- 5.8 The remuneration of the three members of the Body was last fixed at the October 2005 session at £12 500 per member. It is proposed that the remuneration of the three members of the Body, which has been at the same level for the last three years, be increased to £15 000 per member ie a total of £45 000. An appropriation to this effect has been included in the draft budget.



**6      Unforeseen expenditure (Chapter VI)**

2009 Appropriation £	2008 Appropriation £	% Increase / Decrease) on 2008 Appropriation
60 000	60 000	0%

The appropriation under this chapter is designed to cover expenditure that was not foreseen at the time of the adoption of the administrative budget such as consultants' and lawyers' fees, cost of extra staff, cost of equipment and any other cost not foreseen. This appropriation has been maintained at £60 000, representing some 1.6% of the draft budget.

\* \* \*

**ANNEX III**

**General Fund claims expenditure in 2008**

*(Figures in Pounds Sterling)*

Incident	Date	Maximum payable from General Fund: 4 million SDR	Expenditure up to 31/12/07		Receipt under STOPIA Agreement upto 31/12/07	Balance Payable from General Fund at 31/12/2007	2008 Expenditure				Receipts /receivables under STOPIA Agreement 1/1/08 to 31/12/2008	Estimated Total General Fund Expenditure in 2008	Estimated Total General Fund Expenditure up to 31/12/08	Estimated Balance payable from General Fund at 31/12/2008
			Compensation paid up to 31/12/07	Claims-related expenses paid up to 31/12/07			Compensation		Claims-related expenses					
							Paid 1/1/08-30/6/08	Estimate 1/7/08-31/12/08	Paid 1/1/08-30/6/08	Estimate 1/7/08-31/12/08				
<i>Incident in Germany</i>	20/06/96	3 752 700	(961 364)	(153 843)	-	2 637 493	0	0	(14 072)	0	-	(14 000)	(1 130 000)	2 623 000
<i>Al Jaziah 1</i>	24/01/00	3 307 800	(566 166)	(111 710)	-	2 629 924	0	0	(3 547)	(11 000)	-	(15 000)	(693 000)	2 615 000
<i>Slops</i>	15/06/00	3 535 920	0	(329 900)	-	3 206 020	0	(3 217 422)	(9 411)	(15 000)	-	(3 242 000)	(3 572 000)	(36 000)
<i>N°7 Kwang Min</i>	24/11/05	3 307 260	(1 164 982)	(203 962)	-	1 938 316	0	(76 200)	(4 961)	(15 000)	-	(97 000)	(1 466 000)	1 842 000
<i>Solar 1 *</i>	11/08/06	3 134 944	(5 801 409)	(233 819)	5 825 554	2 925 270	(275 842)	(200 000)	(13 115)	120 000	478 000	110 000	(100 000)	3 036 000
<i>Shosei Maru</i>	28/11/06	3 096 480	0	(11 941)	-	3 084 539	0	(800 000)	(320)	(49 000)	-	(850 000)	(862 000)	2 235 000
<i>Volgoneft 139</i>	11/11/07	3 059 508	0	0	-	3 059 508	0	0	(40 350)	(159 650)	-	(200 000)	(200 000)	2 860 000
<i>Hebei Spirit</i>	07/12/07	3 110 128	0	(1 989)	-	3 108 139	0	0	(168 486)	(960 680)	-	(1 130 000)	(1 132 000)	1 979 000
<i>Incident in Argentina</i>	26/12/07	3 152 360	0	0	-	3 152 360	0	0	0	(50 000)	-	(50 000)	(50 000)	3 103 000
												<b>(5 488 000)</b>		

\* *Solar 1* - Under STOPIA 2006 compensation payments up to 20 million SDR will be reimbursed by the P&I Club. Reimbursement of Joint costs £131 000 received in July 2008

\* \* \*

ANNEX IV

**General Fund claims expenditure in 2009**

*(Figures in Pounds Sterling)*

Incident	Date	Maximum payable from General Fund: 4 million SDR	Estimated Balance Payable from General Fund at 31/12/2008	2009 Estimated Expenditure		Receivable under STOPIA Agreement	Estimated Total General Fund Expenditure in 2009	Estimated Total General Fund Expenditure up to 31/12/09	Estimated Balance payable from General Fund at 31/12/2009
				Compensation	Claims-related expenses				
<i>Al Jaziah 1</i>	24/01/00	3 307 800	2 615 000	0	(20 000)	-	(20 000)	(713 000)	2 595 000
<i>Solar 1*</i>	11/08/06	3 134 944	3 036 000	(400 000)	(25 000)	400 000	(25 000)	(125 000)	3 011 000
<i>Volgoneft 139</i>	11/11/07	3 059 508	2 860 000	(2 360 000)	(500 000)	-	(2 860 000)	(3 060 000)	0
<i>Hebei Spirit</i>	07/12/07	3 110 128	1 979 000	(1 000 000)	(979 000)	-	(1 979 000)	(3 111 000)	0
Incident in Argentina	26/12/07	3 152 360	3 103 000	(3 000 000)	(100 000)	-	(3 100 000)	(3 150 000)	3 000
							<b>(7 984 000)</b>		

\* *Solar 1* - Under STOPIA 2006 compensation payments up to 20 million SDR will be reimbursed by the P&I Club

\* \* \*

## ANNEX V

### ACTUAL EXPENDITURE VS BUDGET APPROPRIATIONS FOR THE JOINT SECRETARIAT FOR THE PERIOD 2000–2007

The tables and graphs below set out the actual expenditure compared to the budget appropriations for the administration of the joint Secretariat for the financial years 2000 to 2007 and includes costs related to the External Auditor for the three organisations.

#### **Total administrative expenditure**

During the period 2000 – 2007, the actual expenditure was between 8% and 24% lower than the budget appropriations.

Under the budgetary principles applied by the IOPC Funds, an unused portion of an appropriation may not be carried forward to the following financial year. Conversely, if a budget appropriation for a particular chapter of the budget proves to be insufficient, transfers of more than 10% of the appropriation amount from another chapter require the approval of the Assembly. Given the difficulty of budgeting accurately for some appropriations and of the need for the Funds to be able to take necessary actions in the light of changed circumstances or instructions to the Director by the governing bodies, it is essential that there is a sufficient margin within the budget in order to minimise the number of transfers required.

As stated in paragraph 5.5.2 of the main document, when assessing the need for levying contributions for payment the following year, the estimated surplus brought forward on the General Fund is taken into account. Any surplus therefore is not accumulated each year to create a reserve but used to meet the following year's expenses.

In the documents containing the Financial Statements submitted to the October sessions of the governing bodies, the Director comments on the various expenses under each Chapter, indicating where savings have been made in relation to the budget appropriations and setting out the reasons for major savings (cf document 92FUND/A.13/9 in respect of the 2007 Financial Year).

#### **Chapter I - Personnel**

The appropriations under this Chapter cover staff salaries, separation and recruitment, staff benefits, allowances and training.

Under the 1992 Fund Staff Regulations, the emoluments of staff members follow the United Nations common system as applied by the International Maritime Organization (IMO). However, when the budget is prepared, it is not known whether the salaries under the common system will be increased and, if so, to what extent. A general 3% salary increase has been included in the budget in recent years but this increase has not always materialised.

Equally, when the budget is prepared it is not generally known what staff changes there will be during the year and as a result what expenses will be incurred in respect of separation and recruitment. For example, separation and recruitment costs in respect of the post of Director were included in the 2004 and 2005 budgets but these costs were in fact only incurred during 2006. In addition, the appropriation has included costs for recruitment to vacant staff posts, such as that of an additional Claims Manager, in order to enable the Director to fill these posts should the need arise.

#### **Chapter II – General services**

The appropriations under this Chapter cover office accommodation, office machines, furniture and other office equipment, office stationery and supplies, communications, other supplies and services, hospitality and public information.

Of the total appropriations under this Chapter, some 40% relates to office accommodation, which can normally be budgeted accurately.

The appropriation for public information covers the cost of the Annual Report, the ongoing development of the Organisations' website and document server and other public relations projects. The cost of producing publications can be difficult to estimate in advance since it depends on the number and volume of publications produced, which can depend on a number of factors including decisions of the governing bodies during the year (eg adoption of a new Claims Manual). The costs of public relations projects are also difficult to estimate since to a large extent they depend on developments during the budget year.

### **Chapter III - Meetings**

The appropriations under this Chapter cover meetings of the governing bodies and working groups. The number of meeting days has increased in recent years as a result of, for example, the occurrence of major incidents and the setting up of working groups. The number and length of documents produced has also increased over the years, which has implications for translation costs. The cost of external translators and interpreters during meetings has also increased. During 2007 the cost of holding the March and October sessions of the governing bodies had increased as the meetings were held outside the International Maritime Organization due to its refurbishment.

### **Chapter IV - Travel**

Travel costs have increased over the years mainly as a result of an increase in demand from Member States for Funds' staff to conduct training courses and workshops and to participate in seminars and conferences. It is difficult to predict these costs when the budget is prepared. When the Funds used to deal with a large number of incidents it was often possible to combine participation in seminars and workshops with meetings relating to specific incidents and the costs were then apportioned between the relevant incident and the administrative budget. As a result of the decrease in the number of incidents, this has not been possible to the same extent in recent years.

### **Chapter V – Miscellaneous expenditure**

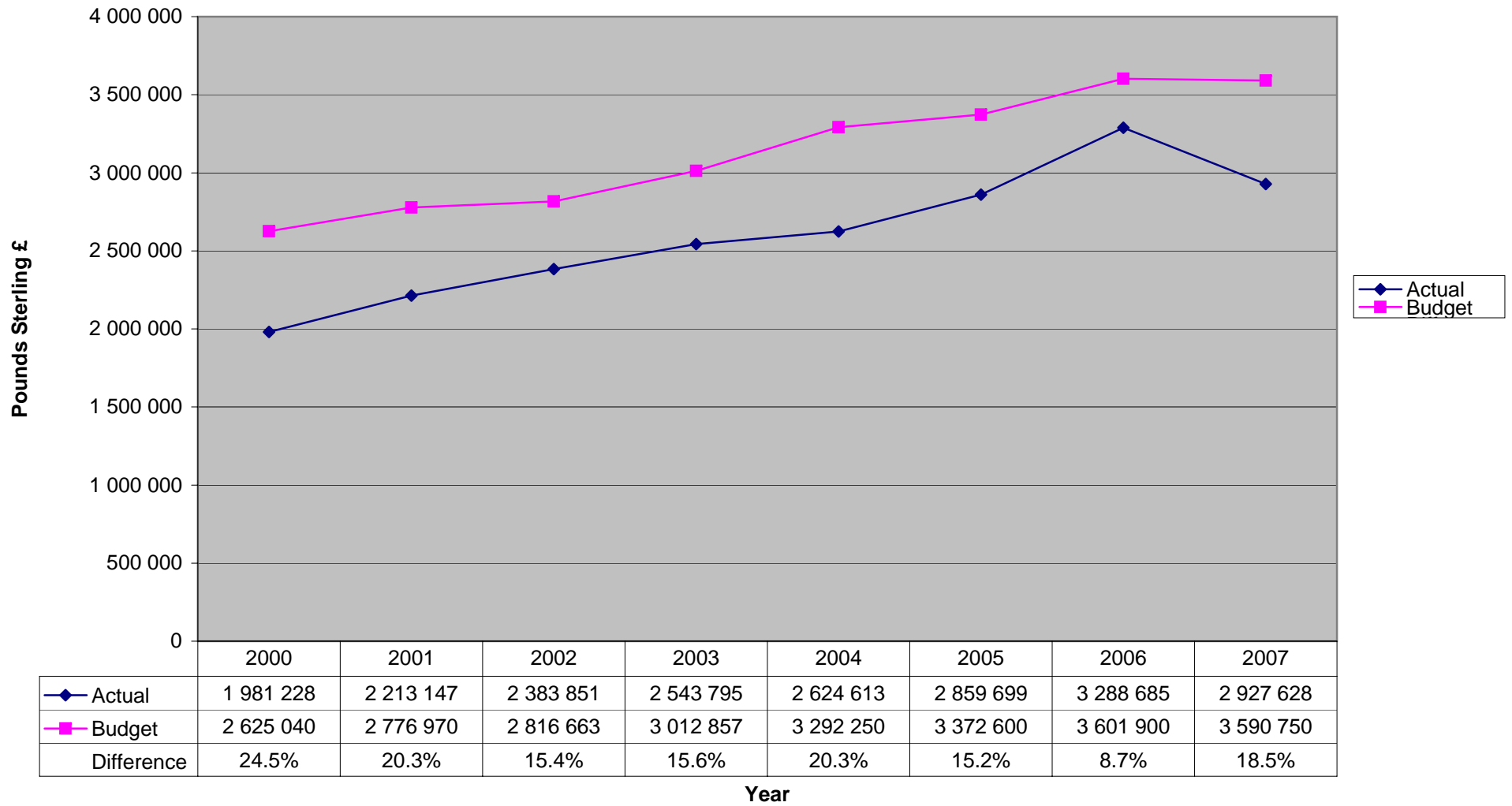
Appropriations under this Chapter include the External Audit fees and costs of the Audit Body and the Investment Advisory Body, which can be estimated fairly accurately. This Chapter also covers Consultants' fees which are more difficult to predict since the extent to which consultants have to be used depends on developments during the budget year and on decisions by the governing bodies.

### **Chapter VI – Unforeseen expenditure**

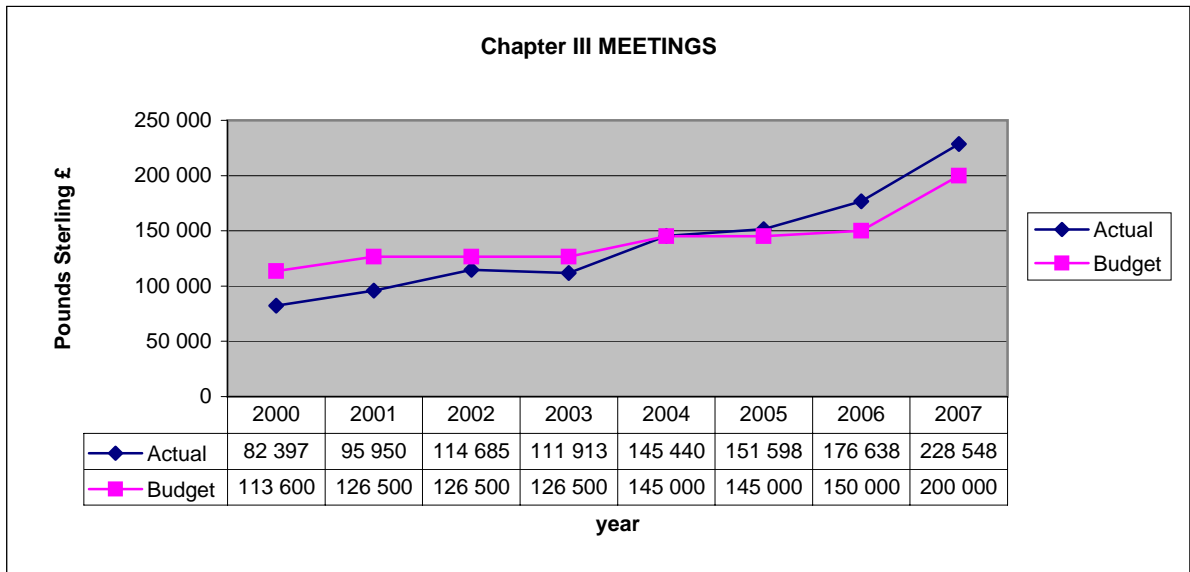
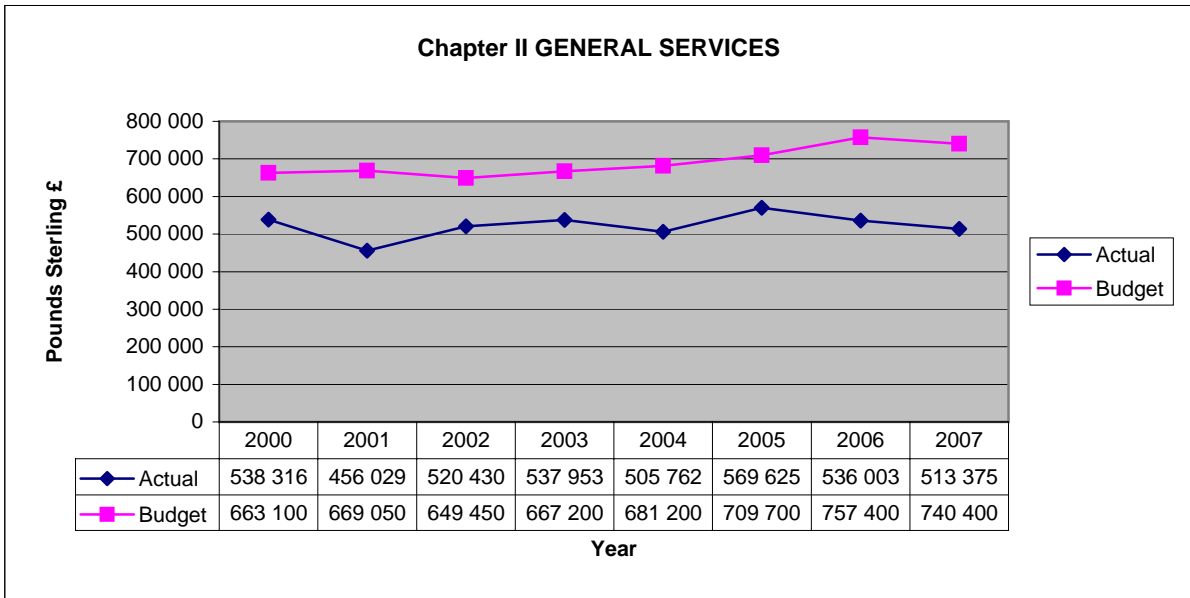
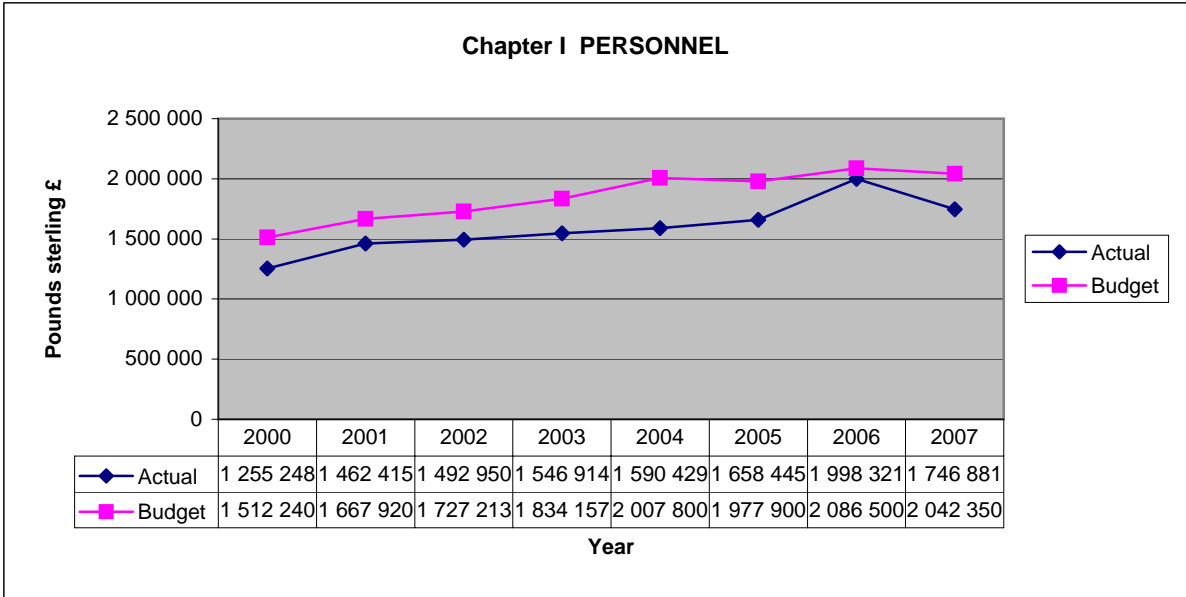
The budget appropriation under this Chapter, which over the period has decreased from 2.2% to 1.7% of the total budget, is intended to give the Director the possibility to respond to developments. This appropriation has been maintained at £60 000 over the recent years. The appropriation was used in 2003 – 2005 for expenditure that had not been foreseen at the time of the adoption of the budget, for example costs relating to the business continuity programme such as improvements to communication links and backup facilities and the scanning of contributors' files.

ANNEX V

**ACTUAL EXPENDITURE vs BUDGET APPROPRIATIONS FOR THE FINANCIAL YEARS 2000 - 2007**



ANNEX V



ANNEX V

