

	INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS		Agenda item: 9	IOPC/OCT09/9/2/3	
			Original: ENGLISH	21 August 2009	
			1992 Fund Assembly	92A14	
			1992 Fund Executive Committee	92EC46	
			Supplementary Fund Assembly	SA5	
			1971 Fund Administrative Council	71AC24	●

BUDGET FOR 2010

1971 FUND

Note by the Director

Summary:	As indicated in document IOPC/OCT09/9/2, this document deals with the draft administrative budget of the 1971 Fund for the financial year 2010. The draft budget totals £490 300. An estimate is made of the payments to be made from the General Fund in respect of various incidents.
Action to be taken:	<u>1971 Fund Administrative Council:</u> Adopt the 1971 Fund administrative budget for 2010.

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 2010.
- 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^{<1>} 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>} The SDR which is the unit of account used in the Conventions referred to in paragraph 1.5 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.

- 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 IOPC/OCT09/9/3/3).
- 1.8 As for the individual incidents, reference is made to the information contained in the 2008 Financial Statements (document IOPC/OCT09/5/5/3, Annex V, Schedule II) and to the various documents relating to incidents submitted to the 24th session of the 1971 Fund 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 2010, without prejudice to the position of the 1971 Fund in respect of the claims.

2 Budget for administrative expenditure in 2010

- 2.1 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).
- 2.2 The draft administrative budget for the joint Secretariat, excluding the External Auditor's fee and expenses directly related to the respective Organisations, totals £3 934 050 (document IOPC/OCT09/9/2/1, Annex I) for 2010. This figure is £272 825 (7.5%) higher than the 2009 budget figure of £3 661 225.
- 2.3 A summary of the administrative budget for the joint Secretariat is given below:

CHAPTER	Proposed 2010 Appropriation £	2009 Appropriation £	% Increase/(decrease) Appropriation on 2009.
I Personnel	2 504 150	2 197 925	13.9%
II General services	744 900	763 300	(2.4)%
III Meetings	150 000	175 000	(14.3)%
IV Travel	150 000	150 000	0.0%
V Miscellaneous expenditure (excluding External Audit fees)	325 000	315 000	2.6%
VI Unforeseen expenditure	60 000	60 000	0.0%
Total Expenditure Chapters I-VI	3 934 050	3 661 225	7.5%

- 2.4 As set out in document IOPC/OCT09/9/1, the Director proposes that the 1971 Fund should continue to pay a management fee to the 1992 Fund for the period 1 January – 31 December 2010 in accordance with the approach adopted since the 2004 financial year in respect of the costs of running the joint Secretariat. It has been proposed that the management fee should be set at £225 000 for the financial year 2010 compared to £210 000 for 2009. The draft budget has been prepared on that basis. If the Administrative Council were to decide on a different apportionment of costs between the three Organisations, the draft budget would have to be revised accordingly.
- 2.5 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.
- 2.6 The External Auditor has provisionally indicated that the audit fee will be maintained at £10 300 as in 2009 for the audit of the 1971 Fund's Financial Statements for 2009 which will be payable in 2010.

This fee is included in the appropriation for Administrative expenses of £15 300 which covers expenses only attributable to the 1971 Fund and not covered by the management fee.

2.7 The draft administrative budget for 2010 relating only to the 1971 Fund totalling £490 300 is set out in Annex II.

3 **Estimated balance as at 31 December 2009**

3.1 Estimated balance

The estimated surplus at 31 December 2009 of £4 330 614 is arrived at as shown in the table below.

	£	£
Balance brought forward as at 1 January 2009		4 630 914
<i>Plus</i>		
Interest to be earned in 2009 (estimate)	125 000	125 000
		4 755 914
<i>Less</i>		
Management fee and External Auditor's fee for 2009 (cf paragraph 3.3.1)	220 300	
Minor claims expenditure in 2009 (Annex I)	205 000	
		425 300
Estimated balance as at 31 December 2009		4 330 614

3.2 Income

Interest to be earned in 2009

Interest income during 2009 from the 1971 Fund's investment of the assets of the General Fund is estimated at £125 000. This estimated yield is based on an average principal of approximately £4.5 million.

3.3 Expenditure

3.3.1 The administrative expenses for 2009 are estimated to be some £220 300 as set out below:

- Management fee payable to 1992 Fund (cf document 71FUND/AC.23/18, paragraph 18.3) of £210 000.
- External audit fees for 2008 Financial Statements payable in 2009 of £10 300.
- Costs for winding up the 1971 Fund. No payment had been made as of 30 June 2009 and no expenditure is envisaged to be incurred for the remaining six-month period.

3.3.2 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 2009. It is expected that fees totalling £205 000 will be incurred during 2009 in respect of four incidents involving the 1971 Fund.

3.3.3 At the October 2005 session of the 1971 Fund Administrative Council the Venezuelan delegation stated that the claims arising from the *Plate Princess* incident in the opinion of their legal advisers were not time-barred although the 1971 Fund considered them to be. The Administrative Council considered in February/March 2006 and in May 2006 that the claims were time barred. However, in a decision published in July 2008 the Maritime Court of Caracas decided that one claim was not. The 1971 Fund's experts' report was submitted to the Maritime Court in November 2008 concluding that the claimants had not demonstrated that any damage suffered by the fishermen had been caused by the spill from *Plate Princess*. The Court decided that the report was not admissible since it had not been

submitted within the time limit provided by Venezuelan law. The 1971 Fund appealed against this decision and the Maritime Court of Appeal has not decided on this appeal yet. It is assumed that the Venezuelan Courts will agree with the 1971 Fund and that the Fund will only incur legal costs. If however the Courts do not agree with the 1971 Fund position payments may exceed the amounts payable by the General Fund.

4 Estimates for 2010

4.1 The General Fund balance as at 31 December 2010 is estimated as follows:

		£	£
	ESTIMATED INCOME		
Plus	Balance as at 31 December 2009	4 330 614	
	Interest to be earned in 2010	30 000	
	Total estimated income 2010		4 360 614
LESS	ESTIMATED EXPENDITURE		
Plus	Management fee, External Auditor's fee and Winding up-Budget 2010 (Annex II)	490 300	
	Minor claims expenditure 2010 (Annex III)	712 000	
	Total estimated expenditure 2010		1 202 300
	GENERAL FUND BALANCE 31 DECEMBER 2010		3 158 314

4.2 Income

Interest to be earned in 2010

Interest income during 2010 from the 1971 Fund's investment of the assets of the General Fund is estimated at £30 000. This estimated yield is based on an average principal of approximately £3.0 million.

4.3 Expenditure

4.3.1 The administrative expenditure for 2010 totals £490 300 as detailed in Section 2.

Minor claims expenditure 2010

4.3.2 The incidents in respect of which payments may have to be made from the General Fund during 2010 amounting to £712 000 are listed in Annex III. This estimate does not include any provision for the payments which, although not expected to be due before 2010, actually have to be made earlier.

4.3.3 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 and will incur some costs.

4.3.4 It is envisaged that only costs will be incurred in respect of the *Kriti Sea*, *Plate Princess* and *Al Jaziah I* incidents. With relation to the *Plate Princess* incident, reference is made to it in paragraph 3.3.3 above.

Working capital

4.3.5 The governing bodies of the 1971 Fund have last decided, in October 2002, to maintain the working capital at £5 million (document 71FUND/AC.9/20, paragraph 18).

4.3.6 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.

4.4 Estimated balance

4.4.1 As shown in paragraph 4.1, the General Fund balance as at 31 December 2010 is estimated at some £3.2 million.

4.4.2 The Director takes the view that the surplus on the General Fund as at 31 December 2010 should be sufficient to cover any payments of compensation, indemnification or other incident-related expenses payable by the General Fund to be made after 31 December 2010, as well as the 1971 Fund's share of the administrative expenditure until the 1971 Fund is wound up.

4.4.3 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

1971 Fund Administrative Council:

The 1971 Fund 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 2010 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 4.4); and
- (d) to authorise the Director to use the balance on the General Fund to pay for the administrative expenditure and minor claims expenses.

* * *

ANNEX I

Estimated General Fund claims expenditure in 2009

(Figures in Pounds Sterling)

Incident	Date	Maximum Payable from General Fund: 1 million SDR	Expenditure up to 31/12/08		Balance Payable from General Fund at 31/12/2008	2009 Expenditure				Estimated Total General Fund Expenditure in 2009	Estimated Total General Fund Expenditure up to 31/12/09	Estimated Balance Payable from General Fund 31/12/09
			Compensation paid up to 31/12/08	Claims related expenses paid up to 31/12/08		Compensation/Indemnification		Claims related expenses				
						Paid 1/1/09-30/6/09	Estimate 1/7/09-31/12/09	Paid 1/1/09-30/6/09	Estimate 1/7/09-31/12/09			
<i>Iliad</i>	09/10/93	930 977	0	(238 296)	692 681	0	0	(34 483)	(15 500)	(50 000)	(289 000)	642 000
<i>Kriti Sea</i>	09/08/96	943 599	0	(234 979)	708 620	0	0	0	(30 000)	(30 000)	(265 000)	678 000
<i>Plate Princess</i>	27/05/97	851 165	0	(93 610)	757 555	0	0	(67 346)	(32 000)	(100 000)	(194 000)	657 000
<i>Al Jaziah 1</i>	24/01/00	826 950	(566 166)	(117 808)	142 976	0	0	(934)	(24 000)	(25 000)	(709 000)	117 000
										(205 000)		

* * *

ANNEX II

Draft 2010 Administrative Budget for 1971 Fund

(Figures in Pounds Sterling)

STATEMENT OF EXPENDITURE		ACTUAL 2008 EXPENDITURE	2008 BUDGET APPROPRIATIONS	2009 BUDGET APPROPRIATIONS	2010 BUDGET APPROPRIATIONS
I	Management fee payable to 1992 Fund by 1971 Fund	210 000	210 000	210 000	225 000
II	Costs for Winding up of the 1971 Fund	-	250 000	250 000	250 000
III	Administrative costs including External Audit fees	10 000	15 000	15 300	15 300
1971 Fund Budget Appropriation		220 000	475 000	475 300	490 300

* * *

ANNEX III

Estimated General Fund claims expenditure in 2010

(Figures in Pounds Sterling)

Incident	Date	Maximum Payable from General Fund: 1 million SDR	Estimated Balance Payable from General Fund at 31/12/2009	2010 Estimated Expenditure			Estimated Total General Fund Expenditure in 2010	Estimated Total General Fund Expenditure up to 31/12/10	Estimated Balance Payable from General Fund at 31/12/2010
				Compensation	Indemnification	Claims related expenses			
<i>Iliad</i>	09/10/93	930 977	642 000	0	(637 000)	(5 000)	(642 000)	(931 000)	0
<i>Kriti Sea</i>	09/08/96	943 599	678 000	0	0	(10 000)	(10 000)	(275 000)	668 000
<i>Plate Princess</i>	27/05/97	851 165	657 000	0	0	(40 000)	(40 000)	(234 000)	617 000
<i>Al Jaziah 1</i>	24/01/00	826 950	117 000	0	0	(20 000)	(20 000)	(729 000)	97 000
							(712 000)		