INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS

Agenda item: 3	IOPC/OCT10/**3/3**	
Original: ENGLISH	22 September 2010	
1992 Fund Assembly	**92A15**	
1992 Fund Executive Committee	**92EC49**	
Supplementary Fund Assembly	**SA6**	
1971 Fund Administrative Council	**71AC25**	●

INCIDENTS INVOLVING THE IOPC FUNDS – 1971 FUND

PLATE PRINCESS

Note by the Director

Objective of document:	To provide the 1971 Fund Administrative Council with an analysis of the Maritime Court of Appeal judgement of 24 September 2009.
Summary of the incident so far:	On 27 May 1997, the *Plate Princess* spilled some 3.2 tonnes of crude oil whilst loading cargo at an oil terminal in Puerto Miranda (Venezuela). In June 1997, two fishermen's trade unions, namely FETRAPESCA and Sindicato Unico de Pescadores de Puerto Miranda (Puerto Miranda Union) presented claims in the Civil Court of Caracas against the shipowner and the Master of the *Plate Princess* for estimated amounts of US$10 million and US$20 million respectively. There were no developments in respect of these claims between 1997 and 2005. In October 2005, the 1971 Fund was formally notified through diplomatic channels of the claims presented in the Civil Court in Caracas. In May 2006, ie nearly nine years after the incident took place, the 1971 Fund Administrative Council, whilst expressing sympathy with the victims of the incident and regretting that the time-bar provisions had worked to their detriment, stated that it was necessary to adhere to the current text of the Conventions and decided that both claims were time-barred in respect of the 1971 Fund. In December 2006, both claims were transferred to the Maritime Court of First Instance also in Caracas. In March 2007, following a request by the Maritime Court of First Instance, the 1971 Fund was formally notified of both claims for a second time. In April 2008, the Puerto Miranda Union submitted an amended claim against the Master and the shipowner for losses suffered by fishermen in respect of damage to nets and boats and loss of income for a period of six months. This amended claim totals BsF 53.5 million (£15 million). The Maritime Court of First Instance of Caracas accepted the amended claim. In July 2008, the 1971 Fund submitted pleadings stating that the claim was time-barred *vis-a-vis* the 1971 Fund. The 1971 Fund, in its pleadings argued that the documentation provided by the claimants did not demonstrate that any damage allegedly suffered by the fishermen had been caused by the spill from the

	Plate Princess and that the documentation provided in support of the claim was of doubtful accuracy and had in many instances been falsified and produced for the purpose of making the claim. *First Instance Judgement in respect of claim by the Puerto Miranda Union* In February 2009, the Maritime Court of First Instance accepted the claim and ordered the Master, shipowner and 1971 Fund to pay the damages suffered by the claimant, to be quantified by a Court expert. The Master, the shipowner and the 1971 Fund appealed against the judgement. *First Instance Judgement in respect of claim by FETRAPESCA* In February 2009, the Maritime Court of First Instance also accepted the claim by FETRAPESCA against the shipowner and the Master of the *Plate Princess* and ordered the payment of the damages suffered by the claimant, to be quantified by a Court expert. The 1971 Fund, not being a defendant in the legal action, was not given the opportunity to review any documentation submitted with the claim nor to submit defence pleadings. The 1971 Fund has not been formally notified of the judgement. *Judgement by Maritime Court of Appeal in respect to the claim by the Puerto Miranda Union* In September 2009, the Maritime Court of Appeal of Caracas dismissed the appeal by the Master, shipowner and 1971 Fund and ordered the defendants to pay compensation to the fishermen affected by the oil spill, to be quantified by three Court experts to be appointed.
Recent developments:	The 1971 Fund has appealed to the Supreme Tribunal of Venezuela.
Action to be taken:	1971 Fund Administrative Council: Information to be noted.

1 Summary of the incident

Ship	*Plate Princess*
Date of incident	27.05.97
Place of incident	Puerto Miranda, Lake Maracaibo, Venezuela
Cause of incident	Overflow during loading operation
Quantity of oil spilled	3.2 tonnes of crude oil
Area affected	Unknown
Flag State of ship	Malta
Gross tonnage (GT)	30 426 GT
P&I insurer	The Standard Steamship Owner's Protection & Indemnity Association (Bermuda) Ltd (the Standard Club)
CLC Limit	3.6 million SDR
STOPIA/TOPIA applicable	No
CLC + Fund limit	60 million SDR
Compensation	No compensation paid
Standing last in the queue	N/A
Legal proceedings	Two claims as follows: *Claim by the Puerto Miranda Union* Plaintiffs: Fishermen's Union Defendants: shipowner and Master of the *Plate Princess* The 1971 Fund is a third party to the proceedings. Judgement by the Maritime Court of First Instance, confirmed by the Maritime Court of Appeal, condemns defendants and third party to pay compensation to be quantified by Court experts. The 1971 Fund has appealed to the Supreme Tribunal. *Claim by FETRAPESCA* Plaintiffs: Fishermen's Union Defendants: shipowner and Master of the *Plate Princess* The 1971 Fund is not a party to the proceedings. Judgement by the Maritime Court of First Instance condemns shipowner, Master and the 1971 Fund to pay compensation to be quantified by Court expert.

2 Background information

2.1 On 27 May 1997, the *Plate Princess* spilled some 3.2 tonnes of crude oil whilst loading cargo at an oil terminal in Puerto Miranda (Venezuela). A report from a Maraven/Largoven helicopter over-flight on the morning of the spill, less than three hours after the spill had been detected on the vessel, stated that no oil was seen at or near the terminal.

2.2 An expert from the International Tanker Owners Pollution Federation Ltd (ITOPF) attended the site on 7 June 1997, 11 days after the spill, on behalf of the 1971 Fund and the Standard Steamship Owner's Protection & Indemnity Association (Bermuda) Ltd (the Standard Club). He reported that there were no signs of oil pollution in the immediate vicinity of where the *Plate Princess* had been berthed at the time of the incident. The ITOPF expert was informed that the oil had been observed to drift in a north-westerly direction on the flood tide, towards a small stand of mangroves approximately one kilometre away and beach in an uninhabited area. The expert informed the 1971 Fund that no clean-up work had been carried out and that no fishery or other economic resources were known to have been contaminated.

2.3 In June 1997, two fishermen's trade unions namely, FETRAPESCA and Sindicato Unico de Pescadores de Puerto Miranda (Puerto Miranda Union) presented claims in the Civil Court of Caracas against the shipowner and the Master of the *Plate Princess* for estimated amounts of US$10 million and US$20 million respectively. Neither claim provided details of the losses covered. The claimed amounts were described in both claims as being included for procedural purposes, solely to comply with the requirements of Venezuelan legislation.

2.4 In their claims, both FETRAPESCA and Puerto Miranda Union requested the Court to officially notify the Director of the 1971 Fund of the action in court. No such notification was made at that time and there were no developments in respect of these claims between 1997 and 2005. In view of the passage of time and the lack of developments, the 1971 Fund instructed its Caracas lawyers to close their file.

First notification

2.5 In October 2005 however, more than eight years after the spill occurred, the 1971 Fund was notified through diplomatic channels of the claims presented in the Civil Court in Caracas. No information was provided with the notifications as to the nature or extent of the losses alleged.

2.6 In view of the notifications received, the 1971 Fund Administrative Council reviewed the details of the incident at its May 2006 session, ie nine years after the incident took place. Whilst expressing sympathy with the victims of the incident and regretting that the time-bar provisions had worked to their detriment, the Council stated that it was necessary to adhere to the current text of the Conventions and decided that both claims were time-barred in respect of the 1971 Fund.

2.7 In December 2006, both claims were transferred to the Maritime Court of First Instance, also in Caracas.

Second notification

2.8 In March 2007, nearly ten years after the incident, and following a request by the Maritime Court of First Instance, the 1971 Fund was formally notified of both claims for a second time. The notification did not provide any details of the claim.

Amendment of Puerto Miranda Union claim

2.9 There were no further developments until 4 April 2008 when the Puerto Miranda Union submitted an amended claim against the Master and the shipowner. The 1971 Fund was not named as a defendant. The lawyers representing the claimants in connection with the amended claim were not those who had been involved in the formulation of the original claim. At that time there were a number of submissions by the lawyers acting for the Puerto Miranda Union, attempting to notify the shipowner and Master.

2.10 The amended claim set out, in detail, the nature, extent and quantification of the losses alleged. The claim was for the cost of cleaning 849 boats and replacing some 7 814 packs of nets and two outboard motors. The nets were alleged to have been contaminated by oil to the extent that they were no longer usable. The claimant also alleged that the owners of the 849 boats and 304 foot-fishermen had suffered a total loss of income for a period of 187 calendar days (six months) as a result of being unable to fish because of a lack of equipment. The amended claim was for BsF 53.5 million (£8million or $12.5million). The Maritime Court of First Instance of Caracas accepted the amended claim on 10 April 2008.

2.11 The amended claim made reference to a large number of documents submitted as evidence of the alleged loss and damage. Without access to these documents it was not possible for the 1971 Fund to review the claim. Through its Caracas lawyers, the 1971 Fund requested that the Court provide copies of the documents submitted by the claimants. However, the number of documents involved was such that it was beyond the capacity of the Court to copy them and the Court put the work in the hands of an outside contractor.

2.12 Venezuelan legislation provides time limits for the submission of a defence and, to comply with these requirements, the 1971 Fund was forced to submit defence pleadings on 12 June 2008, despite not having received the copies of the documents submitted by the claimants. The defence submitted by the 1971 Fund stated, *inter alia*, that the claim was time-barred *vis-a-vis* the 1971 Fund.

2.13 On 4 August 2008 copies of the documents, 16 bundles in total, were received by the 1971 Fund. The 1971 Fund appointed experts to examine the claim and the supporting documents. On the basis of the report issued by the experts, the 1971 Fund submitted further pleadings in November 2008. In these pleadings the 1971 Fund argued that the documentation provided by the claimants did not demonstrate that any damage allegedly suffered by the fishermen had been caused by the spill from the *Plate Princess* and that the documentation provided in support of the claim was of doubtful accuracy and had in many instances been falsified and produced for the purpose of making the claim. The 1971 Fund also requested that the report by the experts be accepted as evidence. The Court rejected the request on the grounds that the report had not been submitted within the time limit provided by Venezuelan law. The 1971 Fund appealed against this decision on the grounds that the time limit was not sufficient for the Court to provide copies of the documentation, and for the Fund's experts to review them. The appeal was rejected.

Hearing in respect of claim by the Puerto Miranda Union

2.14 In January 2009 the hearing in connection with the revised claim took place. At the hearing, oral evidence was provided by a number of witnesses who were called by the plaintiffs to verify documents submitted as evidence with the amended claim and, in particular, receipts provided to support quantities of fish caught and prices of fish sold. During the hearing, the witnesses accepted that the receipts, which were dated February 1997, were not genuine and had in fact been created after the spill. The majority of witnesses nominated by the plaintiffs in their pleadings to support documents submitted in evidence, did not appear at the hearing. This prevented the Master, shipowner and 1971 Fund from either challenging or obtaining confirmation of that evidence. At the hearing the 1971 Fund submitted the arguments referred to in paragraphs 2.12 and 2.13.

First Instance Judgement in respect of claim by the Puerto Miranda Union

2.15 In February 2009, the Maritime Court of First Instance issued its judgement of some 55 pages in which it accepted the claim and ordered the Master, shipowner and 1971 Fund to pay the damages suffered by the claimant, to be quantified by Court experts. The Master, the shipowner and the 1971 Fund appealed against the judgement to the Maritime Court of Appeal.

First Instance Judgement in respect of claim by FETRAPESCA

2.16 In February 2009, the Maritime Court of First Instance also accepted the claim by FETRAPESCA against the shipowner and the Master of the *Plate Princess* even though no documentation had been provided in support of the claim and the losses had not been quantified. The Court ordered the payment of the damages suffered by the claimant, to be quantified by Court experts. The 1971 Fund has not been notified of the judgement.

3 Judgement by the Maritime Court of Appeal in respect of the claim by the Puerto Miranda Union

3.1 In September 2009, the Maritime Court of Appeal of Caracas dismissed the appeal by the Master, shipowner and 1971 Fund and ordered the defendants to pay compensation to the fishermen affected by the oil spill, to be quantified by three Court experts to be appointed. The method to be followed by the experts is set out in detail in the judgement. The method is based on data obtained from the receipts presented by the claimants, such data having been accepted by the witnesses during the First Instance Court hearing, as not genuine. The judgement also ordered the defendants to pay interest and costs.

3.2 As instructed by the 1971 Fund Administrative Council at its October 2009 session, the judgement by the Maritime Court of Appeal of some 360 pages, has been translated from Spanish into English and French and is available to delegations upon request to the Secretariat or to download from the IOPC Funds website (www.iopcfund.org/ongoing.htm).

4 Analysis of the judgement of the Maritime Court of Appeal

4.1 From the point of view of the 1971 Fund, the three most significant issues dealt with in the judgement of the Maritime Court of Appeal are; the time bar, the link of causation, and the falsified evidence relating to the quantum of loss of income. This section summarises the findings of the judgement in respect of these three issues.

Time-bar issue (section XVI of the Judgement)

4.2 The 1971 Fund was first notified of this claim in October 2005, ie more than eight years after the spill had occurred, and again in March 2007, ie nearly ten years after the incident. The 1971 Fund, in its defence to the claim, argued that since the two notifications of the claim were made more than three years after damage occurred and since an action had not been taken against the 1971 Fund within six years of the incident, the claim was time-barred under Articles 7.6 and 6 respectively of the 1971 Fund Convention.

4.3 The Maritime Court of Appeal rejected the argument on the following grounds:

- Article 6 of the 1971 Fund Convention, which establishes the time bar, should be linked to Articles 2, 4, 5 and 7, of the 1971 Fund Convention. The Maritime Court of Appeal concluded on this basis, that the full, complete, final and enforceable decision of the Court is binding on the 1971 Fund if an action is filed against the shipowner within three years from the occurrence of the damage, and the 1971 Fund is notified in accordance with Article 7.6 of the 1971 Fund Convention. It can therefore be inferred that the Maritime Court of Appeal has interpreted Article 7.6 of the 1971 Fund Convention to mean that a notification to the 1971 Fund is sufficient to prevent a claim from becoming time-barred even though it might take place after the three years stated therein.

- Article 7.6 of the Fund Convention does not make reference to the victims of an oil spill having to initiate a claim against the 1971 Fund, a situation which would give the 1971 Fund the status of a defendant. Rather, the Article anticipates that the 1971 Fund might be called as a third party through a mere notification where the defendants are the shipowner and/or his guarantor.

- The Maritime Appeal Court adopted the Plaintiff's arguments concerning Article 6 of the 1971 Fund Convention, which it quoted, as follows:

  > 'If the victim has exercised his/her right [to take an action against the shipowner] within three years, it is logical to conclude that it is impossible for the action to be time-barred, as court action has been brought; that is to say, the victim had already been to the court and requested the protection of his/her rights. But, if a victim had not notified the Fund within the three years, according to the author of the rule, the time bar of the action would operate, which is not logical, since [as] the victim had already brought a legal action and requested the protection of the State, the time bar would not be able to operate'

- The claim is not time-barred since the Plaintiff had filed an action against the shipowner on 4 July 1997, ie thirty-eight days after the spill.

- The notice served on the 1971 Fund was not aimed at avoiding the claim becoming time-barred, since the lawsuit filed on 4 July 1997 effectively did that already. The purpose of serving the notice was to allow the 1971 Fund sufficient time to intervene in the proceedings, as it did, in such a way that the full, complete and definitive judgement rendered by the Court would be binding on the 1971 Fund.

- The 1971 Fund had requested that the Court deal with the time bar as a substantive defence. The Maritime Court of Appeal stated however that it should have been raised as a preliminary issue, as established by the procedural law and confirmed by the jurisprudence of the Court of Cassation.

- The attitude of the 1971 Fund not to fulfil its obligation to compensate the victims on the grounds of a hypothetical lack of notification was a smokescreen to justify a breach, causing damage and immeasurable problems to 676 under-privileged fishermen.

- The fishermen have to run the risk that the lake will be constantly plagued by unpredictable oil spills, while the 1971 Fund uses irrational arguments to wriggle out of the obligations assigned to them by the legal system to which it owes its existence.

Link of causation (section XVII of the Judgement)

4.4 The Maritime Court of Appeal held that there was a link of causation between the damage suffered by the fishermen and the spill from the *Plate Princess* on the following grounds:

- There had been a spill from the vessel.

- The fishermen's union had lodged a complaint with the Ministry of Energy and Mines on the day following the incident.

- The local press had reported that the spill had affected the hulls and gear of more than 700 boats.

- An inspection carried out by the Ministry of Energy and Mines and the Ministry of Agriculture together with the claimants concluded that the boats, nets and engines were contaminated.

- The defendants had not provided any evidence to show that the inspection reports were untruthful.

- Although the 1971 Fund had appointed an expert, the expert had ignored the announcement in the press that there were to be inspections.

- The invoices provided by the fishermen as evidence proved they supplied fish in accordance with their fishing permits.

- No evidence had been presented to show that there had been any other spill at the time that could have caused the damage.

- The shipowner had provided a bank guarantee to limit its liability under the 1969 Civil Liability Convention (1969 CLC).

- The 1971 Fund had made reference to the spill in its 1997 Annual Report.

Evidence of quantum of the loss of income – Falsified documents (Section VI of the Judgement)

4.5 The Maritime Court of Appeal accepted some 200 sets of invoices, containing four invoices each. These invoices were formally identified by witnesses in the hearing before the Maritime Court of First Instance. The Maritime Court of Appeal stated that, since the witnesses had acknowledged the invoices, answered questions from the other parties and their statements showed no contradictions, this gave the Court sufficient reason to accept the invoices. The Maritime Court of Appeal did not give any value to the statements made by the witnesses under cross examination during the First Instance Court hearing, that the invoices although dated prior to the spill, had in fact been drafted after the event.

4.6 The Maritime Court of Appeal rejected some 260 sets of invoices as they had not been formally identified by witnesses.

4.7 The information contained in the 200 sets of invoices (cf paragraph 4.5) accepted as valid evidence of loss of income by the Maritime Court of Appeal, was used in the judgement to establish the method and the values to be used in the quantification of the loss, to be carried out by experts appointed by the Court at a later stage.

5 Director's considerations

5.1 The Director's views on the three most significant issues in the judgement by the Maritime Court of Appeal and on the enforceability of that judgement are given below:

Time-bar (section XVI of the Judgement)

5.2 The Director notes that the Maritime Court of Appeal has rejected the argument that the claim was time-barred and that the Court's decision was based on its interpretation of Articles 6 and 7.6 of the 1971 Fund Convention. Although the wording of the judgement of the Maritime Court of Appeal is not easy to follow, the Director believes that the basis for this decision can be summarised as follows:

> In accordance with Articles 6 and 7.6 of the 1971 Fund Convention, for the time bar to be avoided and a final judgement to be enforceable against the 1971 Fund, an action need be taken only against the shipowner within three years, and the Fund need only be notified so that it can make use of the due process and the right to a defence. Since the 1971 Fund was notified in time, effectively to intervene in the proceedings, and since an action was taken against the shipowner within three years, the claim is not time-barred.

5.3 The Director disagrees with the analysis of the Maritime Court of Appeal. He shares the view of the 1971 Fund Administrative Council, referred to in paragraph 2.6 of this document, that claims for compensation arising from the *Plate Princess* incident are time-barred.

5.4 The Director notes that Article 6.1 of the 1971 Fund Convention, states only that an action must be brought or notification made pursuant to Article 7.6, within three years from when the damage occurred, without stating against whom the action is to be brought or to whom the notification is to be given. However, Article 7.6 states that it is the Fund that must be notified and, in the Director's view, this leaves no doubt that both the notification and the action referred to in Article 6.1 must refer to the 1971 Fund.

5.5 Since the 1971 Fund was neither formally notified in accordance with Venezuelan legal requirements within three years of the damage occurring, nor was an action taken against the 1971 Fund within six years, the claim is, in the Director's view, clearly time-barred.

Link of causation (section XVII of the Judgement)

5.6 The Director takes the view that although it is for the national courts to ultimately decide whether there is a sufficiently close link of causation between the damage suffered and the contamination, the arguments used in the judgement of the Maritime Court of Appeal are weak and do not serve to prove that there was a link of causation in this case.

Evidence of quantum of the loss of income – Falsified documents (Section VI of the Judgement)

5.7 In the Director's view, it is of great concern that the judgement of the Maritime Court of Appeal has accepted documentation in support of the claim which is known not to be genuine and to have been falsified for the purposes of obtaining compensation from the shipowner, its insurer and the 1971 Fund. He takes the view that if other national courts were to follow a similar line, the international compensation regime would not function as intended, and would face difficulties surviving.

5.8 The Director notes that the experts appointed by the 1971 Fund had examined the sets of invoices produced as evidence of normal catch incomes and had concluded that they had been falsified. They were neither issued on the dates alleged, nor reflected the true expenditure incurred. He also notes that this had been accepted by the witnesses. Notwithstanding this, the Maritime Court of Appeal accepted that the information in those documents should be used in the calculation of the losses.

Recognition and enforceability of a final judgement (Article 8, 1971 Fund Convention and Article X, 1969 CLC)

5.9 The Director also notes that Article 8 of the 1971 Fund Convention states:

> ' ..., any judgement given against the Fund by a court having jurisdiction in accordance with Article 7, paragraphs 1 and 3, shall, ...be recognized and enforceable in each Contracting State on the same conditions as are prescribed in Article X of the [1969 Civil] Liability Convention.'

5.10 Article X.1 of the 1969 CLC states:

> Any judgement given by a Court with jurisdiction in accordance with Article IX which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognized in any Contracting State except:
>
> (a) Where the judgement was obtained by fraud; or
>
> (b) Where the defendant was not given reasonable notice and a fair opportunity to present his case.

5.11 While the Director does not have evidence to prove that the judgements by the Maritime Court of First Instance and by the Maritime Court of Appeal were obtained by fraud, he is of the opinion that in the circumstances, the shipowner, its insurer and the 1971 Fund, were not given reasonable notice and a fair opportunity to present their case.

5.12 The Director notes that when the original claim was made against the Master and owner of the *Plate Princess* in July 1997, no details of the losses were provided and a provisional amount of US$20 million was quoted in the claim. Shortly after the spill, the 1971 Fund had appointed an expert who visited the terminal where the incident occurred. The expert reported to the 1971 Fund that he had been unable to establish any losses resulting from the spill.

5.13 The Director also notes that the judgement by the Maritime Court of Appeal drew attention to local press articles reporting the damage and the inspections taking place. The judgement has implied that the 1971 Fund experts should have seen these press articles and should have attended the inspections. The Director considers this suggestion unreasonable, since it should not be expected that the 1971 Fund send experts to attend inspections on the basis of press articles, nor does he consider it reasonable that the Fund experts should react to these articles. The Director notes that, although the 1971 Fund experts and Secretariat were present in Venezuela in 1997 and there was a claims office open in Maracaibo in connection with the *Nissos Amorgos* incident, neither the 1971 Fund nor its experts were informed that inspections of damaged fishing boats and gear were to take place, in relation to the *Plate Princess* incident. Had the 1971 Fund or its experts been informed of these inspections, the 1971 Fund experts would without doubt, have attended.

5.14 The Director further notes that the 1971 Fund had no indication as to the nature and extent of the alleged damage and loss until April 2008, when the amended claim was submitted to the Maritime Court of First Instance. By that time there was no possibility of the 1997 Fund carrying out any meaningful investigation into the alleged damages detailed in the amended claim. When the amended claim was submitted in April 2008, the only way in which the 1971 Fund could have investigated the extent of the loss was by analysing the documentary evidence presented by the claimants. However, this documentary evidence was not provided before the Points of Defence had to be filed at Court.

5.15 For the reasons mentioned in paragraphs 5.12 to 5.14, in the Director's opinion, the 1971 Fund was not given reasonable notice and a fair opportunity to present its case.

5.16 At the October 2009 session of the 1971 Fund Administrative Council, the Director took the view that if a final judgement by the Venezuelan courts was entered against the 1971 Fund, the 1971 Fund had, under Article 8 of the 1971 Fund Convention, the obligation to comply with the provisions of the judgement. However, having now reviewed the judgement of the Maritime Court of Appeal, he is of the opinion that it is possible that sub-paragraphs (a) and (b) of Article X of the 1969 CLC may apply, in which case, a final judgement may not be enforceable against the 1971 Fund.

Director's conclusion

5.17 The 1971 Fund has appealed the Maritime Court of Appeal judgement to the Supreme Court and the Director will report the outcome of this appeal in due course. Once a final decision has been reached in the Venezuelan courts, the Director will, before taking any further action, report the issue to the 1971 Fund Administrative Council again with a view to receiving further instructions.

5 Action to be taken

1971 Fund Administrative Council

The 1971 Fund Administrative Council is invited:

(a) to take note of the information contained in this document; and

(b) to give the Director such instructions in respect of the handling of this incident as it may deem appropriate.