 INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS	Agenda item: 5	IOPC/OCT10/5/6/3	
	Original: ENGLISH	9 July 2010	
	1992 Fund Assembly	92A15	
	1992 Fund Executive Committee	92EC49	
	Supplementary Fund Assembly	SA6	
	1971 Fund Administrative Council	71AC25	•

2009 FINANCIAL STATEMENTS AND AUDITOR'S REPORT AND OPINION

1971 FUND

Note by the Director

Summary:	As indicated in document IOPC/OCT10/5/6, the 1971 Fund financial statements and the Auditor's Report and Opinion are set out.
Action to be taken:	<u>1971 Fund Administrative Council:</u> Approval of financial statements.

- 1 In accordance with Article 29.2(f) of the 1971 Fund Convention, the Director has prepared the financial statements of the 1971 Fund for the financial year 2009. The Director has also prepared comments on the financial statements. These comments are at Annex I. Attached to that Annex is a summary of the External Auditor's recommendations from the current and prior financial years and the actions taken on those recommendations.
- 2 In keeping with best practice the Director has included a Statement of Internal Control which provides positive confirmation of the internal control framework. The statement is at Annex II.
- 3 The financial statements of the 1971 Fund are audited by the Comptroller and Auditor General of the United Kingdom.
- 4 Under Financial Regulation 14.16 the External Auditor shall express an opinion on the financial statements on which he is reporting. This Opinion is at Annex III.
- 5 Pursuant to Financial Regulation 14.10, the External Auditor has submitted to the 1971 Fund Administrative Council, through its Chairman, his Report on the audit of the financial statements of the 1971 Fund for the financial period ended 31 December 2009. The Auditor's Report is at Annex IV.
- 6 The financial statements have been prepared by the Director in accordance with the 1971 Fund's Financial Regulations applicable in 2009 and in compliance with the United Nations System of Accounting Standards (UNSAS). The certified financial statements for the financial period 1 January to 31 December 2009 are at Annex V and consist of the following:

Statement I	Statement of Budget Appropriations and Obligations Incurred in respect of the General Fund for the financial period 1 January - 31 December 2009
Statement II	Summary of Income and Expenditure Account in respect of the General Fund and Major Claims Funds for the financial period 1 January - 31 December 2009

Statement II.1 Income and Expenditure Account in respect of the General Fund for the financial period 1 January - 31 December 2009

Statement II.2 Income and Expenditure Account in respect of the *Nissos Amorgos* and *Vistabella* Major Claims Funds for the financial period 1 January - 31 December 2009

Statement III Balance Sheet of the 1971 Fund as at 31 December 2009

Statement IV Cash Flow Statement for the 1971 Fund for the financial period 1 January - 31 December 2009

7 In addition to the financial statements submitted, such notes as may be necessary for a better understanding of the financial statements, including a statement of the significant accounting policies and the following schedules are attached:

Schedule I Report on Contributions during the financial period 1 January - 31 December 2009 and on contributions outstanding for previous financial periods

Schedule II Report on Payment of Claims for the financial period 1 January - 31 December 2009

Schedule III Details of Contingent Liabilities of the 1971 Fund as at 31 December 2009

Action to be taken

1971 Fund Administrative Council:

The 1971 Fund Administrative Council is invited to consider the External Auditor's Report and Opinion and to approve the financial statements for the financial period 1 January to 31 December 2009.

* * *

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ANNEX I

INTERNATIONAL OIL POLLUTION COMPENSATION FUND 1971

DIRECTOR'S COMMENTS ON THE FINANCIAL STATEMENTS FOR THE FINANCIAL PERIOD 1 JANUARY TO 31 DECEMBER 2009

1 Introduction

- 1.1 The International Oil Pollution Compensation Funds (IOPC Funds) are intergovernmental organisations which provide compensation for oil pollution damage resulting from spills of persistent oil from tankers. The International Oil Pollution Compensation Fund 1971 (1971 Fund) was established in October 1978. It operates within the framework of two international Conventions: the 1969 International Convention on Civil Liability for Oil Pollution Damage (1969 Civil Liability Convention) and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (1971 Fund Convention), both amended in 1992 by two Protocols. The amended Conventions, known as the 1992 Civil Liability Convention (1992 CLC) and the 1992 Fund Convention, entered into force on 30 May 1996. The International Oil Pollution Compensation Fund 1992 (1992 Fund) was set up under the 1992 Fund Convention. The 1971 Fund Convention ceased to be in force on 24 May 2002 and does not apply to incidents occurring after that date. However, before the 1971 Fund can be wound up, all pending claims arising from incidents occurring before that date in 1971 Fund Member States will have to be settled and paid and any remaining assets distributed among contributors.
- 1.2 A Protocol to the 1992 Fund Convention adopted in 2003 resulted in the establishment of the International Oil Pollution Compensation Supplementary Fund 2003 (Supplementary Fund), which provides an optional third tier of compensation. The Protocol entered into force on 3 March 2005. Any State Party to the 1992 Fund Convention may become Party to the Protocol and thereby become a Member of the Supplementary Fund
- 1.3 The maximum amount of compensation payable under the 1969 and the 1971 Conventions for any one incident is 60 million Special Drawing Rights (SDR)^{<1>}. This amount includes the sum actually paid by the shipowner or his insurer, which at 31 December 2009 corresponded to £58 million.
- 1.4 The 1971 Fund has an Administrative Council composed of all States which at any time were Members of that Fund. The Council deals with both administrative and incident-related matters and is responsible for the winding up of the Organisation.

2 Secretariat

- 2.1 The IOPC Funds have a joint Secretariat, based in London, headed by one Director. The 1992 Fund Secretariat also administers the 1971 Fund and the Supplementary Fund. As at 31 December 2009 the Secretariat had 33 established posts.
- 2.2 The Funds use external consultants to provide advice on legal and technical matters as well as on matters relating to management. In connection with a number of major incidents the Funds and the

<1> 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.

shipowner's third party liability insurer involved have jointly established local claims offices to facilitate the efficient handling of the great numbers of claims submitted and in general to assist claimants.

3 Audit Body

3.1 The governing bodies of the IOPC Funds have established a joint Audit Body for the three Funds composed of seven members elected by the 1992 Fund Assembly: one named Chairman nominated by 1992 Fund Member States, five named individuals nominated by 1992 Fund Member States and one named individual not related to the Organisations with expertise and experience in audit matters nominated by the Chairman of the 1992 Fund Assembly.

3.2 The Audit Body normally meets three times a year. In 2009, they met in April, June and December.

4 Investment Advisory Body

4.1 The governing bodies of the IOPC Funds have established a joint Investment Advisory Body, consisting of three experts with specialist knowledge in investment matters elected by the 1992 Fund Assembly to advise the Director in general terms on such matters.

4.2 The Investment Advisory Body normally meets four times a year. In 2009, they met in February, May, September and November.

5 Financial Overview

5.1 There are separate income and expenditure accounts for the General Fund and for each of the Major Claims Funds. The General Fund covers the 1971 Fund's expenses for the administration, including the 1971 Fund's share of the costs of running the joint Secretariat, and for compensation payments and claims-related expenditure up to a maximum amount of the Pounds sterling equivalent of 1 million SDR per incident converted at the rate applicable on the date of the incident. Separate Major Claims Funds are established for incidents where the total amount payable by the 1971 Fund exceeds 1 million SDR.

5.2 The 1971 Fund is financed by contributions paid by any person who has received in the relevant calendar year in excess of 150 000 tonnes of crude oil or heavy fuel oil (contributing oil) in ports or terminal installations in a Member State after carriage by sea. The levy of contributions is based on reports of oil receipts in respect of individual contributors, which are submitted to the Secretariat by Governments of Member States.

Income

Contribution Income

5.3 Since the 1971 Fund Convention ceased to be in force it is no longer possible to levy contributions to the 1971 Fund's General Fund. At its session in October 2008 the 1971 Fund Administrative Council decided that there should be no levy of 2008 contributions payable in 2009 in respect of the *Nissos Amorgos* and *Vistabella* Major Claims Funds.

5.4 Details of outstanding contributions for previous financial periods are provided in **Schedule I**. As at 31 December 2009 the total outstanding amount of contributions levied from 1989 to 2004 was £310 058 compared to £311 530 in 2008.

Interest earned on investments

- 5.5 Interest on investments amounted to £116 559 in respect of the General Fund and £91 093 in respect of the Major Claims Funds. It should be noted that the London clearing bank rate (UK base rate) fell sharply in 2008 and 2009 which had a considerable impact on the yield earned by the Funds on their investments.

Expenditure

1971 Fund Expenses

- 5.6 At their October 2008 sessions the 1971 Fund Administrative Council and the 1992 Fund Assembly decided that the 1971 Fund should pay to the 1992 Fund a flat management fee towards the cost of running the joint Secretariat in 2009. The management fee was set based on the estimated number of working days that the entire Secretariat would have to spend on 1971 Fund matters. The fee for 2009 was retained at the same level as in 2008 at £210 000 (15 days).
- 5.7 The expenditure relating to the 1971 Fund's share of the costs of running the joint Secretariat, consultants' fees and the External Auditor's fees amounted to £220 300 in 2009 compared to the total appropriation of £475 300. The under-spend related mainly to the costs in respect of the winding up of the 1971 Fund (£250 000). A breakdown of the 1971 Fund expenditure (cf **Statement I**) is set out below:

Expenditure relating only to 1971 Fund	2009 Budget appropriations £	2009 Obligations incurred		Balance of appropriations £
		£	%	
(a) Management fee payable to 1992 Fund	210 000	210 000	95.32	-
(b) Costs of winding up of the 1971 Fund	250 000	-	0.00	250 000
(c) Administrative costs including External Audit fees	15 300	10 300	4.68	5 000
TOTAL	475 300	220 300	100.00	255 000

Secretariat Expenses

- 5.8 The joint Secretariat's administrative expenses for 2009 amounted to £3 416 948, including the External Auditor fees paid in 2009 for the audit of the 2008 financial statements for the three Funds (cf paragraphs 5.9 and 5.10). The total obligations incurred in 2009 was 8.2% less than the 2009 budget appropriation of £3 723 625 and 19.9% higher than the total obligations incurred in 2008 of £2 849 042.
- 5.9 The External Auditor's fees for the audit of the financial statements for the three Funds were £62 400, broken down between the Funds as follows.
- | | |
|--------------------|---------|
| 1992 Fund | £48 500 |
| 1971 Fund | £10 300 |
| Supplementary Fund | £3 600 |
- 5.10 Expenses for running the joint Secretariat were made under six Chapters as set out below. Comments on the expenditures by Chapter are given in the 1992 Fund's financial statements for 2009 (document 92FUND/2009 FINANCIAL STATEMENTS, Annex 1, paragraphs 5.12 - 5.27).

Chapter	2009 budget appropriations	2009 revised budget appropriations	2009 Obligations incurred		2008 Obligations incurred	
	£	£	£	%	£	%
I Personnel	2 197 925	2 197 925	2 133 347	62.5	1 723 522	60.5
II General services	763 300	756 054	616 748	18.0	569 907	20.0
III Meetings	175 000	182 246	182 246	5.3	129 134	4.5
IV Travel	150 000	138 000	60 015	1.8	14 845	0.5
V Miscellaneous expenditure	377 400	392 667	392 667	11.5	411 634	14.5
VI Unforeseen expenditure	60 000	56 733	31 925	0.9	-	-
Total	3 723 625	3 723 625	3 416 948	100.00	2 849 042	100.00

Claims and Claims-related expenditure

- 5.11 Compensation payments and claims-related expenditure during 2009 totalled some £182 526 compared to £157 814 in 2008. Of the amount paid in 2009 the sum of £164 028 was paid out of the General Fund and this amount includes claims-related expenditure of £25 566 in respect of the *Aegean Sea* incident after the Major Claims Fund set up for this incident was closed (cf **Schedule II**, paragraph 3).

General Fund and Major Claims Balances

- 5.12 The 1971 Fund's cash assets at the end of the 2009 financial period amounting to some £8.4 million were held in Pounds sterling.
- 5.13 The General Fund balance of £4 374 504 is lower than the working capital which was set by the Administrative Council at its October 2002 session at £5 million.
- 5.14 The balances due to two Major Claims Funds were as follows:

	£
<i>Nissos Amorgos</i> Major Claims Fund	3 306 999
<i>Vistabella</i> Major Claims Fund	41 862

- 5.15 The contingent liabilities as at 31 December 2009 were estimated at some £95 million in respect of seven incidents as detailed in **Schedule III**.

Contributors' account

- 5.16 As at 31 December 2009 an amount of £1 006 243 was due to contributors compared to £1 159 268 on 31 December 2008. This amount includes interest (£9 904) credited in 2008 as provided for in the Internal Regulations. The Administrative Council decided at its October 2003 session to postpone reimbursements to contributors in those Member States which had any oil reports outstanding until all such reports had been submitted. This decision has been renewed at all its following sessions. Repayment of over £500 000 owed to one contributor has been withheld due to non-submission of an oil report.

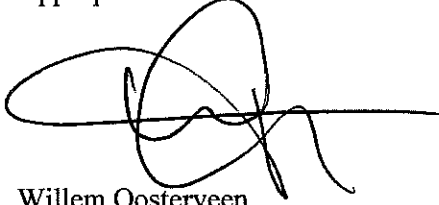
Cash Flow Statement for the financial period 1 January - 31 December 2009 (Statement IV)

- 5.17 During the financial period ended 31 December 2009, the net cash outflow from operating activities was £484 628 (partially offset by the interest from the 1971 Fund's investments amounting to £217 556), which resulted in a reduction of the cash balance from the opening balance of £8 649 452 to £8 382 380 (cf Note 5 to the financial statements).

6 **External Auditor's Recommendations from previous financial years**

The External Auditor's recommendations that are outstanding from previous financial years and for the 2009 financial year cover both the 1992 Fund and the 1971 Fund. These recommendations and the Director's response thereto are set out in the Attachment to this Annex.

Appropriate action has been taken on all previous financial years' recommendations.



Willem Oosterveen
Director
24 June 2010

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RECOMMENDATIONS MADE BY EXTERNAL AUDITOR IN MAIN REPORT

SUMMARY RECOMMENDATIONS AND RESPONSE

FINANCIAL STATEMENTS 2008

<u>Recommendations from External Auditor</u>	<u>Response from IOPC Funds' Director</u>	<u>Status</u>
<p><u>Recommendation 1:</u> That IOPC Funds consider shortening the period between the end of the reporting period and the certification of the financial statements. In doing so the Secretariat will also need to consider introducing a system of an interim closure of their accounts in September each year with a view to producing interim financial statements for audit. We further recommend that where possible reporting requirements are maintained within the existing calendar of governing body meetings.</p>	<p>The IOPC Funds' quarterly accounts are currently produced by the Secretariat shortly after the quarter end. The Secretariat should therefore be in a position to produce financial statements for the first nine months to be presented to the External Auditor at the time of the interim audit each year.</p> <p>The governing bodies hold their main (regular) sessions in autumn each year at which the financial statements are approved. The Audit Body and the Chairpersons of the governing bodies are presented with certified financial statements as soon as they are ready.</p>	<p><i>Current reporting period to be retained.</i></p> <p><i>As set out in last year's Director's response to this recommendation by the External Auditor, the recommendation was raised with the Audit Body at its December 2009 meeting.</i></p> <p><i>The Audit Body agreed with the Director that there was no perceived benefit in shortening the period, given the nature of the IOPC Funds as intergovernmental organisations, and that it was unlikely that any external party could potentially be misled by the Financial Statements being made available only in summer. A change in the period would also inevitably require changes to the calendar of meetings of both the Audit Body and governing bodies, which would significantly upset the current annual work cycle of the organisations.</i></p>

Attachment

FINANCIAL STATEMENTS 2009

<u>Recommendations from External Auditor</u>	<u>Response from IOPC Funds' Director</u>	<u>Status</u>
<p><u>Recommendation 1:</u> We recommend that the Secretariat develop an annual stewardship statement, supported by a series of questions and assertions for Heads of Departments in respect of internal control. This document should be certified by Heads of Departments and provided to the Director to provide assurance and evidence to underpin the Statement on Internal Control in respect of 2010.</p>	<p>Under the Funds' Financial Regulations and Administrative Instructions (issued by the Director), the Director has delegated authority to Heads of Departments and other officers of the organisation as appropriate. In the Director's view, considering the size of the Secretariat, an additional layer of sign off seems unnecessary, in that it would mainly seem to increase administration and paperwork without adding any real benefits from a control point of view. Nevertheless, the Director welcomes any suggestions that the External Auditor may have as to the format that this stewardship statement should take.</p>	<p><i>To be discussed with External Auditor and Audit Body</i></p>
<p><u>Recommendation 2:</u> We recommend that the Secretariat consider the earlier implementation of the new payroll system to minimise the costs of parallel running. Furthermore, we recommend that results of the parallel run of the new payroll should be reviewed by senior management to confirm the accuracy of the data on the new system before it goes live and that this should be retained for audit purposes.</p>	<p>The introduction of any new software product requires a robust implementation plan to ensure accuracy of any data transfer. As the new payroll system is bespoke and written exclusively to the Fund's specification, a decision was made to run the existing spreadsheet-based payroll system and the new system in parallel for the period to 31 March 2011 so as to cover changes to staff details/entitlements during the period and also test year-end payroll reports before reliance is placed only on the new system. Being a small Secretariat the 'cost' of running a parallel system is not material. The additional assurance provided by running a parallel system for some time outweighs the minimal time/'cost' involved. Results of the parallel run will be signed off by senior management and retained for audit purposes.</p>	<p><i>On-going</i> <i>Parallel run is currently in progress and will continue up to and including March 2011 payroll.</i></p>

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ANNEX II

INTERNATIONAL OIL POLLUTION COMPENSATION FUND 1971

STATEMENT OF INTERNAL CONTROL

Scope of Director's responsibility

Under Article 28.2 of the 1971 Fund Convention, the Director shall be the legal representative of the International Oil Pollution Compensation Fund 1971 (1971 Fund). Each Contracting State shall, pursuant to Article 2.2, recognise the Director as the legal representative of the Fund.

Under Article 29.1, the Director shall be the chief administrative officer of the 1971 Fund. As chief administrative officer, the Director has responsibility for maintaining a sound system of internal control that supports the achievement of the 1971 Fund's policies, aims and objectives, whilst also safeguarding the 1971 Fund's assets.

As a result of these provisions, the Director has the authority, *vis-à-vis* third parties, to commit the 1971 Fund without restrictions, unless the third party concerned has been informed of any limitation of this authority decided by the 1971 Fund's governing body.

The Director is, however, bound by any restriction of his authority decided by the 1971 Fund governing body. He may delegate his authority to other officers within the limits laid down by the 1971 Fund Administrative Council.

The 1971 Fund, the International Oil Pollution Compensation Fund 1992 (1992 Fund) and the International Oil Pollution Compensation Supplementary Fund (Supplementary Fund), together referred to as the IOPC Funds, have a joint Secretariat headed by one Director. The 1992 Fund administers the joint Secretariat and staff members are therefore employed by the 1992 Fund.

Pursuant to the authority given and within the limits laid down by the IOPC Funds' governing bodies the Director has delegated his authority to other officers by Administrative Instructions.

The Director is assisted by a Management Team comprising of the Legal Counsel, the Head of the Claims Department, the Head of the Finance and Administration Department, the Head of the External Relations and Conference Department and the Technical Adviser/Claims Manager for the day to day running of the Secretariat.

Statement on the system of internal control

The Director has the responsibility for maintaining a sound system of internal control that supports the work of the 1971 Fund. The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks and to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.

The joint Audit Body established by the IOPC Funds' governing bodies meets formally three times a year. The Audit Body has the mandate to review the adequacy and effectiveness of the Organisation regarding key issues of management and financial reporting, internal controls, operational procedures and risk management, to review the Organisation's financial statements and reports, and to consider all relevant reports by the External Auditor, including reports on the Organisation's financial statements. This additional

oversight provides further assurance to me, as well as the governing bodies, that appropriate internal controls are in place. The Body reports to the 1971 Fund Administrative Council on an annual basis.

Capability to handle risk

In close cooperation with the Audit Body, and with the assistance of external consultants and the External Auditor, five areas of risk have been identified, namely: reputation risk, claims handling process, financial risk, human resource management and business continuity.

Under these five areas, with the assistance of external consultants, the sub risks have been mapped and assessed following which the process and procedures for management of these risks have been documented. This exercise allows the IOPC Funds to prioritise the key risks and to ensure that these risks have been adequately mitigated. The Audit Body and the External Auditor have made valuable contributions to the work in this field.

During 2009 the Director continued a review of the IOPC Funds' risk register. On an annual basis the Audit Body is provided with a Key Risk Register comprising of risks identified as being key risks across the Secretariat for review and it makes specific reference to these matters in its annual report to the governing bodies.

The risk and control framework

The system of internal control is based on an ongoing process designed to ensure conformity with the 1971 Fund Convention, the Financial Regulations, the Internal Regulations and decisions of the 1971 Fund Administrative Council.

The Administrative Council adopts the Financial Regulations and Internal Regulations necessary for the proper functioning of the 1971 Fund.

The joint Investment Advisory Body established by the IOPC Funds' governing bodies advises the Director on relevant procedures for investment and cash management controls. The Body monitors, on a quarterly basis, the credit ratings of financial institutions and reviews the credit ratings of institutions which meet the IOPC Funds' investment criteria. The Body also reviews the IOPC Funds' investments and foreign exchange requirements to ensure that reasonable investment returns are achieved without compromising the IOPC Funds' assets. The Body reports to the 1971 Fund Administrative Council on an annual basis.

Review of effectiveness

The review of the effectiveness of the system of internal control is carried out through the work of the Audit Body and that of the External Auditor. Any recommendations made by the External Auditor in his management letter and other Reports are considered and a plan to address any identified weakness and to ensure continuous improvement of the current system is agreed. All recommendations made by the External Auditor in his management letter and Report on prior years' financial statements have been addressed.

The Audit Body has taken the view that an internal audit function would be an unnecessary burden and expense on an organisation the size of the joint Secretariat. The Director will keep this issue under review.

I have concluded that there existed an effective system of internal control for the financial year 2009.



Willem Oosterveen
Director

24 June 2010

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**FINANCIAL STATEMENTS OF THE INTERNATIONAL OIL POLLUTION
COMPENSATION FUND 1971 FOR THE YEAR ENDED 31 DECEMBER 2009**

EXTERNAL AUDITOR'S REPORT

To: the Administrative Council of the International Oil Pollution Compensation Fund 1971

I have audited the accompanying financial statements of the International Oil Pollution Compensation Fund 1971 for the financial period ended 31 December 2009, comprising Statements I, Statement of Budget Appropriations and Obligations Incurred; Statement II, Summary of Income and Expenditure Account; Statement III, Balance Sheet; Statement IV, Cash Flow Statement; Schedules I to III and the supporting Notes 1 to 11. These financial statements have been prepared under the accounting policies set out within them.

Respective responsibilities of the Director and Auditor

The Director is responsible for the preparation and fair presentation of the financial statements, in accordance with requirements of the Financial Regulations as authorised by the Administrative Council. This responsibility includes: designing, implementing and maintaining internal control; the fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

My responsibility is to issue a report on the audit of the financial statements, in accordance with Financial Regulation 14. I am required to express an opinion as to whether the financial statements present fairly the financial position at the end of the period and the results of the operations for the period; and that the financial statements were prepared in accordance with the stated accounting policies. I also report to you whether, in all material respects, the transactions have been made in accordance with the financial regulations.

I read the other information attached to the financial statements and consider whether it is consistent with the audited financial statements. This other information consists of the Director's Comments on the Financial Statements and the Statement on Internal Control. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. I am not required to consider whether the Statement on Internal Control covers all risks and controls, or form an opinion on the effectiveness of the International Oil Pollution Compensation Funds corporate governance procedures or its risk and control procedures. My responsibilities do not extend to any other information.

Basis of audit opinion

I conducted my audit in accordance with International Standards on Auditing issued by the International Auditing and Assurance Standards Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements. It also includes an assessment of the significant estimates and judgments made by the Director in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the International Oil Pollution Compensation Funds circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error, and that in all material respects the transactions have been made in accordance with the Financial Regulations and applied to the purposes intended by the Administrative Council. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements.

Opinion

DB

In my opinion, these financial statements present fairly, in all material respects, the financial position as at 31 December 2009 and the results of operations and cash flows for the period then ended in accordance with the International Oil Pollution Compensation Funds stated accounting policies.

Opinion on Regularity

In my opinion, in all material respects, the transactions have been made in accordance with the Financial Regulations and applied to the purposes intended by the Fund's Administrative Council.

Long Form Report

In accordance with Regulation 14 of the Financial Regulations, I have also issued a long-form report on my audit.



Amyas C E Morse
Comptroller and Auditor General
United Kingdom
External Auditor

National Audit Office
London

1 July 2010



National Audit Office

The National Audit Office (NAO), headed by the Comptroller and Auditor General of the United Kingdom, provides an external audit service to the International Oil Pollution Compensation Fund 1971. The External Auditor has been appointed by the 1971 Fund Administrative Council in accordance with Regulation 14 of the Financial Regulations. In addition to certifying the financial statements of the 1971 Fund, he has authority under the mandate to report to the 1971 on the economy, efficiency and effectiveness with which the organisation has used its resources.

The aim of the audit is to provide independent assurance to the 1971 Fund Administrative Council; to add value to financial management and governance; and to support the objectives of the Fund's work.

For further information please contact:

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External Auditor's Report 2009

International Oil Pollution Compensation Fund 1971

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EXECUTIVE SUMMARY

We have provided an unqualified audit opinion on the 2009 financial statements – which present fairly in all material respects and we confirm that our audit revealed no weaknesses or errors which we considered to be material to the accuracy, completeness and validity of the financial statements.

In addition to comments on 1971 Fund's 's financial performance – which remains strong - our audit report focuses on other areas of financial and governance interest.

***On Internal Controls** – While overall internal controls operated effectively throughout 2009, we have identified areas where we believe the Fund can strengthen internal controls. These include improving the assurances process to support the Statement on Internal Control.*

DETAILED FINDINGS

Overall Results of the Audit

1. We have audited the financial statements of the International Oil Pollution Compensation Fund 1971 in accordance with the Financial Regulations and in conformity with International Standards on Auditing. We have provided a separate audit opinion and report in relation to the financial statements of the International Oil Pollution Compensation Fund 1992 and an audit opinion in relation to the financial statements of the Supplementary Fund.
2. The audit examination revealed no weaknesses or errors which we considered material to the accuracy, completeness and validity of the financial statements. The audit opinion confirms that these financial statements reflect fairly, in all material respects, the financial position as at 31 December 2009 and the results of operations and cash flows for the period then ended, in accordance with United Nations System Accounting Standards and the IOPC Funds' Financial Regulations and stated accounting policies.
3. The main observations and recommendations from our audit are summarised below including our commentary on the action taken by management in response to audit recommendations for 2008. The scope and approach of the audit, which were communicated to the Secretariat in a detailed audit strategy, are summarised at **Annex A**.

Financial Results

Income and Expenditure

4. In overall terms the Fund incurred a deficit of £183,815 for the 2009 financial year, with the General Fund reporting a deficit of £256,410, which was partially offset by the surplus shown on the *Nissos Amorgos* and *Vistabella* Major Claims Funds. However, the General Fund brought forward balance of £4.6 million is sufficient to cover the deficit.
5. Contributions income was nil, as no levies were applied and there were no settlements of outstanding balances from prior year levies. Miscellaneous income has declined from £681,038 to £219,011 in 2009 and consists primarily of interest on investments which amounted to £207,652. The decline largely relates to the closure of the *Pontoon 300* Major Claims Fund in 2008, which resulted in a transfer of funds to the General Fund in that year. The decline is further explained by the reduced interest rates available on investments during 2009.
6. The Fund reported expenditure of £402,826 (2008: £377,814) for 2009 and comprises £220,300 (2008: £220,000) in respect of administrative expenses and £182,526 (2008: £157,814) of claims related

expenditure. Claims related expenditure increased in 2009 by some £24,715 (15.6%). This is primarily due to increased activity on the *Plate Princess* incident, which has pending court cases. There were no compensation payments made in 2009.

Assets and Liabilities

7. The Fund continues to hold a surplus of assets over liabilities at the end of 2009 with net assets of £7.7 million (2008: £7.9 million). Total assets of £8.7 million primarily consist of cash holdings amounting to some £8.3 million and contributions outstanding of £310,000. Total liabilities of £1 million primarily consist of amounts due to contributors held within the Contributors' Account.
8. Contingent liabilities for the Fund were disclosed as £94.9 million, (2008: £50 million) at 31 December 2009. The significant increase this year is due to the additional £50 million liability estimated on the *Plate Princess* incident in Venezuela as a result of several court cases regarding time-barred claims.

Internal Controls

9. As a part of our audit we routinely review the system of internal financial controls in place. Our review of these systems and procedures for audit purposes provided sufficient evidence to conclude that the Fund had maintained an effective level of internal financial control during this financial period. The Fund produces a Statement on Internal Control and our findings are consistent with the assertions made in this Statement. However, there are a number of observations that we have made from our audit work which are detailed below.

Statement on Internal Control

10. IOPC Funds became one of the first international organisations to adopt a Statement on Internal Control. The Statement provides a mechanism through which the Director confirms his responsibilities for internal control and describes the systems established to provide him with the necessary assurances over their operation. The Statement provides Member States and other stakeholders with greater assurance at the year end that the Funds have an effective system of internal control in place. We review the processes in place to provide evidence for the assertions made in the statement, and report to you if we disagree with any comments or assertions made within it. The most significant areas through which the Director gains his assurance are from the risk management process and the reports of the External Auditor. We noted that the Director has confirmed that he does not believe that further assurance through the establishment of an internal audit function is considered necessary given his assessment of risk.

11. In reviewing the Statement we have identified some further scope for improvement in documenting and obtaining evidence to underpin the Director's Statement. In our view this is particularly important given the absence of an internal assurance function. At present there is no formal system for divisional heads to provide their own assurance statement to the Director to confirm that controls have operated effectively and that the transactions authorised have been in accordance with the Fund's regulations. We would encourage the Fund to develop a simple and high level stewardship statement for sign off by Heads of Departments on annual basis. We would be happy to supply examples of such statements made by other public sector bodies to the Secretariat and to discuss the detail of our recommendation with the Members of the Audit Body.

12. The Audit Body plays a significant role in informing the Director in respect of his assessment on internal controls and the assurance provided by the Investment Advisory Body and the External Audit process. We continued to participate in these meetings and have welcomed the Audit Body's commitment to perform an annual review of its effectiveness. This is particularly important as the Audit Body considers new appointments to its membership and to ensure that it is able to bring the necessary skills and experience to address the risks faced by the Fund. We will work with the Audit Body members to provide examples of tools to facilitate this review and provide guidance and best practice examples from other international organisations.

Development of the new payroll system - (Staff employed only by 1992 Fund)

13. Our review of the business developments taking place within the Secretariat confirmed that a new payroll system, which is currently being tested and finalised, is expected to be adopted in 2011 and discussions with the Secretariat confirm that they are on track to meet this target. The system will automate the calculation of payroll figures which is complex and currently performed manually by Finance staff. We welcome this development having highlighted the risks with the current payroll system in our previous reports. However, we note that some manual input will still be required including the input of UN exchange rates on a monthly basis and the use of a 'special payroll function which will be used for adjustments such as back dating pay for staff joining mid month. In reviewing the arrangements for the new system we have noted that the two systems are currently being run in parallel. Although there is a clear need to test the operation of the system we would encourage the Secretariat to consider whether an earlier implementation would reduce the inefficiency arising from the operation of two parallel systems. We also highlighted the importance of senior management performing an evidenced review of data transfer.

Other financial matters: fraud and irregularity

14. Through discussion with management we have confirmed that no cases of fraud, presumptive fraud or irregularity were recorded by the Secretariat. No cases or instances have been identified as a result of our audit examination.

Recommendation 1: We recommend that the Secretariat develop an annual stewardship statement, supported by a series of questions and assertions for Heads of Department in respect of internal control. This document should be certified by Heads of Department and provided to the Director to provide assurance and evidence to underpin the Statement on Internal Control in respect of 2010.

Recommendation 2: We recommend that the Secretariat consider the earlier implementation of the new payroll system to minimise the costs of parallel running. Furthermore, we recommend that results of the parallel run of the new payroll should be reviewed by senior management to confirm the accuracy of the data on the new system before it goes live and that this should be retained for audit purposes.

Progress on Previous Audit Recommendations

15. As part of our responsibilities as External Auditor we routinely report to the 1971 Fund Administrative Council on management's implementation of prior year audit recommendations, to provide assurance to the Council that appropriate action is taken. We recommended that the Fund should consider shortening the period between the end of the financial year and the certification of the financial statements with a view to earlier reporting to its governing body. However, at present the Fund is not able to accommodate such a change within their existing arrangements for governing body meetings, but nevertheless they will keep the issue under consideration, particularly as they move to the adoption of IPSAS.

Acknowledgement

16. We are grateful for the continued assistance and co-operation provided by the Director and Secretariat staff during our audit.



Amyas C E Morse

Comptroller and Auditor General, United Kingdom
External Auditor

18th July 2010

SUMMARY OF AUDIT RECOMMENDATIONS

Statement of Internal Control

Recommendation 1: We recommend that the Secretariat develop an annual stewardship statement, supported by a series of questions and assertions for Heads of Department in respect of internal control. This document should be certified by Heads of Department and provided to the Director to provide assurance and evidence to underpin the Statement on Internal Control in respect of 2010.

Development of the New Payroll System

Recommendation 2: We recommend that the Secretariat consider the earlier implementation of the new payroll system to minimise the costs of parallel running. Furthermore, we recommend that results of the parallel run of the new payroll should be reviewed by senior management to confirm the accuracy of the data on the new system before it goes live and that this should be retained for audit purposes.

ANNEX V

**FINANCIAL STATEMENTS
OF THE INTERNATIONAL OIL
POLLUTION COMPENSATION FUND 1971
FOR THE FINANCIAL YEAR
ENDED 31 DECEMBER 2009**

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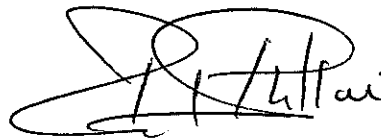
CERTIFICATION OF THE FINANCIAL STATEMENTS

The appended financial statements numbered I to IV and the supporting schedules are certified.



Handwritten signature of Willem Oosterveen, consisting of a large, stylized loop followed by a horizontal line and a vertical stroke.

Willem Oosterveen
Director



Handwritten signature of Ranjit S P Pillai, featuring a large, stylized loop followed by the letters 'R S P Pillai' in a cursive script.

Ranjit S P Pillai
Head Finance & Administration Department

24 June 2010

STATEMENT I

GENERAL FUND

STATEMENT OF BUDGET APPROPRIATIONS AND OBLIGATIONS INCURRED
FOR THE FINANCIAL PERIOD 1 JANUARY - 31 DECEMBER 2009

CLASS OF EXPENDITURE		BUDGET APPROPRIATIONS		OBLIGATIONS INCURRED		BALANCE OF APPROPRIATIONS	
		2009	2008	2009	2008	2009	2008
(a)	Management fee payable to 1992 Fund	210 000	210 000	210 000	210 000	-	-
(b)	Costs for winding up of the 1971 Fund	250 000	250 000	-	-	250 000	250 000
(c)	Administrative costs including External Audit fees	15 300	15 000	10 300	10 000	5 000	5 000
TOTAL OBLIGATIONS		475 300	475 000	220 300	220 000	255 000	255 000

Note A: This Statement deals only with administrative expenditure. Expenditure in respect of claims is dealt with in Statement II.1 for the General Fund and in Statement II.2 for the *Nissos Amorgos* and *Vistabella* Major Claims Funds.



STATEMENT I

SUMMARY OF INCOME AND EXPENDITURE ACCOUNT OF THE GENERAL FUND
AND MAJOR CLAIMS FUNDS FOR THE FINANCIAL PERIOD 1 JANUARY - 31 DECEMBER 2009

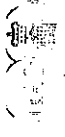
	2009			2009	2008
	General Fund	Nissos Amorgos MCF	Vistabella MCF	Total	Total
INCOME	£	£	£	£	£
Contributions					
Adjustment to prior year's assessment	-	-	-	-	2 298
Reimbursement to contributors	-	-	-	-	(2 200 047)
	-	-	-	-	(2 197 749)
Miscellaneous					
Sundry income	11 273	-	-	11 273	38 478
Transfer from <i>Pantheon 300</i> MCF	-	-	-	-	172 996
Interest on overdue contributions	86	-	-	86	251
Interest on investments	116 559	90 143	950	207 652	469 313
Total income	127 918	90 143	950	219 011	681 038
	127 918	90 143	950	219 011	(1 516 711)
EXPENDITURE					
Secretariat expenses					
Obligations incurred	220 300	-	-	220 300	220 000
Claims					
Compensation	-	-	-	-	9 195
Claims related expenditure	164 028	18 232	266	182 526	148 619
Total expenditure	384 328	18 232	266	402 826	157 814
Income less expenditure	(256 410)	71 911	684		
Balance b/f. 1 January	4 630 914	3 235 088	41 178		
Balance as at 31 December	4 374 504	3 306 999	41 862		

STATEMENT II.1

GENERAL FUND

INCOME AND EXPENDITURE ACCOUNT FOR THE
FINANCIAL PERIOD 1 JANUARY - 31 DECEMBER 2009

	Note	2009		2008	
INCOME		£	Total £	£	Total £
Contributions (Schedule I)					
Adjustment to prior year's assessment		-		1 171	
			-		1 171
Miscellaneous					
Sundry income	2	11 273		38 478	
Transfer from <i>Pontoon 300</i> MCF		-		172 996	
Interest on overdue contributions		86		251	
Interest on investments	3	116 559		252 960	
			127 918		464 685
Total income			127 918		465 856
EXPENDITURE					
Secretariat expenses (Statement I)					
Obligations incurred	4		220 300		220 000
Claims (Schedule II)					
Compensation			-		9 195
Claims related expenses (Schedule II)					
Fees		163 775		134 916	
Travel		-		3 473	
Miscellaneous		253		1 351	
			164 028		139 740
Total expenditure			384 328		368 935
Excess/(shortfall) of income over expenditure			(256 410)		96 921
Balance b/f 1 January			4 630 914		4 533 993
Balance as at 31 December	11		4 374 504		4 630 914



STATEMENT OF FINANCIAL STATEMENTS

**NISSOS AMORGOS AND VISTABELLA MAJOR CLAIMS FUNDS
INCOME AND EXPENDITURE ACCOUNT
FOR THE FINANCIAL PERIOD 1 JANUARY - 31 DECEMBER 2009**

	Note	Nissos Amorgos Major Claims Fund			Vistabella Major Claims Fund		
		2009	2008	Total £	2009	2008	Total £
INCOME		£	£	Total £	£	£	Total £
Miscellaneous						1 981	
Interest on investments	3	90 143	179 879	179 879	950	950	1 981
Total income				179 879		950	1 981
EXPENDITURE (Schedule II)							
Fees		18 202	4 526		256		3 112
Travel		-	1 154		-		-
Miscellaneous		30	22		10		30
Total expenditure				5 702		266	3 142
Excess/(shortfall) of income over expenditure				174 177		684	(1 161)
Balance b/f 1 January				3 060 911		41 178	42 339
Balance as at 31 December	11			3 306 999		41 862	41 178

STATEMENT III

BALANCE SHEET OF THE 1971 FUND AS AT 31 DECEMBER 2009

	Note	2009			2008	
		General Fund	Nissos Amorgos MCF	Vistabella MCF	Total	Total
ASSETS		£	£	£	£	£
Cash at banks and in hand	5	5 043 605	3 304 063	34 712	8 382 380	8 649 452
Contributions outstanding	6	300 187	2 721	7 150	310 058	311 530
Interest on overdue contributions outstanding	7	36 353	215	-	36 568	97 589
Due from 1992 Fund		-	-	-	-	4 492
Tax recoverable	8	1 555	-	-	1 555	4 435
Miscellaneous receivable		-	-	-	-	254
TOTAL ASSETS		5 381 700	3 306 999	41 862	8 730 561	9 067 752
LIABILITIES						
Due to 1992 Fund	9	953	-	-	953	-
Accounts payable		-	-	-	-	1 304
Contributors' account	10	1 006 243	-	-	1 006 243	1 159 268
TOTAL LIABILITIES		1 007 196	-	-	1 007 196	1 160 572
FUNDS' BALANCES						
Working Capital		5 000 000	-	-	5 000 000	5 000 000
Surplus / (Deficit)		(625 496)	3 306 999	41 862	2 723 365	2 907 180
GENERAL FUND AND MAJOR CLAIMS FUNDS (MCFs) BALANCES	11	4 374 504	3 306 999	41 862	7 723 365	7 907 180
TOTAL LIABILITIES, GENERAL FUND AND MCFs BALANCES		5 381 700	3 306 999	41 862	8 730 561	9 067 752

STATEMENT IV

CASH FLOW STATEMENT OF THE 1971 FUND

FOR THE FINANCIAL PERIOD 1 JANUARY - 31 DECEMBER 2009

	2009		2008	
	£	£	£	£
Cash as at 1 January		8 649 452		11 414 259
OPERATING ACTIVITIES				
Operating Deficit	(391 467)		(2 536 834)	
Decrease/(Increase) in Debtors	70 119		30 118	
Increase/(Decrease) in Creditors	(163 280)		(818 974)	
Net cash flow from operating activities		(484 628)		(3 325 690)
RETURNS ON INVESTMENTS				
Interest on investments	217 556		560 883	
Net cash inflow from returns on investments		217 556		560 883
Cash as at 31 December		8 382 380		8 649 452

NOTES TO FINANCIAL STATEMENTS

1 Significant Accounting Policies

In accordance with the 1971 Fund's Financial Regulation 12.3(b) and in compliance with United Nations accounting standards where appropriate, the principal accounting policies followed in arriving at the financial information given in the respective statements are set out below.

(a) Rules and procedures

The financial statements are prepared in accordance with the Financial Regulations of the 1971 Fund, and in compliance with the provisions of the 1971 Fund Convention and the Internal Regulations of the 1971 Fund.

(b) Basis of preparation

The accounts are prepared on the basis of a General Fund and Major Claims Funds, as laid down in Financial Regulation 7.

The financial period is the calendar year.

The 1971 Fund Convention ceased to be in force on 24 May 2002 in accordance with Article 43.1 of the Convention as amended by the Protocol of 2000 thereto as a result of the denunciation of the 1971 Fund Convention by the United Arab Emirates, bringing the total number of 1971 Fund Member States below 25.

The financial statements have been prepared on the basis that the 1971 Fund's operations will continue for several years, to enable the 1971 Fund to satisfy pending compensation claims arising from incidents which occurred prior to when the 1971 Fund Convention ceased to be in force. All existing liabilities for the past incidents are covered by current investments and cash holdings or the reasonable expectation that the contributors in the Member States at the time of the incident will continue to pay contributions so as to enable the 1971 Fund to satisfy compensation claims.

(c) Accounting convention

The accounts are prepared under the historical cost convention, modified to the extent that the cost of all property acquired is immediately charged as an expense, in accordance with Financial Regulation 11.4. No adjustment to the accounts has been made in view of the progressive winding up of the 1971 Fund.

(d) Administrative expenditure

Expenditure comprises payments and unliquidated obligations incurred in respect of the current budget year.

Obligations are recorded on the basis of contracts, purchase orders, agreements or other forms of legal undertaking.

Unliquidated obligations are obligations or that part of obligations which are not yet paid. In accordance with Financial Regulation 6.4, appropriations for unliquidated obligations remain available to discharge legal obligations for 24 months following the end of the financial period to which they relate.

The amounts are net of Value Added Tax.

(e) Expenditure arising out of incidents

Expenditure arising out of incidents is charged in the year of payment. There is no specific appropriation to meet any settlement of claims.

At its October 2000 session the Administrative Council of the 1971 Fund authorised the Director to purchase insurance covering any liabilities of the 1971 Fund for compensation and indemnification in respect of incidents occurring during the period 25 October 2000 to 24 May 2002 up to 60 million Special Drawing Rights (SDR) per incident minus the amount actually paid by the shipowner or his insurer under the 1969 Civil Liability Convention, as well as legal and other expert fees, with the 1971 Fund having to cover a deductible of 250 000 SDR for each incident. There are currently no incidents covered by the insurance.

As regards any incident occurring before 25 October 2000 expenses up to 1 million SDR are charged to the General Fund in accordance with Financial Regulation 7.1(c)(i), and expenses over that amount to the Major Claims Fund constituted for the incident in question in accordance with Financial Regulation 7.2(d).

A report on expenditure arising out of incidents is provided in **Schedule II**.

(f) Contingent liabilities

In accordance with Financial Regulation 12.3(b), details of contingent liabilities are given in **Schedule III**. Estimates of contingent liabilities include all known or likely claims against the 1971 Fund. All these claims may not necessarily mature. In the case of fees, these are calculated for the coming year only, due to the difficulties of predicting the length and cost of legal proceedings or of negotiations for reaching out-of-court settlements. Those liabilities which mature will, under the 1971 Fund Convention, be met from contributions levied by the Administrative Council.

(g) Income

Income is based on firm revenues due in the financial period and either received or receivable in this period.

Income from contributions is included only after the contributions are invoiced on the basis of figures on contributing oil receipts reported by Member States. A report on contributions is provided in **Schedule I**.

Since the 1971 Fund Convention ceased to be in force on 24 May 2002, contributions can no longer be levied in respect of the General Fund.

Interest on contributions received late is included only in the year in which the overdue annual contribution is actually paid. No interest is charged on overdue interest.

Investment income is based only on interest received from investments maturing during the financial period.

(h) Interest on contributors' account

In accordance with Internal Regulation 3.11 any credit balance on a contributors' account bears interest. The interest is added to the credit balance every year when levies or reimbursements are made, normally on 1 March.

(i) Investments

Investments of the 1971 Fund's assets include the assets of the Contributors' Account, which are merged with the 1971 Fund's assets for investment purposes, in order to obtain better interest rates.

(j) Loans between Funds

Financial Regulations 7.1(c)(iv) and 7.2(d), respectively, provide that loans can be made from the General Fund to a Major Claims Fund and from a Major Claims Fund to the General Fund or to another Major Claims Fund. Such loans shall be reimbursed with interest, in accordance with Financial Regulations 7.1(a)(v) and 7.2(b)(iii).

Interest on any loan made is calculated at a preferential rate of 0.25% above the lowest London clearing bank base rate.

(k) Translation of currencies

The 1971 Fund's assets and liabilities at the end of the 2009 financial period were all held in Pounds sterling. Gains and losses arising from foreign currency exchange transactions during the relevant accounting period are treated as normal items of operation.

If in relation to Major Claims Funds currencies are bought for Pounds sterling and invested in accordance with Financial Regulation 10.4(a), any gains or losses at the end of the financial year arising from holding these currencies are credited or debited to the respective Funds.

Payments for claims-related expenses made in foreign currencies are converted into sterling at the rate of exchange obtained from the bank on the date of transaction. Payments for compensation claims made from foreign currency bought for sterling and invested are converted at the rate at which the currency was purchased, on a first in first out basis.

Any other gains or losses at the end of the financial year arising from holding monetary items, ie assets to be received in determinable amounts of money, are credited or debited to the respective Funds.

For the translation of all monetary assets and liabilities, the rate applied is the rate of exchange for the Pound sterling against various currencies on 31 December 2009 (the last banking day of 2009) as published in the London Financial Times.

2 Sundry income

The amount of £11 273 relates to a credit balance held on behalf of a contributor who has ceased to exist. Since it is no longer possible to repay this amount it has been transferred to the General Fund.

3 Interest on investments

As at 31 December 2009 the 1971 Fund's portfolio of investments comprised of the 1971 Fund's bank deposits in respect of the General Fund, the *Nissos Amorgos* and *Vistabella* Major Claims Funds and the Contributors' Account. The distribution of the deposits by financial institution is set out in Note 5.

Interest due in 2009 on the investments amounted to £217 556 and is distributed as follows:

	£
General Fund	116 559
<i>Nissos Amorgos</i> Major Claims Fund	90 143
<i>Vistabella</i> Major Claims Fund	950
Contributor's account	<u>9 904</u>
	<u>217 556</u>

4 **Obligations incurred**

At their October 2008 sessions the 1971 Fund Administrative Council and the 1992 Fund Assembly decided that the 1971 Fund should pay a flat management fee towards the cost of running the joint Secretariat. The fee was set in the budget at £210 000 for the period 1 January to 31 December 2009 (documents 71FUND/AC.23/18, paragraph 18.3 and Annex and 92FUND/A.13/25, paragraph 21.3 and Annex).

The figure of £220 300 is made up of the management fee of £210 000 and the External Auditor's fee of £10 300.

5 **Assets**

Cash at banks and in hand

The amount of £8 382 380, which includes a balance of £1 006 243 on the Contributors' account, was held in various financial institutions and accounts as follows:

<u>Time deposit accounts (Pound sterling)</u>	£	£
Barclays Bank plc		2 350 000
Nationwide Building Society		2 000 000
Ulster Bank (Ireland) Ltd		1 100 000
 <u>Current and call deposit accounts</u>		
Bank of Scotland – call account	2 583 369	
Barclays Bank plc - £ Business Premium/ Current a/cs	<u>349 011</u>	<u>2 932 380</u>
		<u>8 382 380</u>

6 **Contributions outstanding**

Outstanding contributions due to the 1971 Fund as at 31 December 2009 totalled £310 058. A report on contributions outstanding for previous years is provided in **Schedule I**.

7 **Interest on overdue contributions outstanding**

Interest is charged at 2% above the lowest London clearing bank base rate on unpaid annual contributions from the date on which payment is due, in accordance with Article 13.1 of the 1971 Fund Convention and Internal Regulation 3.10. There is no provision in the 1971 Fund Convention for charging interest on overdue initial contributions.

As set out in Note 1(g) above, interest on overdue contributions, either received or receivable, is only included in the year in which the outstanding contribution is paid. Therefore when an outstanding contribution is paid, an invoice is raised in respect of the corresponding interest and the interest income is accounted for. Interest is charged on contributions outstanding for the whole

period for which they remain outstanding. Such income is shown under 'Miscellaneous' in the Income and Expenditure statements of the respective General Fund and Major Claims Funds as 'Interest on overdue contributions'.

Interest on overdue contributions is shown as an asset on the balance sheet (Interest on overdue contributions outstanding) until it is received.

Interest on overdue contributions totalling £36 568 was receivable as at 31 December 2009.

8 Tax recoverable

An amount of £1 555 relates to VAT to be refunded to the 1971 Fund by the United Kingdom Government.

9 Payment due to the 1992 Fund

As at 31 December 2009, an amount of £953 was due from the 1971 Fund to the 1992 Fund. This amount refers to a claims-related payment made on behalf of the 1971 Fund.

10 Contributors' account

The amount of £1 006 243 is the balance on the Contributors' account after the deduction of amounts repaid to contributors or offset against annual contributions. The amount includes interest of £9 904 credited in 2009 to contributors as provided in Internal Regulation 3.11.

11 Funds' balances

The figure of £4 374 504 represents the excess of Income over Expenditure in respect of the General Fund. The General Fund balance is lower than the working capital, which at December 2009 was £5 million as decided by the Administrative Council at its October 2002 session (document 71FUND/AC.9/20, paragraph 18).

The balances in respect of the Major Claims Funds are set out below:

<i>Nissos Amorgos</i> Major Claims Fund	£3 306 999
<i>Vistabella</i> Major Claims Fund	£41 862

* * *

SCHEDULE I

REPORT ON CONTRIBUTIONS DURING THE FINANCIAL PERIOD 1 JANUARY - 31 DECEMBER 2009 AND ON CONTRIBUTIONS OUTSTANDING FOR PREVIOUS FINANCIAL PERIODS

- 1 The General Fund covers the 1971 Fund's expenses for the administration of the 1971 Fund and for compensation payments and claims-related expenditure up to a maximum amount of the Pounds sterling equivalent of 1 million SDR per incident converted at the rate applicable on the date of the incident. For an incident which gives rise to payments by the 1971 Fund in excess of 1 million SDR, a Major Claims Fund is established to cover such payments.
- 2 Annual contributions to the General Fund have to be paid by any person who received more than 150 000 tonnes of contributing oil (crude and heavy fuel oil) within the territory of a Member State of the 1971 Fund after sea transport in the preceding calendar year. Contributions to Major Claims Funds are levied on the basis of the quantities of contributing oil received in the year preceding that in which the incident occurred, if the State was a Member of the 1971 Fund at the time of the incident. In the case of associated persons (ie commonly controlled entities), the aggregate quantities received are taken into account for the purpose of establishing whether the figure of 150 000 tonnes is reached.
- 3 Since the 1971 Fund Convention ceased to be in force on 24 May 2002, contributions can no longer be levied in respect of the General Fund.
- 4 At its session in October 2008 the 1971 Fund Administrative Council decided that there should be no levy of 2008 contributions payable in 2009 in respect of the *Nissos Amorgos* and *Vistabella*, Major Claims Funds.
- 5 A comprehensive report on the payment of contributions as at 18 September 2009 was submitted to the Administrative Council at its 24th session (document IOPC/OCT09/5/2/3). The report contained in this schedule is a comprehensive up-date of the earlier reports. No levies were made since the 1999 contributions except the 2003 contributions. An amount of £310 057.75 or 0.08% of the total amount levied over the years (£385.9 million) remains outstanding as at 31 December 2009 as set out below:

OUTSTANDING CONTRIBUTIONS	
State	Previous levies Total £
Russian Federation	43 038.75
USSR	136 465.19
Yugoslavia	130 553.81
	310 057.75

**ANNUAL CONTRIBUTIONS OUTSTANDING FOR
PREVIOUS FINANCIAL PERIODS AS AT 31 DECEMBER 2009**

General Fund and Major Claims Funds

Member State (Total number of contributors)	Fund (Number of contributors in arrears)	Assessment £	Receipt £	Outstanding £	Contribution due date
Russian Federation (3)	General Fund 1994 (1)	2 102.12	0.00	2 102.12	01/02/98
	General Fund 1998 (1)	1 339.95	0.00	1 339.95	01/02/99
	<i>Keumdong N°5</i> Major Claims Fund 1993/1994 (1)	5 538.51	1 842.73	3 695.78	01/02/98
	<i>Braer</i> Major Claims Fund 1993/1995 (1)	19 828.90	4 860.10	14 968.80	01/02/98
	<i>Sea Prince/Yeo Myung/Yuil N°1</i> Major Claims Fund 1995/1996 1st levy & 2nd levy (1)	16 905.19	2 252.52	14 652.67	01/02/98
	<i>Nakhodka</i> Major Claims Fund 1996/1997/1998 (1)	12 450.37	10 675.80	1 774.57	01/02/99
	<i>Osung N°3</i> Major Claims Fund 1997/1999/2003 (1)	2 129.36	1 321.73	807.63	01/03/00 & 01/03/04
	<i>Nissos Amorgos</i> Major Claims Fund 2003 (1)	2 720.67	0.00	2 720.67	01/03/04
	<i>Vistabella</i> Major Claims Fund 2003 (2)	2 568.28	1 936.06	632.22	01/03/04
	<i>Pontoon 300</i> Major Claims Fund 2003 (1)	1 290.01	945.67	344.34	01/03/04
		66 873.36	23 834.61	43 038.75	
Union of Soviet Socialist Republics (5)	General Fund 1991 (3)	48 799.35	41 094.20	7 705.15	01/02/92
	<i>Rio Orinoco</i> Major Claims Fund (5)	85 649.43	28 385.38	57 264.05	01/02/92
	<i>Haven</i> Major Claims Fund 1991 (4)	146 398.02	78 159.42	68 238.60	01/02/92
	<i>Vistabella</i> Major Claims Fund 2003 (4)	3 257.39	0.00	3 257.39	01/03/04
			284 104.19	147 639.00	136 465.19
Yugoslavia (3)	General Fund 1991 (3)	48 038.06	30 933.84	17 104.22	01/02/92
	<i>Rio Orinoco</i> Major Claims Fund (3)	64 590.16	30 111.52	34 478.64	01/02/92
	<i>Haven</i> Major Claims Fund 1991/1992 (3)	179 475.99	107 451.03	72 024.96	01/02/92 & 15/09/93
	<i>Volgoneft 263</i> Major Claims Fund (2)	3 685.58	0.00	3 685.58	15/09/93
	<i>Vistabella</i> Major Claims Fund 2003 (3)	3 260.41	0.00	3 260.41	01/03/04
			299 050.20	168 496.39	130 553.81
Total		650 027.75	339 970.00	310 057.75	

**CONTRIBUTIONS FOR PREVIOUS YEARS NOT ASSESSED AS AT 31 DECEMBER 2009
DUE TO NON-SUBMISSION OF REPORTS ON CONTRIBUTING OIL RECEIPTS FOR RELEVANT YEAR
BY MEMBER STATES FOR ANY CONTRIBUTORS IN THE STATE**

		<u>Contribution Year</u>	<u>Applicable Oil receipt year</u>
Guyana	General Fund	1998	1997
Mauritania	General Fund	1996	1995
	General Fund	1997	1996
	General Fund	1998	1997
	<i>Sea Empress</i> Major Claims Fund	1996, 2003 & 2004	1995
	<i>Nakhodka</i> Major Claims Fund	1996, 1997, 1998 & 1999	1996
	<i>Nissos Amorgos</i> Major Claims Fund	1997 & 2003	1996
	<i>Osung N°3</i> Major Claims Fund	1997, 1999 & 2003	1996
	<i>Pontoon 300</i> Major Claims Fund	2003 & 2007	1997

**INITIAL CONTRIBUTIONS NOT YET ASSESSED DUE TO NON-SUBMISSION OF
REPORTS ON CONTRIBUTING OIL RECEIPTS FOR RELEVANT YEAR AS AT 31 DECEMBER 2009**

	<u>Year of joining</u>	<u>Applicable Oil receipt year</u>
Guyana	1998	1997
Mauritania	1996	1995

SCHEDULE II

REPORT ON PAYMENT OF CLAIMS FOR THE FINANCIAL PERIOD 1 JANUARY - 31 DECEMBER 2009

1 Financial Regulation 4.6 requires the Director to maintain a running record of all expenses incurred by the 1971 Fund in respect of each incident giving rise to claims against the Fund.

2 Expenditure incurred by the 1971 Fund during 2009 in respect of various incidents amounted to £182 526 and is made up as follows:

	£
General Fund (cf paragraph 3 below)	164 028
<i>Nissos Amorgos</i> Major Claims Fund	18 232
<i>Vistabella</i> Major Claims Fund	<u>266</u>
	<u>182 526</u>

3 Included in the amount set out in paragraph 2 in respect of the General Fund is an amount of £25 566 paid in respect of the *Aegean Sea* incident after the Major Claims Fund set up for the incident had been closed.

4 In general, the position as at 31 December 2009 can be summarised as follows:

Incident	Year	Compensation/ Indemnification £	Fees and related costs £	Other costs £	Total £	
1 <i>Vistabella</i>	2009	-	256	10	266	
	2008	-	3 112	30	3 142	
	2007	-	18 506	57	18 563	
	2006	-	16 351	51	16 402	
	2005	-	-	-	-	
	2004	-	-	14 372	2 192	16 564
	2003	-	-	11 884	13 189	25 073
	2002	-	-	3 551	14 377	17 928
	2001	-	-	2 672	16 506	19 178
	2000	-	-	2 084	20 160	22 244
	1999	-	-	-	18 691	18 691
	1998	-	-	3 294	23 372	26 666
	1997	-	-	17 789	20 459	38 248
	1996	-	-	1 151	18 618	19 769
	1995	-	-	5 018	20 541	25 559
	1994	-	986 948	4 451	11 407	1 002 806
1993	-	-	5 025	-	5 025	
1992	-	4 509	-	33	4 542	
1991	-	11 055	8 448	13 696	33 199	
	Total to date	1 002 512	117 964	193 389	1 313 865	

Incident	Year	Compensation/ Indemnification £	Fees and related costs £	Other costs £	Total £
2 <i>Iliad</i>	2009	-	34 482	79	34 561
	2008	-	41 353	-	41 353
	2007	-	40 078	-	40 078
	2006	-	103 735	-	103 735
	2005	-	2 373	-	2 373
	2004	-	8 191	-	8 191
	2003	-	11 611	-	11 611
	2002	-	-	-	-
	2001	-	9 630	-	9 630
	2000	-	21 200	-	21 200
	1999	-	-	-	-
	1998	-	-	-	-
	1997	-	-	-	-
	1996	-	-	-	-
1995	-	-	-	-	
1994	-	-	-	125	125
Total to date		-	272 653	204	272 857
3 <i>Nissos Amorgos</i>	2009	-	18 202	30	18 232
	2008	-	4 526	1 176	5 702
	2007	-	1 946	49	1 995
	2006	-	21 482	2 317	23 799
	2005	15 764	34 873	48	50 685
	2004	4 716 093	104 799	44 073	4 864 965
	2003	3 686 244	40 336	62 001	3 788 581
	2002	861 953	58 006	17 805	937 764
	2001	1 681 707	177 227	18 333	1 877 267
	2000	1 450	205 576	18 539	225 565
	1999	16 339	335 245	8 965	360 549
	1998	-	100 189	9 114	109 303
	1997	-	147 391	2 897	150 288
	Total to date	10 979 550	1 249 798	185 347	12 414 695
4 <i>Plate Princess</i>	2009	-	89 014	136	89 150
	2008	-	41 741	4 461	46 202
	2007	-	4 787	28	4 815
	2006	-	9 330	-	9 330
	2005	-	2 714	-	2 714
	2000	-	-	-	-
	1999	-	8 951	15	8 966
	1998	-	8 739	49	8 788
	1997	-	12 650	145	12 795
	Total to date	-	177 926	4 834	182 760

Incident	Year	Compensation/ Indemnification £	Fees and related costs £	Other costs £	Total £
5 Kriti Sea	2009	-	2 704	-	2 704
	2008	-	14 681	-	14 681
	2007	-	6 379	-	6 379
	2006	-	1 303	-	1 303
	2005	-	36 538	-	36 538
	2004	-	15 803	-	15 803
	2003	-	5 276	-	5 276
	2002	-	65 930	-	65 930
	2001	-	11 900	-	11 900
	2000	-	50 160	-	50 160
	1999	-	26 990	19	27 009
Total to date			237 664	19	237 683
6 Al Jaziah 1 <i>(Nb - Joint incident - 50% 1992 Fund)</i>	2009	-	957	8	965
	2008	-	6 077	22	6 099
	2007	-	12 797	13	12 810
	2006	-	9 199	17	9 216
	2005	-	10 785	1 871	12 656
	2004	-	9 142	1 507	10 649
	2003	335 878	14 754	75	350 707
	2002	25 532	7 949	3 833	37 314
	2001	204 756	16 142	47	220 945
	2000	-	23 218	360	23 578
Total to date		566 166	111 020	7 753	684 939
7 Alambra	2009	-	11 067	15	11 082
	2008	-	390	-	390
	2007	-	-	-	-
	2006	-	756	9	765
	2005	-	3 502	9	3 511
	2004	-	16 284	22	16 306
	2003	-	81 872	1 067	82 939
	2002	-	69 646	2 017	71 663
Total to date			183 517	3 139	186 656

SCHEDULE III

DETAILS OF CONTINGENT LIABILITIES OF THE 1971 FUND AS AT 31 DECEMBER 2009

- 1 Contingent liabilities represent all known or likely claims against the 1971 Fund as at 31 December 2009 as well as an estimate of fees and other costs for 2010 (cf Note 1(f) to the financial statements). The figures are based on information available up to 30 April 2010.
- 2 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 assessment of contingent liabilities, without prejudice to the position of the 1971 Fund in respect of the claims.
- 3 For the translation of all liabilities, the rate applied is the rate of exchange for the Pound sterling against various currencies on 31 December 2009 (the last banking day of 2009) as published in the London Financial Times.
- 4 The 1971 Fund Convention ceased to be in force on the 24 May 2002 and does not apply to any incidents occurring after that date (cf Note 1(b) to the financial statements).
- 5 There are contingent liabilities of the 1971 Fund estimated at £94 905 000 with regard to seven incidents as at 31 December 2009.
- 6 Details of the contingent liabilities, given in rounded figures, are set out below.

	Incident	Date	Contingent liabilities at 31.12.09		
			Compensation/ Indemnification £	Other costs £	Total £
1	<i>Vistabella</i>	07.03.91	-	25 000	25 000
2	<i>Aegean Sea</i>	03.12.92	-	25 000	25 000
3	<i>Iliad</i>	09.10.93	6 000 000	50 000	6 050 000
4	<i>Kriti Sea</i>	09.08.96	-	25 000	25 000
5	<i>Nissos Amorgos</i>	28.02.97	38 600 000	25 000	38 625 000
6	<i>Plate Princess</i>	27.05.97	50 000 000	150 000	50 150 000
7	<i>Al Jaziah I</i>	24.01.00	-	5 000	5 000
TOTAL			94 600 000	305 000	94 905 000

- 7 Of these contingent liabilities, some £88 000 had been liquidated as at 30 April 2010, mainly in respect of the *Plate Princess* (£66 026) and *Kriti Sea* (£19 870) incidents.
- 8 The estimated expenditure under the item 'Other costs' relates to legal and technical costs for the next financial year, ie for 2010. The amounts have been estimated on the basis of the likely volume of work to be carried out in 2010.
- 9 Information about the incidents involving the IOPC Funds can be obtained from the IOPC Funds' Annual Report 2009 and on the Funds' website at www.iopcfund.org.

Vistabella

- 10 The insurer of the *Vistabella* was ordered by the competent Court of First Instance to reimburse the 1971 Fund the FFr8.2 million or €1.25 million (£1.21 million) paid by the Fund in compensation, plus interest. The insurer appealed against the judgement. In 2004 the Court of Appeal confirmed the judgement. The insurer did not appeal to the Court of Cassation. The 1971 Fund commenced summary proceedings against the insurer to enforce the judgement in Trinidad and Tobago, where the insurer is based. In March 2008, the Court delivered a judgement in the 1971 Fund's favour. The insurer has appealed against this judgement to the Court of Appeal.

The Fund's contingent liability relates only to legal costs estimated at £25 000.

Aegean Sea

- 11 A global settlement was reached between the 1971 Fund and the Spanish State whereby the Spanish State will pay any amounts awarded by the Courts against the 1971 Fund. The Spanish Courts have taken the view that this settlement is only an agreement between the parties and does not affect the legal rights of claimants against the 1971 Fund. Since the 1971 Fund is a defendant in these proceedings, it has to defend its position in respect of each claim.

There are criminal and civil proceedings outstanding in this case. With regard to criminal proceedings five claimants have not reached an agreement with the Spanish Government and have pursued their claims in the Criminal Court of La Coruña for very small amounts. In November 2007 the Criminal Court in La Coruña decided on the execution of the judgement in respect of two of the claimants that had continued their compensation claims in the Criminal Court, for a total of €3 709 plus interest.

With regard to civil proceedings two claims are still pending before the Courts. A claim from a fishpond owner totalling €799 921 has been sent back to the Court of First Instance by the Court of Appeal since it decided to reject the appeal. Another claim from a fish processor totalling €1 182 394 was quantified by the Fund at €43 453. The claimant disagreed, brought legal proceedings and lost in First Instance, Appeal and Supreme Courts. The Claimant has now appealed to the Constitutional Court.

The 1971 Fund's contingent liability relates to costs only, estimated at £25 000.

Iliad

- 12 In March 1994 the shipowner's liability insurer established a limitation fund amounting to Drs 1 497 million or €4.4 million (£3.9 million) with the court in Nafplion by the deposit of a bank guarantee. The shipowner and his insurer have taken legal action to prevent their rights to reimbursement from the 1971 Fund for any compensation payments in excess of the limitation amount applicable to the *Iliad*, as well as their right to indemnification, from becoming time-barred. The owner of a fish farm with a claim of Drs 1 044 million or €3 million (£2.6 million) has also interrupted the time-bar period and taken legal action against the 1971 Fund. Although all other claims (a further €6 million (£5.3 million)) have become time-barred *vis-à-vis* the 1971 Fund there is a possibility that the claimants will contest this.

The Fund's contingent liability in respect of compensation payments and indemnification is £6 million and other costs, mostly legal, are estimated at £50 000.

Kriti Sea

- 13 The aggregate amount adjudicated to all claimants in respect of this incident falls within the limitation fund established under the 1969 CLC. Therefore no liability will be attached to the 1971 Fund in respect of this incident.

The Fund's contingent liability in respect of legal costs are estimated at £25 000 prior to formal closure in 2010 of this incident.

Nissos Amorgos

- 14 The *Nissos Amorgos* incident has given rise to claims which by far exceed the maximum amount available for compensation, 60 million SDR. In the 1971 Fund's view, the major part of these claims is inadmissible under the 1969 Civil Liability Convention and the 1971 Fund Convention. However, the contingent liabilities have been calculated on the basis of the 1971 Fund paying compensation up to its limit and indemnification to the shipowner as follows:

	US\$
60 million SDR	83 221 800 ^{<1>}
less shipowner's limitation amount	<u>7 274 268^{<1>}</u>
	75 947 532
less compensation already paid by Fund	<u>18 325 924</u>
	57 621 608
plus indemnification of the shipowner	<u>1 804 894</u>
	59 426 502 (@1.54)
	<u>£38 588 637</u>

The Fund's contingent liability as regards costs is estimated at £25 000.

Plate Princess

- 15 At the October 2005 session of the 1971 Fund Administrative Council the Venezuelan delegation stated that the claims arising from this 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 inadmissible since it had not been submitted within the time limit provided by Venezuelan law. The 1971 Fund appealed against this decision.

In 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 1971 Fund Administrative Council at its October 2009 session decided that the 1971 Fund should appeal against the decision by the Maritime Court of Appeal before the Supreme Court.

The compensation to be paid by the 1971 Fund in accordance with the judgements of the Venezuelan Courts has not yet been quantified by a court expert. However, the contingent liabilities have been calculated on the basis of the 1971 Fund paying compensation up to its limit as follows:

	US\$
60 million SDR	83 221 800
less shipowner's limitation amount	<u>6 000 000</u>
	77 221 800(@1.54)
	<u>£50 144 025</u>

<1> Conversion into US dollars in accordance with court judgement.

The Fund's contingent liability as regards costs is estimated at £150 000.

Al Jaziah 1

- 16 The *Al Jaziah 1* incident occurred in the United Arab Emirates, which at the time of the incident was a member of both the 1971 Fund and the 1992 Fund. The 1971 Fund Administrative Council and the 1992 Fund Executive Committee decided that the liabilities arising out of this incident should be distributed between the two Funds on a 50:50 basis. All claims have been settled and paid.

The 1971 Fund took recourse action against the owner of the *Al Jaziah 1*. In a judgement rendered in March 2008 the Court ordered the shipowner to pay the Funds an amount of Dhs 6 402 282. According to the investigation carried out by the Funds' lawyers the shipowner was in serious financial difficulties and had no other financial resources to pay the judgement. Therefore it appears that it would be very difficult to execute the judgement against the shipowner. As instructed by the governing bodies of the 1971 and 1992 Funds at their October 2008 sessions, the Secretariat, through their lawyers in the United Arab Emirates, had approached the shipowner to discuss a settlement, taking into account his financial situation but no progress has been made.

At its October 2009 session the governing bodies noted the Director's intention to write off the debt if the costs were to exceed the recoverable amount since a matter of principle was not involved.

The Fund's contingent liability as regards legal costs is estimated at £5 000.
