

 <p>INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS</p>	Agenda item: 9	IOPC/OCT10/9/2/3	
	Original: ENGLISH	1 September 2010	
	1992 Fund Assembly	92A15	
	1992 Fund Executive Committee	92EC49	
	Supplementary Fund Assembly	SA6	
1971 Fund Administrative Council	71AC25	•	

BUDGET FOR 2011

1971 FUND

Note by the Director

Summary:	As indicated in document IOPC/OCT10/9/2, this document deals with the draft administrative budget of the 1971 Fund for the financial year 2011. The draft budget totals £505 400. An estimate is made of the payments to be made from the General Fund in respect of various incidents.
Action to be taken:	<u>1971 Fund Administrative Council:</u> Adopt the 1971 Fund administrative budget for 2011.

1 Introduction

- 1.1 Article 18.5 of the 1971 Fund Convention requires the Assembly of the 1971 Fund to adopt the annual budget of the Organisation.
- 1.2 Financial Regulation 3 of the Organisation provides that the financial period of the 1971 Fund shall be the calendar year. The draft budget proposed by the Director therefore covers the period 1 January – 31 December 2011.
- 1.3 Article 12 of the 1971 Fund Convention provides that the Assembly shall determine the amount of contributions to be levied, if any.
- 1.4 The 1971 Fund Convention ceased to be in force on 24 May 2002 and so it has not been possible to levy further contributions to the General Fund since 2003.
- 1.5 The 1971 Fund's expenditure consists of:
- (a) costs and expenses of the administration of the 1971 Fund, and any deficit from preceding years;
 - (b) payments of claims and claims-related expenses up to 1 million SDR^{<1>} per incident (minor claims); and
 - (c) payments of claims and claims-related expenses to the extent that the aggregate amount of the payments in respect of any one incident is in excess of 1 million SDR (major claims).
- 1.6 Expenses mentioned in sub-paragraphs (a) and (b) of paragraph 1.5 above have to be met from the General Fund (Financial Regulation 7.1(c)) and expenses with respect to major claims as defined in sub-paragraph (c) above have to be met from Major Claims Funds (Financial Regulation 7.2(d)).

^{<1>} The SDR (Special Drawing Rights) which is the unit of account used in the Conventions referred to in paragraph 1.5 is valued on the basis of a basket of key international currencies and serves as the unit of account of the International Monetary Fund (IMF) and a number of other intergovernmental organisations.

- 1.7 This document relates to payments from the General Fund only. The assessment of contributions to Major Claims Funds is dealt with in a separate document (document IOPC/OCT10/9/3/3).
- 1.8 As for the individual incidents, reference is made to the information contained in the 2009 Financial Statements (document IOPC/OCT10/5/6/3, Annex V, Schedule II) and to the various documents relating to incidents submitted for consideration by the 1971 Fund Administrative Council at its 25th session (see document IOPC/OCT10/3/1).
- 1.9 It should be noted that any estimate in this document of amounts to be paid by the 1971 Fund in compensation has been made solely for the purpose of the assessment of the balance on the General Fund as at 31 December 2011, without prejudice to the position of the 1971 Fund in respect of the claims.

2 Budget for administrative expenditure in 2011

- 2.1 At their March 2005 sessions, the 1992 Fund Assembly, the 1971 Fund Administrative Council and the Supplementary Fund Assembly agreed that the three Funds should have a joint Secretariat and that the 1992 Fund Secretariat should administer, in addition to the 1971 Fund, also the Supplementary Fund (documents 92FUND/A/ES.9/28, paragraph 7.3, 71FUND/AC.16/15, paragraph 4.4 and SUPPFUND/A.1/39, paragraphs 11.2 and 11.3).
- 2.2 The draft administrative budget for the joint Secretariat, **excluding** the External Auditor's fee and expenses directly related to the respective Organisations, totals £4 088 020 (document IOPC/OCT10/9/2/1, Annex I) for 2011. This figure is £130 970 (3.3%) higher than the 2010 budget figure of £3 957 050.
- 2.3 A summary of the administrative budget for the joint Secretariat is given below:

CHAPTER	Proposed 2011 Appropriation £	2010 Appropriation £	% Increase/(decrease) Appropriation on 2010
I Personnel	2 465 220	2 504 150	(1.6)%
II General services	939 800	744 900	26.2%
III Meetings	150 000	150 000	0.0%
IV Travel	150 000	150 000	0.0%
V Miscellaneous expenditure (excluding External Audit fees)	323 000	348 000	(7.2)%
VI Unforeseen expenditure	60 000	60 000	0.0%
Total Expenditure Chapters I-VI	4 088 020	3 957 050	3.3%

- 2.4 As set out in document IOPC/OCT10/9/1, the Director proposes that the 1971 Fund should continue to pay a management fee to the 1992 Fund for the period 1 January – 31 December 2011 in accordance with the approach adopted since the 2004 financial year in respect of the costs of running the joint Secretariat. It has been proposed that the management fee should be set at £240 000 for the financial year 2011 compared to £225 000 for 2010. The draft budget has been prepared on that basis. If there were to be a different apportionment of costs between the three Organisations, the draft budget would have to be revised accordingly.
- 2.5 An appropriation of £250 000 has been retained in the draft budget for the 1971 Fund to cover fees of lawyers and other experts and travel pertaining to the winding up of the 1971 Fund.

2.6 The External Auditor has provisionally indicated that the audit fee will be £10 400 for the audit of the 1971 Fund's Financial Statements for 2010 which will be payable in 2011. This fee is included in the appropriation for Administrative expenses of £15 400 which covers expenses only attributable to the 1971 Fund and not covered by the management fee.

2.7 The draft administrative budget for 2011 relating only to the 1971 Fund totalling £505 400 is set out in Annex II.

3 Estimated balance as at 31 December 2010

3.1 Estimated balance

The estimated surplus at 31 December 2010 of £3 964 204 is arrived at as shown in the table below.

	£	£
Balance brought forward as at 1 January 2010		4 374 504
<i>Plus</i>		
Interest to be earned in 2010 (estimate)	30 000	30 000
		4 404 504
<i>Less</i>		
Management fee and External Auditor's fee for 2010 (cf paragraph 3.3.1)	235 300	
Minor claims expenditure in 2010 (Annex I)	205 000	
		440 300
Estimated balance as at 31 December 2010		3 964 204

3.2 Income

Interest to be earned in 2010

Interest income during 2010 from the 1971 Fund's investment of the assets of the General Fund is estimated at £30 000. This estimated yield is based on an average principal of approximately £4.2 million.

3.3 Expenditure

3.3.1 The administrative expenses for 2010 are estimated to be some £235 300 as set out below:

- Management fee of £225 000 payable to 1992 Fund (cf document IOPC/OCT09/11/1, paragraph 9.1.4).
- External audit fees of £10 300 for 2009 Financial Statements payable in 2010.
- Costs for winding up the 1971 Fund. No payment had been made as of 30 June 2010 and no expenditure is envisaged to be incurred for the remaining six-month period.

3.3.2 As can be seen from Annex I, it is anticipated that no payments of compensation or indemnification from the General Fund will be made during 2010. It is expected that fees totalling £205 000 will be incurred during 2010 in respect of three incidents involving the 1971 Fund.

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

the claimants had not demonstrated that any damage suffered by the fishermen had been caused by the spill from *Plate Princess*. The Court decided that the report was not admissible since it had not been submitted within the time limit provided by Venezuelan law. The 1971 Fund appealed against this decision.

- 3.3.4 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. At its October 2009 session, the 1971 Fund Administrative Council decided that the 1971 Fund should appeal against the decision by the Maritime Court of Appeal before the Supreme Court. If the Courts do not agree with the 1971 Fund's position, payments will exceed the amounts payable by the General Fund.

4 Estimates for 2011

- 4.1 The General Fund balance as at 31 December 2011 is estimated as follows:

		£	£
	ESTIMATED INCOME		
<i>Plus</i>	Balance as at 31 December 2010	3 964 204	
	Interest to be earned in 2011	40 000	
	Total estimated income 2011		4 004 204
<i>LESS</i>	ESTIMATED EXPENDITURE		
<i>Plus</i>	Management fee, Administrative costs including External Auditor's fee and Winding up- Budget 2011 (Annex II)	505 400	
	Minor claims expenditure 2011 (Annex III)	658 000	
	Total estimated expenditure 2011		1 163 400
	GENERAL FUND BALANCE 31 DECEMBER 2011		2 840 804

- 4.2 Income

Interest to be earned in 2011

Interest income during 2011 from the 1971 Fund's investment of the assets of the General Fund is estimated at £40 000. This estimated yield is based on an average principal of approximately £3.4 million.

- 4.3 Expenditure

- 4.3.1 The administrative costs for 2011 total £505 400 as detailed in Section 2.

Minor claims expenditure 2011

- 4.3.2 The two incidents in respect of which payments may have to be made from the General Fund during 2011 amounting to £658 000 are listed in Annex III. This estimate does not include any provision for the payments which, although not expected to be due before 2011, actually have to be made earlier.
- 4.3.3 With respect to the *Iliad* incident, the Director is of the view that the 1971 Fund will not be called upon to pay compensation but may have to pay indemnification and will incur some costs.
- 4.3.4 It is envisaged that only costs will be incurred in respect of the *Plate Princess* incident (see paragraphs 3.3.3 and 3.3.4 above).

Working capital

- 4.3.5 The governing bodies of the 1971 Fund last decided, in October 2002, to maintain the working capital at £5 million (document 71FUND/AC.9/20, paragraph 18).
- 4.3.6 At its October 2002 session the Administrative Council decided not to levy contributions to the General Fund (document 71FUND/AC.9/20, paragraph 19.5). As stated in paragraph 1.4 above, since the 1971 Fund Convention ceased to be in force on 24 May 2002, it has not been possible to levy further contributions to the General Fund since 2003.
- 4.4 Estimated balance
- 4.4.1 As shown in paragraph 4.1, the General Fund balance as at 31 December 2011 is estimated at some £2.8 million.
- 4.4.2 The Director takes the view that the surplus on the General Fund as at 31 December 2011 should be sufficient to cover any payments of compensation, indemnification or other incident-related expenses payable by the General Fund to be made after 31 December 2011, as well as the 1971 Fund's share of the administrative expenditure until the 1971 Fund is wound up.
- 4.4.3 At its 15th session in October 2004, the 1971 Fund Administrative Council approved the Director's proposal for the distribution of any surplus on the General Fund once all the incidents involving the 1971 Fund have been settled (document 71FUND/AC.15/21, paragraph 17.11).

5 Action to be taken1971 Fund Administrative Council

The 1971 Fund Administrative Council is invited, in accordance with Article 12 of the 1971 Fund Convention:

- (a) to take note of the information contained in this document;
- (b) to consider for adoption the draft budget for 2011 in respect of the administrative expenses of the 1971 Fund as set out in Annex II;
- (c) to take note of the Director's observations as regards the balance on the General Fund (paragraph 4.4); and
- (d) to authorise the Director to use the balance on the General Fund to pay for the administrative expenditure and minor claims expenses (paragraph 4.4.2).

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ANNEX I

Estimated General Fund claims expenditure in 2010

(Figures in Pounds Sterling)

Incident	Date	Maximum Payable from General Fund: 1 million SDR	Expenditure up to 31/12/09		Balance Payable from General Fund at 31/12/2009	2010 Expenditure				Estimated Total General Fund Expenditure in 2010	Estimated Total General Fund Expenditure up to 31/12/10	Estimated Balance Payable from General Fund 31/12/10
			Compensation paid up to 31/12/09	Claims-related expenses paid up to 31/12/09		Compensation/Indemnification		Claims-related expenses				
						Paid 01/01/10-30/06/10	Estimate 01/07/10-31/12/10	Paid 01/01/10-30/06/10	Estimate 01/07/10-31/12/10			
<i>Iliad</i>	09/10/93	930 977	0	(272 857)	658 120	0	0	(19 870)	(30 000)	(50 000)	(323 000)	608 000
<i>Plate Princess</i>	27/05/97	851 165	0	(182 760)	668 405	0	0	(28 550)	(121 000)	(150 000)	(333 000)	518 000
<i>Al Jaziah 1</i>	24/01/00	826 950	(566 166)	(118 773)	142 011	0	0	0	(5 000)	(5 000)	(690 000)	137 000
										(205 000)		

Figures in brackets show outflow.

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ANNEX II

Draft 2011 Administrative Budget for 1971 Fund

(Figures in Pounds Sterling)

STATEMENT OF EXPENDITURE		ACTUAL 2009 EXPENDITURE	2009 BUDGET APPROPRIATIONS	2010 BUDGET APPROPRIATIONS	2011 BUDGET APPROPRIATIONS
I	Management fee payable to 1992 Fund by 1971 Fund	210 000	210 000	225 000	240 000
II	Costs for Winding up of the 1971 Fund	-	250 000	250 000	250 000
III	Administrative costs including External Audit fees	10 300	15 300	15 300	15 400
1971 Fund Budget Appropriation		220 300	475 300	490 300	505 400

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ANNEX III

Estimated General Fund claims expenditure in 2011

(Figures in Pounds Sterling)

Incident	Date	Maximum Payable from General Fund: 1 million SDR	Estimated Balance Payable from General Fund at 31/12/2010	2011 Estimated Expenditure			Estimated Total General Fund Expenditure in 2011	Estimated Total General Fund Expenditure up to 31/12/11	Estimated Balance Payable from General Fund at 31/12/2011
				Compensation	Indemnification	Claims-related expenses			
<i>Iliad</i>	09/10/93	930 977	608 000	0	(603 000)	(5 000)	(608 000)	(931 000)	0
<i>Plate Princess</i>	27/05/97	851 165	518 000	0	0	(50 000)	(50 000)	(383 000)	468 000
							(658 000)		

Figures in brackets show outflow.