



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUNDS

Agenda item: 9	IOPC/OCT12/9/2/3	
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1992 Fund Assembly	92A17	
1992 Fund Executive Committee	92EC56	
Supplementary Fund Assembly	SA8	
1971 Fund Administrative Council	71AC29	•

BUDGET FOR 2013

1971 FUND

Note by the Director

Summary:	As indicated in document IOPC/OCT12/9/2, this document deals with the draft administrative budget of the 1971 Fund for the financial year 2013. The draft budget totals £512 800. 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> (a) Adopt the draft budget for 2013 in respect of the administrative expenses of the 1971 Fund as set out in Annex II; and (b) Authorise the Director to use the balance on the General Fund to pay for the administrative expenditure and minor claims expenses (paragraph 4.4.3).

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 2013.
- 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>} The SDR (Special Drawing Rights) which is the unit of account used in the Conventions 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.

- 1.6 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)).
- 1.7 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/OCT12/9/3/3).
- 1.8 As for the individual incidents, Annex IV provides information on payment of claims and claims-related costs as at 30 June 2012 for the incidents covered in this document (*Iliad* and *Plate Princess*) and reference is also made to the information contained in the Notes to the 2011 Financial Statements (document IOPC/OCT12/5/6/3, Annex V).
- 1.9 It should be noted that in this document any estimate 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 2013. This does not take into account the position of the 1971 Fund in respect of the admissibility of claims arising from the incidents.

2 Budget for administrative expenditure in 2013

- 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 £4 339 660 (document IOPC/OCT12/9/2/1, Annex I) for 2013. This figure is £267 850 (5.8%) lower than the 2012 budget figure of £4 607 510.
- 2.3 A summary of the administrative budget for the joint Secretariat is given below:

CHAPTER	Proposed 2013 Appropriation £	2012 Appropriation £	% Increase/(decrease) Appropriation on 2012
I Personnel	2 770 910	2 858 285	(3.1)%
II General services	923 250	993 075	(7.0)%
III Meetings	100 000	150 000	(33.3)%
IV Travel	100 000	150 000	(33.3)%
V Other expenditure (excluding External Audit fees)	385 500	396 150	(2.7)%
VI Unforeseen expenditure	60 000	60 000	0.0%
Total Expenditure Chapters I-VI	4 339 660	4 607 510	(5.8)%

- 2.4 As set out in document IOPC/OCT12/9/1, 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 2013 in respect of the costs of running the joint Secretariat in accordance with the practice adopted since the 2004 financial year. It is proposed that the management fee should be set at £247 500 for the financial year 2013 (cf document IOPC/OCT12/9/1) compared to £255 000 for 2012. 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 for the 2012 audit which will be payable in 2013 will be £10 300. This fee is included in the appropriation for administrative expenses of £15 300 which covers expenses only attributable to the 1971 Fund and not covered by the management fee.
- 2.7 The draft administrative budget of the 1971 Fund for 2013 totals £512 800 and it is set out in Annex II.

3 Estimated balance as at 31 December 2012

3.1 Estimated balance

The estimated surplus at 31 December 2012 of £2 765 707 is arrived at as shown in the table below.

	£	£
Balance brought forward as at 1 January 2012		3 293 007
<i>Plus</i>		
Interest to be earned in 2012 (estimate)	50 000	
		50 000
<i>Less</i>		3 343 007
Management fee and External Auditor's fee for 2012 (cf paragraph 3.3.1)	265 300	
Costs for winding up the 1971 Fund (cf paragraph 3.3.2)	30 000	
Minor claims expenditure in 2012 (Annex I)	257 000	
Expenditure in 2012 relating to closed Major Claims Fund	25 000	
		577 300
Estimated balance as at 31 December 2012		2 765 707

3.2 Income

Interest to be earned in 2012

Interest income during 2012 from the investment of the General Fund's assets is estimated at £50 000. This estimated yield is based on an average principal of approximately £3 million.

3.3 Expenditure

3.3.1 The administrative expenses for 2012 are estimated to be some £265 300 as set out below:

- Management fee of £255 000 payable to 1992 Fund (cf document [IOPC/OCT11/11/1](#), paragraph 9.1.4).
- External audit fees of £10 300 for 2011 Financial Statements payable in 2012.

- 3.3.2 In reference to costs for winding up the 1971 Fund, costs of legal action as at 30 June 2012, against contributors in arrears, amounted to some £14 800. It is envisaged that further costs will be incurred in the remaining six-month period. The total costs to be incurred in 2012 has been estimated at £30 000.
- 3.3.3 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 2012. It is expected that fees totalling £257 000 will be incurred during 2012 in respect of two incidents involving the 1971 Fund.
- 3.3.4 Some legal costs may be incurred in respect of the *Aegean Sea* incident in defending the interests of the 1971 Fund in Court.

Plate Princess

- 3.3.5 In November 2011, the Supreme Court dismissed the appeal submitted by the 1971 Fund and confirmed the judgement which had ordered the 1971 Fund to pay BsF 400 628 022 (£59.5 million)^{<2>} plus costs.
- 3.3.6 At its session in April 2012 the 1971 Fund Administrative Council decided to instruct the Director not to make any payments in respect of the *Plate Princess* incident and to keep the Administrative Council advised of developments in the legal proceedings in the Venezuelan Courts.

4 Estimates for 2013

- 4.1 The General Fund balance as at 31 December 2013 is estimated as follows:

		£	£
	ESTIMATED INCOME		
<i>Plus</i>	Balance as at 31 December 2012 (paragraph 3.1)	2 765 707	2 790 707
	Interest to be earned in 2013	25 000	
	Total estimated income 2013		
<i>LESS</i>	ESTIMATED EXPENDITURE		
<i>Plus</i>	Management fee, Administrative costs including External Auditor's fee and Winding up – Budget 2013 (Annex II)	512 800	1 267 800
	Minor claims expenditure 2013 (Annex III)	755 000	
	Total estimated expenditure 2013		
	GENERAL FUND BALANCE 31 DECEMBER 2013		1 522 907

4.2 Income

Interest to be earned in 2013

Interest income during 2013 from the investment of the General Fund's assets is estimated at £25 000. This estimated yield is based on an average principal of approximately £2.5 million.

4.3 Expenditure

- 4.3.1 The administrative costs for 2013 total £512 800 as detailed in Annex II.

^{<2>} Conversion of currency has been made on the basis of the rate of exchange applicable on 29 June 2012, ie £1=BsF 6.7360.

Minor claims expenditure in 2013

- 4.3.2 The two incidents, *Plate Princess* and *Iliad*, in respect of which payments may have to be made from the General Fund during 2013 amounting to £755 000, are listed in Annex III. This estimate does not include any provision for the payments which, although not expected to be due before 2013, 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. It should be noted that the amount payable in indemnification may exceed the balance amount payable from the General Fund.
- 4.3.4 It is envisaged that only costs will be incurred in respect of the *Plate Princess* incident.
- 4.4 Estimated balance
- 4.4.1 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.
- 4.4.2 As shown in paragraph 4.1, the General Fund balance as at 31 December 2013 is estimated at some £1.5 million.
- 4.4.3 The Director is of the view that the balance on the General Fund as at 31 December 2013 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 2013, as well as the 1971 Fund's share of the administrative expenditure until the 1971 Fund is wound up.
- 4.4.4 With respect to the *Plate Princess* incident, a Major Claims Fund would need to be set up if the claims and claims-related expenses were to exceed the 1 million SDR (£851 165) payable by the General Fund. The levy of contributions to this Major Claims Fund would be payable by the contributors in the States that were Members at the time of the incident, based on the contributing oil receipts of the calendar year 1996.
- 4.4.5 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 adopt the draft budget for 2013 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 (section 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 4.4.3).

ANNEX I

Estimated General Fund claims expenditure in 2012

(Figures in Pounds sterling)

Incident	Date	Maximum Payable from General Fund: 1 million SDR	Expenditure up to 31/12/11		Balance Payable from General Fund at 31/12/11	2012 Expenditure				Estimated Total General Fund Expenditure in 2012	Estimated Total General Fund Expenditure up to 31/12/12	Estimated Balance Payable from General Fund 31/12/12
			Compensation paid up to 31/12/11	Claims-related expenses paid up to 31/12/11		Compensation/Indemnification		Claims-related expenses				
						Paid	Estimate	Paid	Estimate			
						01/01/12-30/06/12	01/07/12-31/12/12	01/01/12-30/06/12	01/07/12-31/12/12			
<i>Iliad</i>	09/10/93	930 977	0	(302 005)	628 972	-	-	-	(50 000)	(50 000)	(353 000)	578 000
<i>Plate Princess</i>	27/05/97	851 165	0	(467 122)	384 043	-	-	(56 690)	(150 000)	(207 000)	(675 000)	177 000
										(257 000)		

Figures in brackets show outflow.

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ANNEX II

Draft 2013 Administrative Budget for 1971 Fund

(Figures in Pounds sterling)

STATEMENT OF EXPENDITURE		ACTUAL 2011 EXPENDITURE	2011 BUDGET APPROPRIATIONS	2012 BUDGET APPROPRIATIONS	2013 BUDGET APPROPRIATIONS
I	Management fee payable to 1992 Fund by 1971 Fund	240 000	240 000	255 000	247 500
II	Costs for winding up of the 1971 Fund	47 245	250 000	250 000	250 000
III	Administrative costs including External Audit fees	10 300	15 400	15 400	15 300
1971 Fund Budget Appropriation		297 545	505 400	520 400	512 800

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ANNEX III

Estimated General Fund claims expenditure in 2013

(Figures in Pounds sterling)

Incident	Date	Maximum Payable from General Fund: 1 million SDR	Estimated Balance Payable from General Fund at 31/12/2012	2013 Estimated Expenditure			Estimated Total General Fund Expenditure in 2013	Estimated Total General Fund Expenditure up to 31/12/13	Estimated Balance Payable from General Fund at 31/12/2013
				Compensation	Indemnification	Claims-related expenses			
<i>Iliad</i>	09/10/93	930 977	578 000	0	(528 000)	(50 000)	(578 000)	(931 000)	0
<i>Plate Princess</i>	27/05/97	851 165	177 000	0	0	(177 000)	(177 000)	(852 000)	0
							(755 000)		

Figures in brackets show outflow.

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ANNEX IV

Report on payment of claims and claims-related costs as at 30 June 2012

(Figures in Pounds sterling)

Incident	Year	Compensation / Indemnification £	Legal Fees £	Technical Fees £	Various Fees £	Other costs £	Total £
<i>Iliad</i>	2011	-	2 648	-	-	-	2 648
	2010	-	26 500	-	-	-	26 500
	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	-	301 801	-	-	204	302 005
<i>Plate Princess</i>	Up to 30/06/2012	-	47 716	6 282	-	2 692	56 690
	2011	-	130 027	25 704	-	543	156 274
	2010	-	41 025	27 986	6 456	1 773	77 240
	2009	-	108 549	12 045	19 268	136	139 998
	2008	-	19 463	22 278	-	4 461	46 202
	2007	-	4 787	-	-	28	4 815
	2006	-	8 915	391	-	24	9 330
	2005	-	2 707	-	-	7	2 714
	2000	-	-	-	-	-	-
	1999	-	8 951	-	-	15	8 966
	1998	-	8 739	49	-	-	8 788
1997	-	12 650	-	-	145	12 795	
	Total to date	-	393 529	94 735	25 724	9 824	523 812