



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUNDS

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WINDING UP OF THE 1971 FUND

Note by the Secretariat

Summary:	<p>The 1971 Fund Convention ceased to be in force on 24 May 2002. Under Article 44 of the Convention, the 1971 Fund still continues to meet its obligations in respect of the incidents which occurred before the Convention ceased to be in force. The 1971 Fund Administrative Council would be required to take appropriate measures to complete the winding up of the Fund, including the distribution in an equitable manner of any remaining assets among contributors.</p> <p>This document sets out the developments in respect of the winding up of the 1971 Fund as at 1 September 2012. It also puts forward a proposal that the Administrative Council may wish to establish a Consultation Group of a small number of delegates from former 1971 Fund Member States to examine the remaining issues involved in the winding up of the 1971 Fund with the aim of making recommendations to the 1971 Fund Administrative Council at its next regular session.</p>
Action to be taken:	<p><u>1971 Fund Administrative Council</u></p> <p>Decide whether to set up a Consultation Group of a small number of delegates from former 1971 Fund Member States to examine the issues involved in the winding up of the 1971 Fund and to make recommendations to the 1971 Fund Administrative Council at its next regular session.</p>

1 **Introduction**

- 1.1 Pursuant to Article 43.1 of the 1971 Fund Convention, as amended by the 2000 Protocol thereto, the 1971 Fund Convention ceased to be in force on 24 May 2002 when the number of States Parties fell below 25. The Convention does not apply to incidents occurring after that date.
- 1.2 The termination of the 1971 Fund Convention did not in itself result in the winding up of the 1971 Fund. Under Article 44 of the Convention, the 1971 Fund continues to meet its obligations in respect of the incidents which occurred before the Convention ceased to be in force. The 1971 Fund Administrative Council, which was assigned with the function of the 1971 Fund Assembly and its Executive Committee based on Resolutions N°13^{<1>} and N°15^{<2>}, is required to take appropriate measures to complete the winding up of the Fund, including the distribution in an equitable manner of any remaining assets among contributors. The text of Resolution N°13 (adopted by the 1971 Fund Assembly at its 4th extraordinary session held in May 1998 and amended by the 1971 Fund Administrative Council at its 7th session (acting on behalf of the Assembly's 9th extraordinary session) held in April/May 2002 is at the Annex.

<1> 1971 Fund Resolution N° 13 – Operation of the 1971 Fund from 16 May 1998.

<2> 1971 Fund Resolution N° 15 – Operation of the 1971 Fund after 24 May 2002.

- 1.3 At each of its regular sessions since 2002, the 1971 Fund Administrative Council has considered issues relating to the winding up of the 1971 Fund on the basis of documents presented by the Secretariat. This document sets out the developments towards the winding up of the 1971 Fund as at 1 September 2012, in particular as regards the outstanding incidents and outstanding oil reports and contributions.

2 Pending incidents

- 2.1 There are five incidents involving the 1971 Fund for which there are issues to be resolved before the winding up of the 1971 Fund can be completed. These incidents are as follows:

<u>Ship</u>	<u>Place and date of incident</u>	<u>Outstanding issues</u>
<i>Vistabella</i>	France 7 March 1991	Pending legal action to enforce a judgement in favour of the 1971 Fund
<i>Aegean Sea</i>	Spain 3 December 1992	Pending legal action against the 1971 Fund No compensation from the 1971 Fund
<i>Iliad</i>	Greece 9 October 1993	Potential compensation/ indemnification
<i>Nissos Amorgos</i>	Venezuela 28 February 1997	Pending legal actions against the 1971 Fund
<i>Plate Princess</i>	Venezuela 27 May 1997	Pending legal actions against the 1971 Fund

2.2 *Vistabella* (France, 7 March 1991)

The 1971 Fund obtained a judgement for €1.3 million plus interest in its favour against the insurer of the ship at the Court of Appeal in Guadeloupe (France) in 2004. The insurer refused, however, to comply with the judgement. The 1971 Fund commenced summary proceedings against the insurer in Trinidad and Tobago, where its headquarters is located, to enforce the judgement. In March 2008, the Court of First Instance delivered a judgement in the 1971 Fund's favour. The insurer appealed to the Court of Appeal, arguing that the enforcement of foreign judgements was contrary to public policy as the application of French law was repugnant to the insurance law of Trinidad and Tobago. In July 2012, the Court of Appeal rendered a judgement refusing the enforcement of the judgement. The 1971 Fund has requested leave to appeal to the Privy Council (document IOPC/OCT12/3/2).

2.3 *Aegean Sea* (Spain, 3 December 1992)

- 2.3.1 In October 2002 an agreement was concluded between the Spanish State, the 1971 Fund, the shipowner and the UK Club whereby the total amount due by the owner of the *Aegean Sea*, the UK Club and the 1971 Fund to the victims of the incident as a result of the distribution of liabilities determined by the Court of Appeal in La Coruña amounted to €54 million.

- 2.3.2 As a consequence of the distribution of liabilities determined by the Court of Appeal in La Coruña, the Spanish State undertook to compensate all the victims who might obtain a final judgement by a Spanish court in their favour which condemned the shipowner, the UK Club or the 1971 Fund to pay compensation as a result of the incident. The 1971 Fund, in turn, undertook to notify the Spanish State of any proceedings to which the Spanish State was not a party and not to accept the claims brought in any such proceedings.

2.3.3 There is one remaining legal action in court. In July 2012, the Court of First Instance, after reconsideration of a case being returned from the Court of Appeal, delivered a judgement ordering the 1971 Fund to pay €181 873, which was 50% of the amount awarded at the initial judgement in 2005 plus interest. In accordance with the agreement with the Spanish State, the 1971 Fund has notified the Spanish Government of the judgement and is preparing an appeal against it (document IOPC/OCT12/3/2).

2.4 *Iliad* (Greece, 9 October 1993)

Claims totalling €1 million were filed in the limitation proceedings in which the shipowner's insurer (North of England P&I Club) established a limitation fund amounting to €4.4 million. Taking into account the total claimed amount approved by the liquidator (€ 125 755) and applicable interest, it seems unlikely that the final adjudicated amount will exceed the limitation sum of €4.4 million. Moreover, claims representing approximately one third of the liquidator-approved amount may well be found to be time-barred by the Court. However, although based on the above facts the likelihood of the 1971 Fund having to pay compensation appears to be slim, it should be noted that 446 claimants have filed appeals against the liquidator's report. The total claimed amount of €1 million has yet to be assessed by the Court. The 1971 Fund will therefore have to continue monitoring the legal proceedings. It is very likely that the limitation proceedings could last for several more years (document IOPC/OCT12/3/2).

2.5 *Nissos Amorgos* (Venezuela, 28 February 1997)

2.5.1 There are three pending claims, two by the Bolivarian Republic of Venezuela for some US\$60 million each with pending criminal proceedings and civil proceedings, and another by three fish processors for some US\$30 million. All other claims have been paid. Compensation of some US\$24 million has been paid by the shipowner's insurer (Gard Club) and the 1971 Fund. Indemnification has also been paid to the insurer.

2.5.2 With regard to the two claims by the Bolivarian Republic of Venezuela, the 1971 Fund is not a defendant in the criminal proceedings nor in the civil proceedings. In 2003, the 1971 Fund Administrative Council decided that neither claim was admissible under the 1969 Civil Liability Convention (1969 CLC) and 1971 Fund Convention as they were calculated on the basis of theoretical models. In addition, the claims were duplicated and in 2005 the Administrative Council decided that they were time-barred *vis-à-vis* the 1971 Fund. In March 2011, the Criminal Court of Appeal in Maracaibo denied the shipowner's right to limit liability and ordered the master, the shipowner and his insurer to pay to the Venezuelan State some US\$60 million. It can be inferred from the judgement that the shipowner and his insurer would subsequently approach the 1971 Fund to obtain reimbursement. The master, shipowner and insurer have appealed to the Supreme Court. The 1971 Fund, although not a defendant, has joined in the appeal.

2.5.3 The claim by the three fish processors is against the 1971 Fund and the Instituto Nacional de Canalizaciones. In 2003, the 1971 Fund Administrative Council noted that the fish processors had not demonstrated any loss. There have been no developments in respect of these claims since October 2011 (document IOPC/OCT12/3/3).

2.6 *Plate Princess* (Venezuela, 28 February 1997)

2.6.1 There are two pending claims in this incident, one by the Puerto Miranda Union, a fishermen's union, and the other by FETRAPESCA, another fishermen's union. The 1971 Fund is not a defendant in either case and was notified of the two claims more than six years after the incident occurred. In 2006 the 1971 Fund Administrative Council decided that both claims were time-barred. However, in 2010 the Supreme Court rendered a judgement ordering the 1971 Fund to pay Puerto Miranda Union US\$ 57.2 million. This judgement was confirmed by the Constitutional Section of the Supreme Court in November 2011. The legal proceedings in respect of the claim by the Puerto Miranda Union both on liability and quantum of compensation came to an end before the Venezuelan Courts when the Constitutional Section of the Supreme Court rejected the 1971 Fund's appeal on the quantum in August 2012.

- 2.6.2 With regard to the claim by FETRAPESCA, in a judgement rendered in 2009, the Court of First Instance ordered the shipowner and the master to pay compensation in an amount to be assessed by court experts. The 1971 Fund has not been notified of the judgement. The litigation is still pending before the Court of First Instance as the Court rejected an application to withdraw the claim submitted by FETRAPESCA.
- 2.6.3 In April 2012, the 1971 Fund Administrative Council decided to reconfirm its decision taken in March 2011 to instruct the Director not to make any payments in respect of this incident and to oppose any enforcement of the judgement on the basis of Article X of the 1969 CLC and Article 4, paragraph 5 of the 1971 Fund Convention on equal treatment of claimants (document IOPC/OCT12/3/4).

3 Financial situation in respect of pending incidents

- 3.1 Since Major Claims Funds have been established for the *Nissos Amorgos* and *Vistabella* incidents, payments relating to these two incidents are made from the balance of the respective Major Claims Funds, £2.1 million for the *Nissos Amorgos* and some £10 000 for the *Vistabella*. Whilst it may not be necessary to levy further contributions to the *Vistabella* Major Claims Fund, it is not possible to predict with certainty whether more contributions will have to be levied to the *Nissos Amorgos* Major Claims Fund.
- 3.2 Payments in respect of the other three incidents, namely the *Aegean Sea*, *Iliad*, and *Plate Princess*, continue to be made from the General Fund, which has a balance of some £3.2 million. Under Article 12.1(b) of the 1971 Fund Convention, payment from the General Fund for each incident is made up to 1 million SDR (some £1 million). Should any payments be required to be made in excess of this amount, a Major Claims Fund would need to be established for the incident. As at 1 September 2012 the balance available from the General Fund was some £629 000 for the *Iliad* incident and some £384 000 for the *Plate Princess* incident. As for the *Aegean Sea* incident, the Major Claims Fund established for this incident was closed in 2005 and any payments relating to legal proceedings are being made from the General Fund. The total amount that has been paid after the closure of the Major Claims Fund is £429 286.
- 3.3 The Financial Statements of the 1971 Fund for 2011 estimated £103 635 000 as contingent liabilities for pending incidents (document IOPC/OCT12/5/6/3).

4 Non-submission of oil reports

- 4.1 All former 1971 Fund Member States except for Guyana and Kenya have submitted oil reports in fulfilment of their obligations under the 1971 Fund Convention.
- 4.2 Guyana has never submitted oil reports since its accession to the 1971 Fund Convention in 1998. The Secretariat continues its efforts to obtain the outstanding oil reports from Guyana.
- 4.3 Oil reports are outstanding for some contributors in Kenya. At its October 2003 and 2004 sessions, the 1971 Fund Administrative Council decided that reimbursement to contributors of any surpluses from any Major Claims Funds should be postponed until all oil reports for that State had been submitted. An amount totalling £32 261, which is due for reimbursement to contributors in Kenya has been withheld due to the failure to comply with the above decision. There is no levy of contribution based on 2000 oil reports.

5 Contributors in arrears

5.1 Present situation

5.1.1 The situation in respect of unpaid contributions is reported annually to the 1971 Fund's governing body at its October session. A detailed report on the present situation is given in document IOPC/OCT12/5/6/3.

5.1.2 As at 1 September 2012, there were contributors in arrears totalling **£310 370**. The arrears (excluding interest) relate to contributors in various States as set out in the following table:

Member State	Number of contributors	Total amount of arrears and number of contributors (excluding interest) £
Panama*	1	312
Russian Federation	2	43 039
Former USSR ^{<3>}	5	136 465
Former Socialist Federal Republic of Yugoslavia	3	130 554
Total	11	310 370

* Balance outstanding relating to initial contributions not paid in full.

5.1.3 The total amount levied in contributions to the 1971 Fund during the period 1978-2003 was £386 million. The arrears therefore represent some 0.08% of the total amount levied.

5.1.4 It should be noted that 86% of the amount outstanding are arrears due from contributors in the former Union of Soviet Socialist Republics (USSR) and the former Socialist Federal Republic of Yugoslavia.

5.1.5 The total amount of the principal in arrears is £310 370 due from 11 contributors located in seven States, out of which only two States were State Parties to the 1971 Fund Convention. Under the 1971 Fund Convention, contributions are paid not by the governments of State Parties but by individual oil receivers which received contributing oil as provided in the Article 10 of the 1971 Fund Convention.

5.2 Panama

The contributor in Panama has been reminded by telefax and email of the outstanding balance of initial contributions. Assistance has also been sought from members of the delegation of Panama to the governing bodies. As at 14 September 2012, the contributions in arrears still remain although the amount is relatively small.

5.3 Russian Federation

The 1971 Fund has commenced legal actions against the two contributors in arrears for £43 039 in the national courts of the Russian Federation. In July 2012, the Federal Arbitration Court of the Far Eastern circuit rendered judgements on the two cases, both of which denied liability by the contributors by virtue of the time bar applicable under civil law. The 1971 Fund appealed to the Highest Arbitration Court, which is the final tribunal in the Russian Federation.

<3> To the extent not part of the Russian Federation.

5.4 Former Union of Soviet Socialist Republics (USSR)

5.4.1 The contributors in arrears in the former Union of Soviet Socialist Republics (USSR), other than the Russian Federation, are located in Azerbaijan (two contributors), Georgia (one contributor) and Turkmenistan (one contributor). None of these States became Parties to the 1971 Fund Convention.

5.4.2 The Secretariat has sent letters to the diplomatic representatives of these three States based in London to seek assistance in solving the issue of outstanding contributions. Regarding the two contributors in Azerbaijan, the Secretariat has been trying to locate and clarify whether they exist as the same legal entities through correspondence with the Embassy of Azerbaijan in London. The Secretariat had a meeting with a representative of the Embassy of Georgia in London and sought assistance in clarifying the identity of the contributor and enforceability of liability under the 1971 Fund Convention which was in force in the former USSR. The official reply from the relevant authority in Georgia is expected in due course. The Secretariat has also been making attempts to contact the Embassy of Turkmenistan in London but to no avail.

5.5 Former Socialist Federal Republic of Yugoslavia

5.5.1 The contributors in arrears in the former Socialist Federal Republic of Yugoslavia are now located in Bosnia (one contributor) and Serbia (two contributors).

5.5.2 The contributor in Bosnia rejected the Secretariat's request for payment on the grounds that Bosnia had never been Party to the 1971 Fund Convention and that, in any case, the time bar would apply. The Secretariat met a representative of the Embassy of Bosnia in London and sought assistance in recovering the outstanding contributions and also clarifying the enforceability of liability under the Convention which was in force in the former Socialist Federal Republic of Yugoslavia.

5.5.3 The Secretariat also met a representative of the Embassy of Serbia in London and sought assistance to the same effect.

5.5.4 The replies from the relevant authorities in these States are expected in due course.

6 Distribution of the 1971 Fund's remaining assets

6.1 Article 44.2 of the 1971 Fund Convention provides:

The Assembly shall take all appropriate measures to complete the winding up of the Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the Fund.

6.2 The remaining assets will consist of the balances on the remaining two Major Claims Funds for the *Nissos Amorgos* (£2.1 million) and *Vistabella* (£10 000) incidents and on the General Fund (£3.2 million) making some £5.3 million in total.

6.3 Major Claims Funds

The distribution of surpluses on any Major Claims Fund is governed by Financial Regulation 4.4. If, after the period for bringing legal actions under Article 6 of the 1971 Fund Convention in respect of a particular incident has expired and all claims and expenses arising out of that incident have been paid, there remains a substantial amount on that Major Claims Fund, the 1971 Fund Administrative Council shall decide whether that amount shall be reimbursed *pro rata* to the persons who made contributions to that Major Claims Fund, or whether the amount shall be credited to the accounts of these persons. The same shall apply if, after the settlement of all claims known to the 1971 Fund, the 1971 Fund Administrative Council is satisfied that no more claims in respect of that incident will be made against the 1971 Fund and no more expenses will have to be met. If the 1971 Fund Administrative Council considers the amount remaining not to be substantial, this amount shall be transferred to the General Fund (Financial Regulation 4.5).

6.4 General Fund

- 6.4.1 There are no provisions in the Financial Regulations on the distribution of any surplus on the General Fund. The contributions to the General Fund have been made over a period of 20 years (1979-1998) by various contributors and on the basis of varying quantities of contributing oil.
- 6.4.2 At its October 2004 session, the 1971 Fund Administrative Council decided that the most equitable and practicable solution would be first to distribute any surplus on the General Fund among the States on the basis of the percentage of the total contributions made to the General Fund by contributors in the respective State. The amount allocated to a given State should then be distributed between the contributors in that State on the basis of the quantities of contributing oil reported as having been received during 1997, ie the last full year before the end of the transitional period (15 May 1998).

7 Director's consideration

7.1 Pending incidents

- 7.1.1 The Director notes that there are five pending incidents involving the 1971 Fund and where the Fund may have to pay compensation and/or legal costs. With regard to the *Iliad* incident, although the amount to be paid is unlikely to exceed the 1969 CLC limit, the 1971 Fund would have to follow the legal proceedings which could last for several more years. The Director has also had discussions with the Spanish Government with regard to the *Aegean Sea* incident with a view to the early winding up of the 1971 Fund. As for the *Vistabella* incident, as the 1971 Fund is pursuing an action against the insurer to enforce a judgement, it could withdraw the legal action at any time.
- 7.1.2 In respect of the *Nissos Amorgos* incident, there are three pending claims in court, two where the Venezuelan Government is the claimant and one from three fish processors. A judgement has been rendered in respect of one of the Government claims by the Court of Appeal in Maracaibo denying the shipowner's right to limit his liability. The master, shipowner, his insurer and the 1971 Fund have appealed. There have been no developments in respect of the other two claims for some time.
- 7.1.3 With regard to the *Plate Princess* incident, the legal proceedings in respect of the claim by the Puerto Miranda Union both on liability and quantum of compensation have come to an end before the Venezuelan Courts. Litigation is still pending in respect of the claim by FETRAPESCA. In April 2012, the 1971 Fund Administrative Council decided to reconfirm its decision taken in March 2011 to instruct the Director not to make any payments in respect of this incident.

7.2 Outstanding oil reports and contributions

The 1971 Fund has brought legal proceedings to recover contributions in arrears before the Russian Courts, however, some courts have considered the claims by the 1971 Fund time-barred. In other cases contributors have refused to pay contributions on the grounds that they are located in a country which was not, at the time, Party to the 1971 Fund Convention. The Director is making further efforts to clarify both the existence of these contributors and the legal enforceability of the 1971 Fund's rights to obtain contributions from them. In this regard assistance from the relevant governments is being sought to enable the Secretariat to recover the contributions in arrears. The Director will report on the outcome to the 1971 Fund Administrative Council at its next regular session.

7.3 Consultation Group

- 7.3.1 The Director considers that the 1971 Fund has made substantial progress in the winding up of the 1971 Fund and that the issues left to resolve are now very few. In his view, however, some of them might be difficult and might require bold decisions from the 1971 Fund Administrative Council.

- 7.3.2 Having discussed this matter with the Chairman of the 1971 Fund Administrative Council, the Director considers that now may be an opportune time for the 1971 Fund Administrative Council to set up a Consultation Group composed of a small number of delegates from former Member States who could examine the outstanding issues with the Director and make recommendations to facilitate the process of winding up the 1971 Fund to the 1971 Fund Administrative Council at its next regular session.
- 7.3.3 If the Administrative Council were to be of the view that this would be an appropriate way forward, the Chairman of the 1971 Fund Administrative Council will make a proposal to the Administrative Council at the October 2012 sessions of the governing bodies as to the composition of this Consultation Group.

8 Action to be taken

1971 Fund Administrative Council

The 1971 Fund Administrative Council is invited:

- (a) to take note of the information contained in this document; and
- (b) to decide whether to set up a Consultation Group of a small number of delegates from former 1971 Fund Member States to examine the outstanding issues involved in the winding up of the 1971 Fund and to make recommendations to the 1971 Fund Administrative Council at its next regular session.

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ANNEX

1971 Fund Resolution N°13

Operation of the 1971 Fund from 16 May 1998

Adopted by the 1971 Fund Assembly at its 4th extraordinary session, held in May 1998 as amended by the Administrative Council at its 7th session (acting on behalf of the Assembly's 9th extraordinary session) held in April/May 2002

THE ASSEMBLY OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND 1971 (1971 FUND),

NOTING that there are 76 States Parties to the 1971 Fund Convention;

AWARE that 24 of these States will cease to be Members of the 1971 Fund from 16 May 1998 and that a number of other States will in the near future also cease to be Members of the 1971 Fund,

RECOGNISING that, as a result of these States leaving the 1971 Fund, it is likely, despite considerable efforts to be made by the Director, that the Assembly of the Organisation will no longer be able to achieve a quorum and that the same may in the near future apply to its Executive Committee,

ACKNOWLEDGING that this would result in the 1971 Fund's being unable to operate in a normal way,

MINDFUL that the 1971 Fund's objective is to pay compensation to victims of oil pollution damage in Member States,

RECALLING that it is the task of the Assembly, under Article 18.14 of the 1971 Fund Convention, to perform such functions as are necessary for the proper operation of the 1971 Fund,

AWARE that the Assembly may allocate functions to the Executive Committee in accordance with Article 26.1(c) of the 1971 Fund Convention,

NOTING that, under Article 44.2, the Assembly should take all appropriate measures to complete the winding up of the 1971 Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the Fund,

CONSCIOUS of the need to establish a structure which will permit the 1971 Fund to operate from 16 May 1998 until such time as it is wound up,

RECOGNISING that it is the general responsibility of the Assembly to ensure the proper operation of the 1971 Fund and that it is therefore the duty of the Assembly to take the necessary measures to achieve this,

CONSIDERING that it is important to ensure that the interests of States which remain Members of the 1971 Fund are protected,

RECALLING Resolution N°11 of the 1971 Fund on co-operation between the 1971 Fund and its former Member States, in which it is recognised that former States Parties which have been affected by incidents covered by the 1971 Fund Convention but in respect of which settlements have not yet been finalised, should be entitled to present their views on pending cases in the competent bodies of the 1971 Fund,

1 **INSTRUCTS** the Director to convene a regular session of the Assembly of the 1971 Fund once every calendar year, and in the invitations to urge States to make every effort to be represented at the meeting, and to draw attention to the consequences of a quorum not being achieved.

- 2 **RESOLVES** that, in addition to those functions which are allocated to the Executive Committee pursuant to Article 26.1 of the 1971 Fund Convention, the following functions of the Assembly shall be delegated to the Executive Committee with effect from the first session of the Assembly at which the latter is unable to achieve a quorum, on the condition that if the Assembly were to achieve a quorum at a later session or sessions, the Assembly would resume the functions previously allocated to the Committee:
- (a) to adopt the annual budget and fix the annual contributions;
 - (b) to appoint auditors and approve the accounts of the 1971 Fund;
 - (c) to supervise the proper execution of the 1971 Fund Convention and of its own decisions;
 - (d) to perform such other functions as are otherwise necessary for the proper operation of the 1971 Fund;
 - (e) to take all appropriate measures to complete the winding up of the 1971 Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the 1971 Fund;
- 3 **RESOLVES ALSO** that, whenever the Executive Committee fails to achieve a quorum, all functions undertaken by the Committee (ie those allocated by the Assembly and those allocated in accordance with the 1971 Fund Convention) shall revert to the Assembly;
- 4 **HEREBY CREATES** a body to be known as the Administrative Council, which shall have the following mandate:
- (a) to perform such functions as are allocated to the Assembly under the 1971 Fund Convention or which are otherwise necessary for the proper operation of the 1971 Fund;
 - (b) to establish a subsidiary body to consider the settlement of claims;
 - (c) to give instructions to the Director concerning the administration of the 1971 Fund;
 - (d) to supervise the proper execution of the Convention and of its own decisions;
 - (e) to take all appropriate measures to complete the winding up of the 1971 Fund, including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the 1971 Fund, at the earliest possible opportunity;
- 5 **FURTHER RESOLVES** that the Administrative Council shall assume its functions whenever the Assembly fails to achieve a quorum after the functions allocated to the Executive Committee in accordance with paragraph 2 have reverted to the Assembly pursuant to paragraph 3, on the condition that, if the Assembly were to achieve a quorum at a later session, it would resume its functions;
- 6 **DECIDES** that the following States and organisations shall be invited to take part in sessions of the Administrative Council:
- (a) 1971 Fund Member States;
 - (b) former 1971 Fund Member States;
 - (c) other States which would be invited to attend sessions of the 1971 Fund Assembly as observers; and
 - (d) intergovernmental organisations and international non-governmental organisations which have observer status with the 1971 Fund;
- 7 **FURTHER DECIDES:**
- (a) that decisions of the Administrative Council shall be taken by majority vote of all States having at any time been Members of the 1971 Fund present and voting, provided that, in respect of issues relating to incidents, States shall

- have the right to vote only as regards incidents which occurred while the 1971 Fund Convention was in force for that State;
- (b) that there shall be no quorum requirement for the Administrative Council;
 - (c) that the Administrative Council shall meet at least once every calendar year at thirty days' notice upon convocation by the Director, either at his own initiative or at the request of its Chairman;
 - (d) that the Rules of Procedure of the Administrative Council shall be those of the Assembly, to the extent applicable;
 - (e) that the States invited to a session of the Administrative Council shall inform the Director of the person or persons who will attend; and
 - (f) that the sessions of the Administrative Council shall be held in public, unless the Council decides otherwise;

8 **FURTHER RESOLVES** that the Director of the 1971 Fund shall *ex officio* be the person who holds the post of Director of the 1992 Fund, provided that the Assembly of the 1992 Fund agrees thereto and that the Director of the 1992 Fund agrees to carry out the functions of the Director of the 1971 Fund also, or, if these conditions are not met, that the Director shall be appointed by the Executive Committee in accordance with paragraph 2 above, or by the Administrative Council in accordance with paragraph 4 above.