



INTERNATIONAL  
OIL POLLUTION  
COMPENSATION  
FUND 1971

ASSEMBLY  
24th session  
Agenda item 22

71FUND/A.24/19  
15 August 2001  
Original: ENGLISH

## WORKING CAPITAL

### Note by the Director

**Summary:** The Director proposes maintaining the working capital at £5 million.

**Action to be taken:** Decide the level of the working capital.

#### **1** Introduction

- 1.1 The Financial Regulations of the 1971 Fund provide that a working capital shall be maintained at such a level as the Assembly may decide from time to time (Financial Regulation 7.1(b)).
- 1.2 Under Financial Regulation 7.1(c), the 1971 Fund shall have a General Fund which shall be used:
- (i) for the satisfaction of claims of the kind referred to in Article 12.1(i)(b) of the 1971 Fund Convention including the first one million SDR of claims in respect of any one incident where the aggregate amount of all claims exceeds one million SDR;
  - (ii) to make provisional payments pursuant to Internal Regulation 7.9;
  - (iii) to meet the costs and expenses of the administration of the 1971 Fund and any other expenditure which may be authorised by the Assembly or the Executive Committee;
  - (iv) to make loans to a Major Claims Fund for the satisfaction of claims of the kind referred to in Article 12.1(i)(c) of the 1971 Fund Convention, above the first one million SDR in respect of any one incident, to the extent that sufficient money is not available in that Major Claims Fund.

- 1.3 Separate Major Claims Funds shall be established in respect of each larger incident, ie each incident where the aggregate amount of the payments by the 1971 Fund exceeds one million SDR (approximately £880 000). Such a Major Claims Fund shall be used for the payment of claims arising from the relevant incident, provided that the first one million SDR in respect of each incident is to be paid from the General Fund (Financial Regulation 7.2(a) and (d)).

## **2 Decisions in recent years regarding the working capital**

In recent years the Assembly has taken the following decisions in respect of the working capital:

Assembly session	Working capital changed		Document	Paragraph
	From:	To:		
17th	£11 million	£15 million	71FUND/A.17/35	20.3
19th	£15 million	£10 million	71FUND/A.19/30	25.2 and 25.5
20th	£10 million	£5 million	71FUND/A.20/30	25

## **3 Director's analysis**

- 3.1 The working capital should be available to meet claims in respect of smaller incidents and the necessary administrative expenses of the 1971 Fund and to make loans to Major Claims Funds, as required. If the working capital were to fall below an amount reasonably required to meet the administrative expenses and anticipated claims, annual contributions should be raised to restore the working capital to the level fixed by the Assembly.
- 3.2 Under Internal Regulation 7.4, the Director may make final settlement of any claim for compensation without the prior approval of the Assembly if he estimates that the total cost to the 1971 Fund of satisfying all such claims arising out of the relevant incident is not likely to exceed 2.5 million SDR (approximately £2.2 million). The Director may in any case make final settlement of claims from individuals and small businesses up to an aggregate amount of 666 667 SDR (approximately £586 000) in respect of each incident. The Assembly may authorise the Director to settle claims beyond this limit in respect of a particular incident (Internal Regulation 7.5).
- 3.3 At the time of the 24th session of the Assembly, 28 States will be Parties to the 1971 Fund Convention. The 1971 Fund Convention will cease to be in force on 24 May 2002 and will not apply to incidents occurring after that date.
- 3.4 It has been the policy of the 1971 Fund that victims of oil pollution incidents should be compensated as soon as possible. This has been the policy underlying the decisions of the Assembly and the Executive Committee in respect of claim settlements and it has guided the Director of the 1971 Fund in his negotiations with claimants. In the Director's view, this policy should be maintained also for the period up to the winding up of the 1971 Fund.
- 3.5 The 1971 Fund has purchased insurance covering any liabilities for compensation and indemnification up to 60 million SDR (£53 million) per incident minus a deductible of 250 000 SDR (£220 000) and the amount actually paid by the shipowner or his insurer under the 1969 Civil Liability Convention, as well as legal and other experts' fees, for all incidents occurring after 25 October 2000 up to the date when the 1971 Fund Convention ceases to be in force.

- 3.6 There is still some uncertainty as to the amounts to be paid from the General Fund for some incidents which occurred before the date when the insurance came into effect. The costs for the winding up of the 1971 Fund cannot be established at this stage. In order to ensure a proper funding of the 1971 Fund during the winding up period it is necessary, in the Director's view, that the Fund has a sufficient working capital, and he considers that it would be prudent to maintain the working capital at its present level, ie £5 million.

**4 Director's proposal**

The Director proposes that the 1971 Fund's working capital should be maintained at £5 million.

**5 Action to be taken by the Assembly**

The Assembly is invited to review the level of the 1971 Fund's working capital.

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