



**INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1971**

ADMINISTRATIVE COUNCIL
9th session
Agenda item 18

71FUND/AC.9/16
20 July 2002
Original: ENGLISH

WORKING CAPITAL

Note by the Director

Summary:	The Director proposes maintaining the working capital at £5 million.
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Action to be taken:	Decide the level of the working capital.
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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 If the working capital were to fall below an amount reasonably required to meet the administrative expenses and anticipated claims as required under Financial Regulations 7.1 (c), annual contributions should be raised to restore the working capital to the level fixed by the Assembly.
- 1.4 The 1971 Fund Convention ceased to be in force on 24 May 2002 and does not apply to incidents occurring after that date.

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 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 ceased to be in force.
- 3.2 As a result of the 1971 Fund Convention having ceased to be in force on 24 May 2002, the 1971 Fund will not be called upon to make any compensation payments for incidents occurring after that date. The payments by the 1971 Fund relating to the incidents which occurred during the period 25 October 2000 – 24 May 2002 (namely the *Zeinab* and *Singapura Timur* incidents) are limited to 250 000 SDR (£220 000) for each incident. However, 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 working capital will also have to be used for payment of the 1971 Fund's share of the costs of running the joint secretariat. 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 maintains a sufficient working capital, and he considers that it would be prudent to maintain the working capital at its present level, ie £5 million.
- 3.3 The method to be used for the distribution of any surplus in the General Fund remaining when the winding up of the 1971 Fund has been completed will be dealt with under agenda item 17 (Winding up of the 1971 Fund).

4 Action to be taken by the Administrative Council

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