

INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1992

ASSEMBLY
3rd extraordinary session
Agenda item 8

92FUND/A/ES.3/7
31 March 1998
Original: ENGLISH

SECRETARIAT WORKING METHODS

Note by the Director

Summary:	In the light of the consultants' report on the Secretariat's working methods, the Director has submitted various proposals to the 1971 Fund Assembly.
Action to be taken:	Information to be noted.

1 At its 19th session, the Assembly of the 1971 Fund instructed the Director to review the working methods within the Secretariat, possibly with the help of an outside consultant, in order to obtain the most efficient and cost effective way of managing the 1971 Fund and the 1992 Fund (document 71FUND/A.19/30, paragraph 12.7).

2 Following the discussion at the 3rd extraordinary session of the 1971 Fund Assembly, the Director fixed the terms of reference for the review of the working methods of the Secretariat as follows:

Overall objective: A review of the present structure of the Secretariat, its working methods and the distribution of tasks based on the current and future needs of the 1971 and 1992 Funds.

The review should include the following:

- 1 an assessment of the organisational structure of the Secretariat;
- 2 an assessment of the system used for handling claims for compensation, including the use of external experts for this purpose and the use of local claims offices;
- 3 an assessment of the present system of using external experts to prepare specific studies and assist where deemed appropriate;
- 4 an assessment of the system for the selection of experts and of staff of local claims offices;

- 5 an assessment of the extent to which the Director should delegate authority to take decisions in respect of the approval or rejection of claims, in respect of financial issues, and in respect of administration; and
- 6 an evaluation of the current posts in the Secretariat and of the distribution of work.

3 At its 20th session, the 1971 Fund Assembly considered a document presented by the Director (document 71FUND/A.20/12) in which he submitted an interim report of the consultants he had engaged, namely, ER Consultants of Manchester (United Kingdom) and Gestion Publique Conseil of Paris (France).

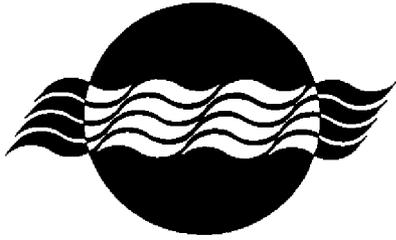
4 The final report of the consultants has been submitted to the Assembly of the 1971 Fund, as document 71FUND/A/ES.4/3. The consultants have, in addition, prepared a summary of their recommendations. This summary is reproduced as document 71FUND/A/ES.4/3/Add.1.

5 On the basis of the report of the consultants and in the light of discussions held with them, with members of staff and with members of a Steering Group established by the 1971 Fund Assembly, the Director has submitted to the 1971 Fund Assembly a note (document 71FUND/A/ES.4/3/1) setting out his proposals in respect of the structure and working methods of the Secretariat. A copy of this note is attached.

Action to be taken by the Assembly

- 6 The Assembly is invited:
 - (a) to take note of the information contained in this document; and
 - (b) to take such decisions as it considers appropriate in respect of the issues dealt with in the Director's note to the 1971 Fund Assembly.

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INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1971

ASSEMBLY
4th extraordinary session
Agenda item 4

71FUND/A/ES.4/3/1
31 March 1998

Original: ENGLISH

SECRETARIAT WORKING METHODS

Note by the Director

Summary:	The working methods and structure of the joint Secretariat are examined in the light of the report of the consultants engaged to carry out a review of these matters.
Action to be taken:	Decide on the Director's proposal to create a new structure for the Secretariat, comprising three Departments, and to create certain new posts, and on his proposals on related matters.

1 Introduction

1.1 At its 19th session, the Assembly of the 1971 Fund instructed the Director to review the working methods within the Secretariat, possibly with the help of an external consultant, in order to obtain the most efficient and cost effective way of managing the 1971 Fund and the 1992 Fund (document 71FUND/A.19/30, paragraph 12.7). Such a review has been carried out by external consultants, ER Consultants of Manchester (United Kingdom) and Gestion Publique Conseil of Paris (France). An interim report submitted by the consultants was considered by the Assembly at its 20th session (documents 71FUND/A.20/12 and 71FUND/A.20/30, paragraphs 13.2 - 13.9). The Assembly is invited to consider the consultants' final report (document 71FUND/A/ES.4/3) as well as a summary thereof, elaborated by them (document 71FUND/A/ES.4/3/Add.1).

1.2 The Director has had the benefit of extensive discussions with the consultants during the course of their work. Discussions have taken place between the consultants and all staff members, both collectively and on an individual basis. The Director has also held discussions with all staff members on the issues involved, both as a group and individually.

1.3 At its 20th session, the Assembly established a Steering Group comprising Mr Willem Oosterveen (Netherlands), Mr Alfred Popp (Canada), Dr Reinhard Renger (Germany), Mr Keiji Takiguchi (Japan), Mr Jerzy Vonau (Poland) and Mr John Wren (United Kingdom) to liaise, through meetings or correspondence, with the consultants through to the preparation of their final report. The Steering Group has been kept informed of the work of the consultants and has examined a draft of their final Report. The Group met with the consultants on 6 February and 24 March 1998. The views expressed by the members of the Group have been taken into account in the consultants' final report.

1.4 On the basis of the report of the consultants and in the light of discussions held with them, with members of staff and with members of the Steering Group, the Director submits in this document proposals in respect of the structure and working methods of the Secretariat for the consideration of the Assembly.

2 General considerations

2.1 Before presenting his detailed proposals, the Director considers it appropriate to set out in general terms his views on the operation of the 1971 Fund and the 1992 Fund, the methods of work which should be used, the expected workload and functions of the Secretariat in the years to come and the structure and resources required to enable the Secretariat to fulfil the various tasks entrusted to it.

2.2 When the 1971 Fund was established, the Assembly of that Organisation decided that the 1971 Fund should have a small Secretariat and should use consultants to undertake tasks which could not be carried out by the Secretariat. For many years, the Secretariat was very small, comprising up to seven members. However, in recent years, and in particular since 1990, the workload on the Secretariat and the range of its tasks have grown significantly. This is due to a number of factors. Since 1989 the number of Member States has grown from 35 to 81 within the two Organisations. The claims which have resulted from the various incidents involving the Funds have grown in number, magnitude and complexity. There are indications that Member States would like the Secretariat to provide various services which were not envisaged ten years ago. The increase in the number and complexity of claims has necessitated sessions of the 1971 Fund Executive Committee to be held more frequently. The expansion in the operations of the Organisations has also resulted in the Fund Assemblies having been called upon to address a wider range of issues. This has obliged the Secretariat to provide documentation on a scale which was not envisaged in the 1980s. The preparation for the entry into force of the HNS Convention entrusted to the Director may also require a considerable amount of work in the coming years.

2.3 As the Secretariat functions are soon to be transferred from the 1971 Fund to the 1992 Fund, it is natural to consider now how the operation of the 1971 and 1992 Funds should be carried out in the future. In the context of this review, consideration should be given also to the qualifications, experience and preferences of the present staff members so that these can be taken into account in a way that would both be beneficial to the Organisations and give the staff members the possibility of developing their careers.

2.4 The Secretariat has been able to cope with the significant increase in workload mainly because of the skill, efficiency and loyalty of its staff members. In recent years, staff members have had to carry a workload which, in the Director's view, is far too heavy.

2.5 An important question is how the entry into force of the 1992 Protocols to the 1969 Civil Liability Convention and the 1971 Fund Convention will affect the Secretariat's workload. It is anticipated that many 1971 Fund Member States will in the near future ratify the 1992 Protocols and as a consequence denounce the 1971 Fund Convention and leave the 1971 Fund. As a result, most incidents involving the Organisations will be governed by the 1992 Conventions. It is likely that the higher limits of the shipowner's liability laid down in the 1992 Civil Liability Convention will result in some reduction in the number of cases involving the 1992 Fund, although in recent years there has been a tendency for the amounts claimed in respect of an incident to be much higher than before. On the other hand, the 1992 Fund Convention covers certain risks which fall outside the 1971 Fund Convention, eg spills from

unladen tankers and the cost of pure threat removal measures. It is likely that, as a result of the amended definition of "ship" in the 1992 Conventions, the 1992 Fund will have more involvement in oil spills from unknown sources than has been the case for the 1971 Fund. In the light of these considerations the Director takes the view that the gradual shift from the 1971 Fund Convention to the 1992 Fund Convention will not result in any significant decrease in the Secretariat's workload.

2.6 The Secretariat has come to rely to an increasing extent on outside consultants. In several cases the 1971 Fund has established local claims offices together with the P & I Club involved in a case. It has also led to the Funds' engaging a large number of technical experts in various fields, eg clean-up, fishery, tourism, salvage and legal issues. These experts have all carried out their tasks in an excellent manner. Nevertheless, it is very important that the Secretariat has sufficient resources to instruct these experts, to monitor and assess their work, to scrutinise their reports and recommendations, and to ensure that the Funds get value for money. This can be achieved only if there is sufficient expertise and resources within the Secretariat to follow closely the work of the local claims offices and of the various experts and consultants. The Director considers that it is not possible with the present resources for the Secretariat to carry out these tasks in a totally satisfactory way.

2.7 It would be a great advantage if there was within the Secretariat a staff member with a high level of scientific knowledge who could assess and monitor the work of experts in various technical and scientific fields. This staff member should also have considerable practical experience in oil pollution matters.

2.8 In the early days of the 1971 Fund, the Secretariat was dependent on the International Maritime Organization (IMO) for services in connection with conferences and meetings. This is to a large extent still the case. However, as a result of more frequent meeting sessions, the expanded activities of the Funds and the increased volume of documentation, it has become necessary for the Secretariat itself to be much more active in the management of the Organisations' meetings. At present the resources within the Secretariat are insufficient to fulfil that role in a satisfactory way.

2.9 From the establishment of the 1971 Fund the Secretariat has tried to work very closely with Governments of Member States and various public bodies to ensure that those in national administrations dealing with Fund matters are kept properly informed of the Funds' activities and of the policy laid down by the governing bodies. The Director is convinced that the Funds should enhance its activities in this field, but in order for the Funds to be able to do so, more resources are required.

2.10 The IOPC Funds' Secretariat has over the years worked in a fairly informal way without strict organisational structures. This approach did not cause any problems when there were very few staff members, and the Director was involved in practically all details of the 1971 Fund's work. Since the Secretariat has grown, however, it has now become appropriate to create a more formal structure. It is important to establish clear reporting structures, thereby making it possible to delegate decision-making. However, it is crucial that the Secretariat does not lose flexibility in its working methods as a result of the creation of formal structures. In the Director's view, this flexibility has been one of the strengths of the Funds. The Director believes that the IOPC Funds should also in the future be administered without undue bureaucracy and without creating structures which are unnecessarily rigid. It is also vital that in a somewhat larger Secretariat there is an efficient communication process between staff members.

2.11 The Director considers that he should be able to delegate responsibility to a larger extent than has been possible in the past. Such delegation can be made only if the Secretariat has adequate resources to give staff members, at various levels, sufficient time to enable them to take decisions in an appropriate manner, and delegation of authority must be made within a proper reporting structure. Only by increased delegation will the Director be able to concentrate on the long-term planning of the Funds' activities and policy issues, contacts with Governments of Member States at a high level and monitoring and controlling the activities of the Secretariat and of the Funds themselves. It goes without saying that the Director would in any event have overall accountability for the operation of the Funds and for all aspects of the Secretariat's work.

3 Proposed new structure of the Secretariat

3.1 The Director sets out below his proposals for a new structure of the Secretariat and for the resources needed for the Secretariat to fulfil its role in the future. These proposals are based on the general considerations set out in the preceding section. As will be seen, the Director's proposals coincide on all major points with the proposals and recommendations made by the consultants, although on a few points he does not fully agree with their conclusions and recommendations.

3.2 As recommended by the consultants, the Director proposes that the joint Secretariat should be composed of three departments, which in his view should be named the Claims Department, the Finance and Administration Department and the External Relations and Conference Department. He considers that the position of a Legal Officer at high level should be maintained. In view of the importance of this post, the Director proposes that it should be renamed 'Legal Counsel'.

3.3 It should be emphasised that, in a small organisation with a varying workload, it is crucial that the Secretariat also continues to work as a team. The Director is convinced that the proposed new departmental structure will not act as an obstacle to flexibility in working methods and in the distribution of work (cf paragraph 2.10).

3.4 The Director agrees with the consultants that a Management Team should be established to assist him in the management of the 1971 Fund and the 1992 Fund. This Team should be led by the Director and should include the Legal Counsel and the Heads of the three Departments. The Management Team should meet at regular intervals (weekly or fortnightly) to consider the operation of the Organisations in general, to exchange information on the work carried out within the different Departments and to ensure co-ordination of work on issues which concern more than one Department. It should be emphasised that the Management Team as such is not a decision-making body and that the ultimate responsibility for decisions remains with the Director, being the person elected by the respective Assemblies to be the chief administrative officer of each Fund.

3.5 The proposed new structure is illustrated in the Annex.

Director's role

3.6 As stated above, the proposed new structure should enable the Director to concentrate on overall strategic and policy issues, long term planning, issues of principle and high level contacts with Governments of Member States, and on furthering an increase in membership of the 1992 Fund. The new structure should also enable the Director to delegate authority to a much larger extent than has been possible hitherto, although he would still be accountable for the entire operation of the Funds.

3.7 The consultants have suggested that the Director's involvement in the handling of claims should be limited to regular performance reviews, process audits to ensure that claims are being handled in conformance with agreed procedures and policies, and issues of special urgency and importance. The Director does not agree fully with the consultants on this point. It should be emphasised that the main objective of the IOPC Funds is to pay compensation to victims of oil pollution and that the handling of claims is therefore the most important task for the Secretariat. Although the Director believes that a strengthened Claims Department would enable him to be considerably less involved in the day-to-day examination of individual claims, he considers it important that he participates regularly in claims handling. Such participation would not only enable him to ensure that the policy laid down by the Assembly, the Executive Committee and himself is properly implemented, but would also ensure that there is in place a proper and efficient claims handling procedure. To this end he would *inter alia* participate in regular meetings of the Claims Department when policy issues are discussed. The Director should also be consulted concerning claims which might be pursued in court and he should take an active role in monitoring court actions involving the IOPC Funds.

Director's Secretary/Personal Assistant

3.8 Under the new structure, the Director's Secretary would be relieved of a number of tasks which would be carried out within the respective Departments, so as to enable her to concentrate on supporting the Director and acting as his Personal Assistant.

Legal Counsel

3.9 The main task of the Legal Counsel would be to assist the Director in dealing with important legal issues. He would be involved in contacts with lawyers engaged by the Funds in connection with various incidents and would participate in the consideration of important legal issues arising in the claims handling procedure. He would also represent the IOPC Funds in the IMO Legal Committee and other IMO bodies dealing with legal matters. In addition, he would carry out legal studies of a general nature, as required. In recent years the Legal Officer has not been able to support the Director in legal matters to the extent intended, since the major part of his work has focused on the handling of claims arising from incidents in Japan and the Republic of Korea. With a strengthened Claims Department, the Legal Counsel should be able to devote more time to giving the Director qualified support in legal matters. The present Legal Officer's experience in handling Japanese and Korean incidents and his detailed knowledge of these cases should nevertheless be used also in the future.

Scientific expertise

3.10 The Director agrees with the consultants that the Secretariat should be strengthened with a staff member with a scientific background who has extensive practical experience in the field of marine pollution. It should be emphasised that, in the Director's view, the Funds do not need a scientific input of a theoretical nature. The person concerned should therefore have practical scientific experience in relation to oil spills and related issues. A staff member with these qualifications would make a valuable contribution in the Funds' selection, instruction and monitoring of technical experts, in the evaluation of their work and in the assessment of their reports. Such a person should also be able to advise the Director on technical and scientific issues relating to the HNS Convention.

Claims Department

3.11 In the proposed new structure the Head of the Claims Department would be supported by three Claims Officers. There would also be three Claims Clerks, who would work closely with the Claims Officers and would be involved in most aspects of claims handling.

3.12 The Head of the Claims Department would have the responsibility for ensuring that the claims handling process is efficient and that claims are dealt with in accordance with the policy laid down by the Assembly and the Executive Committee. The incumbent should have sufficient experience in claims handling to enable the Director to delegate authority in respect of the settlement of claims to a greater extent than has been done so far. It is essential that the Head of this Department has a detailed knowledge of the compensation system established by the Civil Liability Conventions and the Fund Conventions. It is important that the incumbent has considerable management experience. The incumbent would also be responsible for recruiting managers of local claims offices and external experts, for monitoring and assessing their performance and for giving them the necessary instructions, guidance and support.

3.13 As stated above, the Head of the Claims Department would have a role which requires managerial skills and experience in claims handling. The Director believes that it would be an advantage if a Head of the Claims Department could be recruited who would also have the necessary qualifications for providing scientific expertise as set out in paragraph 3.10, since he is not convinced that there is a need, at least not at present, for two high level posts. The consultants have also suggested that these two roles could be combined. If it proved not to be possible to recruit a person

who, in addition to his managerial capacity, had the necessary scientific qualifications, the Director would refer the matter to the Assembly for further consideration. It is possible that in any event these two roles will have to be separated in the future.

3.14 At present, the Legal Officer and the Claims Officers carry out certain tasks which could be undertaken by support staff. Although the present support staff are capable of undertaking more qualified tasks, thereby reducing the workload on the Claims Officers, they are generally unable to do so due to their own heavy workload in terms of their less qualified activities.

3.15 In order to strengthen the capacity of the Claims Department, it is suggested that the three Claims Officers should be assisted by three Claims Clerks, who should participate actively in most aspects of the claims handling. There is at present one post of Claims Clerk. The Claims Officers would then be able to devote more time to the examination of difficult aspects which arise in the claims handling procedures. There would also be more time available for the Claims Officers to monitor and support technical experts engaged by the Funds and to liaise with, monitor and support the local claims offices. In addition, the Department should have a Secretary on a more junior level, who could relieve the Claims Clerks of some of the less qualified tasks, in particular the typing of documentation. It is also hoped that the Claims Officers will carry out a greater portion of their own word processing, thereby reducing the need for secretarial assistance.

3.16 It should be noted that, although in recent years claims arising out of several big incidents have been dealt with through local claims offices, the great majority of incidents do not justify the setting up of such offices, and in these cases, the claims are channelled straight to the Secretariat.

3.17 Within a strengthened Claims Department, it should be possible to develop an extended team work approach in the handling of claims within the Secretariat. To this end, meetings should be held at regular intervals with staff in the Claims Department to assess the claims situation in respect of major incidents, to discuss policy issues and issues of principle, and to ensure uniformity in claims handling. The Director should participate in these meetings to the extent possible, and if he has been unable to participate in such a meeting, he should be informed of the issues dealt with. The claims handling process has always included frequent and in-depth discussions between the Director and/or the Claims Officers, on the one hand, and the staff at local claims offices and technical experts on the other hand. Such contacts should be included in the team work approach.

3.18 In October 1996 the Assembly of the 1971 Fund established a new post of a third Claims Officer at grade P3/P4. This post has not been filled, pending the outcome of the review of the Secretariat working methods. The Director believes that this post should be maintained, and that recruitment should be made once the new structure is in place.

3.19 A new post of Secretary to the third Claims Officer was created by the Assembly in October 1996 at grade G3 (new scale). This post has not been filled. It is the Director's intention to recruit the junior Secretary referred to in paragraph 3.15 against this post.

Finance and Administration Department

3.20 The Finance and Administration Department should be headed by the Finance Officer. The main task of the Department would relate to budgeting, accounting, payments, currency transactions, the collection of contributions and investments. The Head of the Department would be assisted in these tasks by the Assistant Finance Officer, the Accounts Assistant and the Accounts Assistant/Secretary. The post of Accounts Assistant was established by the Assemblies at their sessions in October 1997, and the post has been filled with effect from 1 April 1998.

3.21 This Department should also be responsible for personnel matters, and the Administrative Assistant who (on a part-time basis) at present assists the Finance Officer in personnel matters should belong in this Department. The Department should be responsible not only for day-to-day staff issues,

but also for the training and development of staff, and for the employment of temporary staff, as required.

3.22 This Department will be responsible for general administration, including messenger services. It is proposed that a new post of Procurement Assistant/Archivist is established. The post of Telephonist should be renamed Receptionist/Secretary.

3.23 It is necessary to reduce the Finance Officer's workload. This should be done by giving the Assistant Finance Officer increased responsibility, and this process has already started.

3.24 The Director shares the consultants' view that the Secretariat should make better use of information technology (IT). He agrees with the consultants that it would not be appropriate to create a permanent post at the professional level to deal with IT matters. It is proposed that a consultant should be engaged for a reasonable period of time to make a general review of the Secretariat's IT requirements, in order to make proposals in respect of the measures to be taken to improve the Secretariat's use of such technology, to assist in the implementation of any changes and to recommend a programme for staff training in this field. From an organisational point of view, this consultant would fall within the Finance and Administration Department. Since the consultant's work will cover all activities of the Secretariat, he should nevertheless report directly to the Director.

3.25 It will be necessary to train one or two staff members to provide day-to-day IT support within the Secretariat.

External Relations and Conference Department

3.26 The External Relations and Conference Department would be responsible for contacts with Member and non-Member States and with other interested parties, for providing information on the Funds, for the publication of the Annual Report, the Claims Manual and other information documents, and for the general co-ordination of the Fund's activities in the public relations sector. The public relations activities will have to be carried out in close co-operation with the Claims Department.

3.27 The Head of this Department would be assisted by two staff members in the general service category (Administrative Clerk and Clerk/Secretary).

3.28 With the increased resources which the proposed External Relations and Conference Department would have, it would be possible to strengthen the IOPC Funds' activities in the field of information and public relations. It might be appropriate to issue more "reader-friendly" publications concerning the international compensation system. Consideration should be given to using the Internet for this purpose.

3.29 The Secretariat should consider increasing the Funds' participation in seminars and workshops organised by IMO, other organisations and the Governments of Member States. The External Relations and Conference Department should have the responsibility for the co-ordination of such activities. The consultants have expressed the view that an effective promotion of the Funds could help to reduce the number of claimants resorting to litigation. The Director agrees that increased knowledge of the international compensation system would in many cases facilitate claims handling. However, in his view, there are limits to what the Funds could achieve in this respect. It must be recognised that it is often difficult to engage people's interest in issues relating to liability and compensation for oil spills until a major incident has affected their area. The Director believes that in any event the main responsibility for disseminating information within a Member State on the international compensation system before an incident occurs should lie with the competent authorities of that State.

3.30 The consultants have made reference to the information activities of the United States National Pollution Funds Center. As regards the possibilities of disseminating information to relevant groups, there is, in the Director's view, considerable difference between, on the one hand, a body which operates within one jurisdiction and a fairly uniform cultural environment, and with one predominant

language and, on the other hand, an intergovernmental organisation whose potential field of operation covers a large number of States with different legal systems, various cultural traditions and a large number of languages.

3.31 From an administrative point of view, the External Relations and Conference Department should be responsible for the organisation of the sessions of the Assemblies, the Executive Committees and other Fund bodies. The Department would co-ordinate the preparation, translation, printing and distribution of documents for such sessions. This does not mean that all documents would be drafted within this Department. As in the past, documentation relating to incidents would be prepared by the Officers dealing with the respective incidents, and documents relating to finance and administration would be drafted within the Department responsible for those matters.

3.32 As has been the case so far, work relating to reports on contributing oil receipts and the levying of contributions would have to be carried out in co-operation between the External Relations and Conference Department and the Finance and Administration Department.

3.33 As mentioned above, the External Relations and Conference Department would be responsible for the translation of documents. The Administrative Assistant who is at present dealing with translation matters would therefore belong in this Department.

3.34 If the Assembly of the 1992 Fund were to include Spanish as a working language for that Organisation, the External Relations and Conference Department would be responsible also for the organisation of the translation of documents into and from Spanish. The arrangements proposed by the Director for that eventuality are dealt with in document 92FUND/A/ES.3/9. It should be noted that the introduction of Spanish as a working language would necessitate the recruitment of an additional secretary, preferably with Spanish as his/her mother tongue.

Summary

3.35 The Director's proposals in respect of staff are summarised in the table opposite, which from a substantive point of view does not differ from the list contained on page 48 of the consultants' final report.

Proposed Posts (Titles of proposed posts, not present posts)	Current Staffing (as at 1 April 1998)	Staffing Approved by Assembly	Proposed Staffing
Professional Staff Group			
Director	1	1	1
Legal Counsel	1	1	1
Head, Claims Department	0	0	1
Claims Officer	2	3	3
Head, Finance & Administration Department	1	1	1
Assistant Finance Officer	1	1	1
Head, External Relations & Conference Department	0	0	1
Administrative Officer	1	1	0
<i>Sub-total</i>	7	8	9
General Service Staff Group			
Personal Assistant to the Director	1	1	1
Secretary to Legal Counsel	1	1	1
<i>Claims Department:</i>			
Claims Clerk	1	1	3
Secretary	2	3	1
<i>Finance & Administration Department:</i>			
Accounts Assistant	1	1	1
Accounts Assistant/Secretary	1	1	1
Administrative Assistant (Personnel) (<i>part-time</i>)	1	1	1
Procurement Assistant/Archivist	0	0	1
Clerk/Messenger	1	1	1
Receptionist/Secretary	1	1	1
<i>External Relations & Conference Department:</i>			
Administrative Assistant (Translation)	1	1	1
Administrative Clerk	0	0	1
Clerk-Secretary	0	0	1
<i>Sub-total</i>	11	12	15
Total Staffing	18	20	24
General Service Group: Additional staffing if the 1992 Fund Assembly decides to introduce Spanish as a working language for that Organisation			
<i>External Relations & Conference Department:</i>			
Secretary (Spanish mother tongue)	0	0	1
Total Staffing (with Spanish as a working language)	18	20	25

3.36 It should be noted that the table in paragraph 3.35 does not include a separate post for a staff member with a scientific background (cf paragraph 3.13).

3.37 As is shown in the table, three of the posts approved by the Assembly will cease to exist, ie those of the Administrative Officer and two secretaries.

Delegation of authority

3.38 The Director's possibility of delegating decision-making to other members of the Secretariat is at present very limited. As decided by the Assemblies in October 1996, the Director is empowered to delegate authority to make final or partial settlement of claims, in certain well-defined cases and up to a specified amount, to an officer or officers responsible for the handling of claims arising out of a specific incident. Such delegation is restricted to claims which do not give rise to any questions of principle which have not previously been decided by the Executive Committee or the Director in respect of the particular incident, where there is no doubt as to the admissibility of the claim and where the assessment of the quantum or the loss or damage does not give rise to any particular difficulties. The delegated authority is limited to approvals not exceeding £30 000 for a particular claim (Internal Regulation 7.13; documents 71FUND/A.19/30, paragraph 29.1.3 and 92FUND/A/ES.1/22, paragraph 22.1.3). As regards payments, the Director's possibility of delegating is governed by Financial Regulation 9.2. In essence, no payments over £30 000 can be made without the Director's signature.

3.39 In view of the scale of operation of the 1971 Fund and the 1992 Fund, it is necessary that the Director is able to authorise a senior staff member to act on his behalf whenever the Director is on mission or otherwise unable to act. Since most of the urgent and important matters relate to legal matters or claims, he takes the view that such authority should be given to either the Legal Counsel or the Head of the Claims Department, depending on the circumstances.

3.40 If the Assemblies were to agree with the Director on the need for such general delegation of authority, the Director would submit proposals to the Assemblies for consideration at their sessions in October 1998 for a formal decision in respect of each Organisation enabling the Director to authorise one of the two above-mentioned members of the Management Team to act on his behalf when he is unable to do so.

3.41 The Director agrees with the views of the consultants that, in the interest of the smooth and efficient running of the Funds, he should in general be able to delegate the authority to make decisions to a larger extent than is at present the case. In the first place, the Head of the Claims Department should be given considerable authority to take decisions in respect of claims. The Director also takes the view that the Claims Officers' authority should be extended. In addition, it should be made possible for significant amounts to be paid when the Director is absent from the office. The Director intends to submit proposals in these regards to the October 1998 sessions of the Assemblies.

4 Implementation of the proposed changes

In the Director's view, the proposed changes to the structure of the Secretariat - if approved by the Assembly - should be introduced over a period of six months to a year. As a first step, the Director would appoint the Heads of the Departments. The Director would then, together with the Heads of the Departments, consider the most appropriate structure for each Department, within the parameters laid down by the Assembly, and consider the appointment of the present staff members to the various posts in the new structure. In implementing the new structure, it is the Director's intention to hold further discussions with staff members on the development of their respective skills and on how their preferences and interests could be taken into account.

5 Other recommendations by the consultants

5.1 The consultants have made a number of recommendations relating to the use of experts and the operation of local claims offices, and some of the issues addressed by the consultants are dealt with below. On many points, the suggested procedures are in fact already applied, albeit in a less formal manner than recommended.

Local claims offices

5.2 The consultants have examined the justification for the setting up of local claims offices in particular cases. They have come to the conclusion that the benefits of setting up such offices in certain circumstances far outweigh the disadvantages. The Director is of the same opinion.

5.3 Whenever time a local claims office has been set up, guidelines have been issued by the IOPC Funds and the P & I Club concerned on how the office should be managed, how claims should be handled and how external experts should be used. Such guidelines were first issued for the *Aegean Sea* and *Braer* Claims Offices. The guidelines issued later, for example for the *Sea Empress* and *Nakhodka* Claims Offices, were more detailed, since they took into account the experience gained from previous cases.

5.4 The Director nevertheless agrees with the consultants that the guidelines could be clarified and expanded, and he intends to discuss the matter with those P & I Clubs which have been operating claims offices jointly with the Funds. It might be useful to expand the participation in these discussions to include other P & I Clubs. The Director has instructed two persons who have been responsible for setting up and running local claims offices to review the operation of such offices.

5.5 As mentioned by the consultants, local claims offices have not been authorised to take any decisions on behalf of the IOPC Funds as to whether a claim should be rejected or accepted, nor on the admissible amount of a claim. The consultants have stated that they believe that it might be possible to delegate some decisions on claims to such offices, although they have not made any recommendation to this effect at this stage. The Director is of the opinion that nevertheless, since the IOPC Funds are public bodies, decisions on the admissibility of claims should be taken by IOPC Fund staff members and should not be delegated to persons outside the Secretariat.

Local claims office managers

5.6 The consultants have proposed that the Funds should identify a number of persons (Regional Partners) to be selected from each continent or region of the world, and that these persons should be trained for the purpose of making them suitable to act as managers of local claims offices. The Director believes that it would not be practicable to create a group of persons who would be prepared to commit themselves to act as local claims office managers should the need arise, since persons of the required competence are highly sought after and normally have other commitments. The Director takes the view that therefore the choice of local claims office manager in a given case has to be made in the light of the particular requirements of the individual incident and the availability of competent persons at that time.

Technical experts

5.7 The technical assistance required by the IOPC Funds with regard to oil pollution incidents is in most cases provided by the International Tanker Owners Pollution Federation Ltd (ITOPF). The Managing Director of ITOPF and the Director are at present discussing the adoption of a Memorandum of Understanding dealing with the co-operation between the IOPC Funds and ITOPF, as proposed by the consultants.

5.8 The IOPC Funds have endeavoured to monitor the work carried out by the experts engaged by them, and the Funds also assess continuously the quality of their work. Nevertheless, the Director agrees with the consultants that the Secretariat should strengthen its activity in such matters, and he believes that this will be possible if the proposed additional staff resources are made available. Although experts are normally given clear instructions as to their task, the Director considers that more detailed instructions would be appropriate in certain cases. As mentioned above, the responsibility in these regards would fall on the Head of the Claims Department and the Claims Officer dealing with the incident in question.

5.9 The consultants have also addressed the issue of the selection of experts. As the consultants have noted, most of the experts used in the past have been based in the United Kingdom. French, Italian, Japanese and Korean experts have been used on a regular basis. Algerian, Canadian, German, Spanish, Swedish and Venezuelan experts have also been used to deal with particular incidents. As the consultants have mentioned, the reason for most of the experts used being United Kingdom based is that London remains the centre of expertise in maritime affairs. The Director maintains that experts should be engaged on the basis of their technical qualifications, their experience in assessing claims for compensation, their knowledge of the international compensation system and the IOPC Funds' policy in respect of the admissibility and assessment of claims, as well as their independence and impartiality. In this context, reference is made to the discussion of this issue by the Executive Committee at its 51st session, at which the Committee endorsed the policy used by the 1971 Fund in its use of experts (document 71FUND/EXC.51/3, paragraph 4.4). The Director accepts that it would nevertheless be an advantage if experts could be recruited on a more world-wide basis than has been the case so far. Experience has shown, however, that it is often difficult to find experts who fulfil the above-mentioned criteria and who are at the same time knowledgeable of the situation in the country concerned. The Director will nevertheless endeavour to widen the recruitment of technical experts.

5.10 An important issue is the linguistic knowledge of local claims office managers and technical experts. It would obviously be a great advantage if such managers and the experts engaged for a particular incident were able to speak the language used or understood in the country concerned. However, it is often difficult to find experts with such linguistic knowledge who have the necessary technical qualifications and who fulfil the criteria set out in paragraph 5.9.

Co-operation with the P & I Clubs

5.11 In respect of most incidents the IOPC Funds co-operate in the handling of claims with the P & I Club involved. As was considered by the 7th Intersessional Working Group, this co-operation has proved to be extremely valuable (document 71FUND/A.17/23, paragraph 6.3). Such co-operation also means that decisions on both the establishment and operation of local claims offices and the engagement of technical experts have to be made jointly by the IOPC Funds and the P & I Club concerned.

Ethical issues

5.12 It is obvious that the staff of the IOPC Funds, as well as consultants and experts engaged by the Funds should act in an impartial and ethically correct way in all situations. The Director will consider whether it would be useful to adopt an internal code of conduct. It would be appropriate if any ethical issues which might arise were addressed by the Management Team. The Director does not consider it necessary to appoint a particular staff member to be responsible for ethical issues.

Translation services

5.13 Since the establishment of the 1971 Fund, the Secretariat has largely depended on the services of IMO for translations between English and French. Since 1993, the 1971 Fund has financed a post of translator within IMO.

5.14 The present agreement with IMO on translation services expires in June 1998. The consultants have proposed that the IOPC Funds should consider radically changing the contract with IMO. The Director does not believe that there is a need for radical changes in this respect. He considers that it is in the best interests of the 1971 Fund and the 1992 Fund to continue to rely on IMO for the translation of a significant part of their documentation. It should be noted that the translations made within IMO are of the highest quality. He will discuss with IMO what measures could be taken to facilitate the

translation of Fund documents. The Funds will continue to develop its use of freelance translators, as required.

5.15 The Director is considering ways of using computerised support to facilitate translation and to ensure consistency in terminology. The experience of such support in other international organisations is being examined. The consultants have indicated that a visit to the Federal Government in Canada or other intergovernmental organisations would be useful. The Director believes that the value of such visits would be limited, however, in view of the difference in the scale of the translation activities and the resources available.

Other issues

5.16 The consultants have identified a number of other issues which should be considered in the context of the implementation of their proposals. These issues will be considered by the Management Team and by the Departments concerned once the new organisational structure is in place. In this context, the information gathered during an instructive visit by the Director and the consultants to the United States National Pollution Funds Center will be considered.

5.17 It is possible that there would be a need for assistance from outside consultants in the implementation process.

6 Grading of posts

6.1 As set out above, the Director proposes the creation of two new posts in the professional category, ie Head of the Claims Department and Head of the External Relations and Conference Department. He proposes that these posts should be graded as follows:

Head of Claims Department	D1
Head of External Relations and Conference Department	P3/P4

6.2 The renamed post of Legal Counsel, which would be filled by the present Legal Officer, would remain at grade D1.

6.3 The present post of Finance and Personnel Officer should be renamed Head of the Finance and Administration Department, and the grade of the incumbent would remain at P5.

6.4 The new post of Claims Officer created by the Assembly in October 1996 was allocated grade P3/P4, and the post should be maintained at that grade.

6.5 The Director considers it premature to decide on the grades of the new or remodelled posts in the general service category. He proposes that he should be authorised to determine the grades of these posts on the general service scale in the light of the responsibilities involved and the qualifications of the persons appointed.

7 Promotions

7.1 In the note accompanying the Budget for 1998 (documents 71FUND/A.20/22 and 92FUND/A.2/24), the Director expressed the opinion that certain posts should be up-graded as a result of the incumbent having taken on more responsibilities. He stated that he had nevertheless decided to postpone any proposals in this respect pending the outcome of the review of the Secretariat working methods.

7.2 In connection with his proposals as to the changes of the structure and working methods of the Secretariat, the Director proposes the following promotions:

- (a) Miss Sally Gregory took up the post of Claims Officer in 1991. She has over the years taken over considerably increased responsibilities and dealt with a number of difficult issues in relation to claims handling in a very efficient and professional manner. It is proposed, therefore, that she should be promoted from grade P4 to grade P5 with effect from 1 May 1998.
- (b) Mrs Pauline Binkhorst van Romunde took up the post of Accounts Assistant/Secretary to the Finance Officer in 1989. She was promoted to Assistant Finance Officer (grade P1) with effect from 1 January 1997. In the light of her proven ability she has been given increased responsibilities, thereby relieving the Finance Officer of a considerable workload. It is proposed that she should be promoted to grade P2, also with effect from 1 May 1998.

7.3 The promotions proposed in paragraph 7.2 would for 1998 not require any additional budget appropriations.

8 Office space and accommodation

As mentioned by the consultants, if the Assembly were to approve the proposals to increase the Secretariat's resources in manpower, more office space would be required. The Director hopes that such additional space could be found within the IMO building. The Director has held preliminary discussions with the Secretary-General of IMO and with representatives of the United Kingdom Government concerning the need for additional office space.

9 Action to be taken by the Assembly

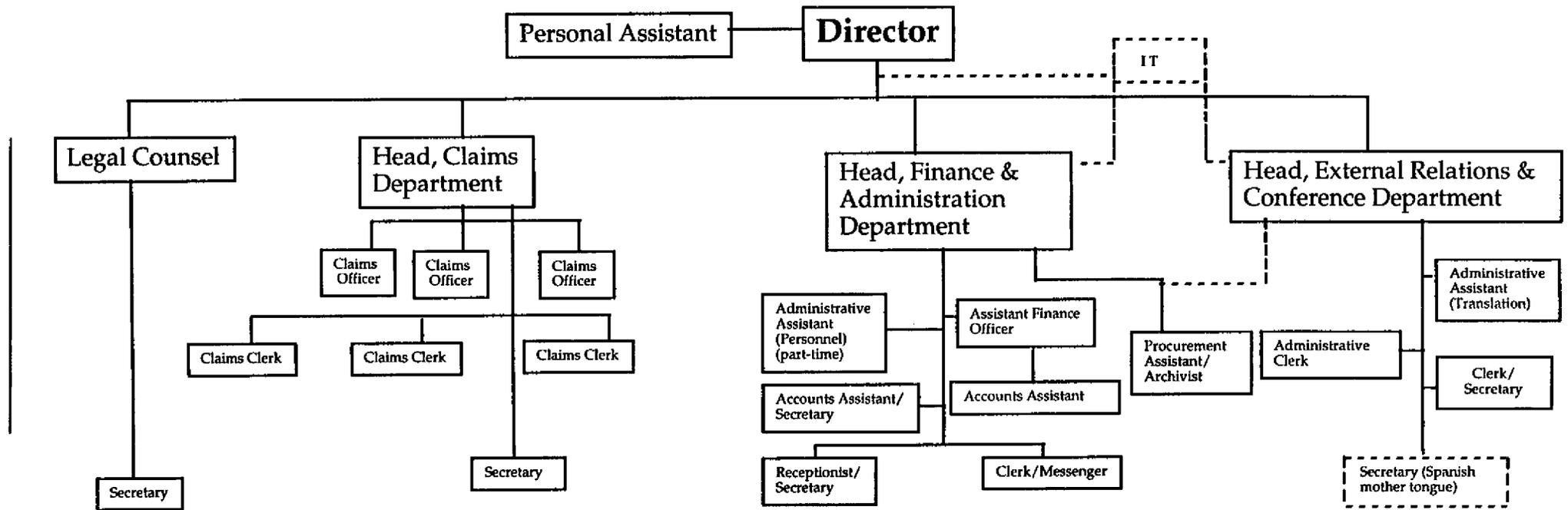
The Assembly is invited:

- (a) to take note of the information contained in this document;
- (b) to take a decision on the Director's proposal for a new structure of the Secretariat (section 3, in particular paragraph 3.35, and the Annex);
- (c) with regard to posts in the professional and higher category, to take decisions on the Director's proposals:
 - (i) to rename the post of Legal Officer as Legal Counsel and to maintain the grade of D1 for that post (paragraphs 3.2 and 6.2);
 - (ii) to create the post of Head of the Claims Department at grade D1 (paragraphs 3.12 and 6.1);
 - (iii) to rename the post of Finance Officer as Head of the Finance and Administration Department and to maintain the grade of P5 for that post (paragraphs 3.20 and 6.3);
 - (iv) to create the post of Head of the External Relations and Conference Department at grade P3/P4 (paragraphs 3.27 and 6.1);
 - (v) to maintain the vacant post of a third Claims Officer at grade P3/P4 (paragraphs 3.18 and 6.4);

- (d) to note that, as a consequence of the creation of these new posts in the professional and higher category, the post of Administrative Officer would cease to exist (paragraph 3.37);
- (e) with regard to posts in the general service category, to take decisions on the Director's proposals:
 - (i) to create the posts of two additional Claims Clerks in the Claims Department (paragraph 3.15);
 - (ii) to create the post of Procurement Assistant/Archivist in the Finance and Administration Department (paragraph 3.22);
 - (iii) to create the posts of Administrative Clerk and Clerk/Secretary in the External Relations and Conference Department (paragraph 3.27);
 - (iv) to authorise him to determine the grades of the new or remodelled posts in the general service category (paragraph 6.5);
- (f) to note that, as a consequence of the creation of these new posts in the general service category, two posts of Secretary approved by the Assembly would cease to exist (paragraph 3.37);
- (g) to note the need for an additional secretary if the 1992 Fund Assembly were to decide to introduce Spanish as a working language of the 1992 Fund (paragraph 3.34);
- (h) to consider the Director's proposal to engage a consultant to review the Funds' IT requirements (paragraph 3.24);
- (i) to note the Director's proposal to establish a Management Team (paragraph 3.4);
- (j) to consider the Director's proposals concerning the need for him to be empowered to delegate authority (paragraphs 3.38 - 3.41);
- (k) to note the Director's position in respect of other recommendations of the consultants (section 5);
- (l) to take decisions on the Director's proposals to promote one of the Claims Officers to grade P5 and the Assistant Finance Officer to grade P2, both with effect from 1 May 1998 (paragraph 7.2);
- (m) to note the need for additional office space (section 8); and
- (n) to take such other decisions and give the Director such instructions in respect of the issues dealt with in this document as it may deem appropriate.

* * *

Director's Proposed Structure



ANNEX

71/FUNDA/ES.4/3/1

This organigram only denotes reporting relationships. It does not describe the grading of posts.