



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUNDS

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1992 Fund Executive Committee	92EC58	
1971 Fund Administrative Council	71AC30	•
1992 Fund Working Group 6	92WG6/5	
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WINDING UP OF THE 1971 FUND

Submitted by the International Group of P&I Associations

Summary:	A number of the pending cases involving the 1971 Fund involve member P&I Clubs of the International Group of P&I Associations. Therefore the International Group has a direct interest in the discussions taking place in the 1971 Fund Administrative Council on the winding up of the 1971 Fund.
Action to be taken:	<u>1971 Fund Administrative Council</u> Information to be noted.

1 Introduction/Background information

- 1.1 There remain five pending incidents involving the 1971 Fund where the Fund may have to pay compensation and/or legal costs. Four of these cases involve member P&I Clubs of the International Group of P&I Associations (International Group), namely the *Aegean Sea*, *Iliad*, *Nissos Amorgos* and *Plate Princess*. Following the global settlement concluded in 2002 between the Spanish Government, the 1971 Fund, the shipowner and the UK P&I Club, there are no further claims against the Club in the *Aegean Sea*.
- 1.2 However, there remain claims pending in court against the individual P&I Clubs concerned in the *Iliad*, *Nissos Amorgos* and *Plate Princess*. Therefore the three Clubs concerned (the North of England, Gard and Standard P&I Clubs) have a direct interest in the decision to be taken by the 1971 Fund Administrative Council on the winding up of the 1971 Fund, as does the International Group collectively.

2 Consultation with the International Group

- 2.1 Since this is the case, the International Group informed the October 2012 meeting of the 1971 Fund Administrative Council that the Consultation Group to be established to examine the outstanding issues to facilitate the process of winding up the 1971 Fund should liaise with the International Group.
- 2.2 Since the October 2012 meeting, some consultation with the International Group has taken place. The International Group, with the Gard P&I Club, met with the Fund Secretariat and the Chairman of the Consultation Group to discuss the thoughts of the Consultation Group with regard to the *Nissos Amorgos* case. The International Group also understands that the Director of the IOPC Funds has held discussions with the North of England P&I Club with regard to the *Iliad* case.

3 Position of the International Group on the winding up of the 1971 Fund

- 3.1 The International Group Clubs share ('pool') claims amongst themselves where the total cost of claims arising from any one incident exceeds the level of claims retained by each individual Club ie the level in US dollars up to which the Club with the P&I entry of the vessel concerned pays the cost of claims

itself without pooling the costs with the other International Group Clubs. The individual Club retention in 1993 at the time of the *Iliad* was US\$3 million and in 1997 at the time of the *Nissos Amorgos* was US\$5 million.

- 3.2 If the total cost of claims paid by the Clubs concerned in each of these individual cases exceeds these limits, then the costs will be pooled amongst all 13 International Group Clubs. The current overall claims exposure for both the North of England in the case of the *Iliad* and the Gard Club in the case of the *Nissos Amorgos* exceeds both of these limits. The outcome of both of these cases and the decision to be taken by the 1971 Fund Administrative Council in this regard is therefore a matter for the 13 member P&I Clubs of the International Group and not just the three Clubs concerned.
- 3.3 Further, the International Group submitted document [IOPC/OCT12/3/3/1](#) to the October 2012 meeting of the 1971 Fund Administrative Council on the claims situation in the *Nissos Amorgos*. The International Group informed the meeting that there remains the possibility that the shipowner will pay twice the limitation fund in the *Nissos Amorgos* and, in accordance with the practice adopted in the case between the Club and the Fund, namely that an audit should be made at the end of the case to ensure that the various financial outgoings are correctly distributed between them, the Club would look to the Fund for reimbursement of any sum above the limitation amount.
- 3.4 Clearly, this would not be possible if the 1971 Fund is wound up following resolution of the other pending cases.
- 3.5 There is therefore a relationship between the pending cases that involve International Group Clubs, and the outcome on any one of these could have an impact on each of the remaining cases.

4 Conclusion

For the reasons outlined in this document, and without prejudice to the final position that the three individual International Group Clubs may take in their own respective cases, the International Group (including the three individual International Group Clubs concerned) does not agree that the 1971 Fund Administrative Council should be taking steps at this stage to wind up the 1971 Fund, pending a satisfactory resolution of these cases.

5 Action to be taken

1971 Fund Administrative Council

The 1971 Fund Administrative Council is invited to take note of the information contained in this document.
