



International Mobile Satellite Organization

ASSEMBLY

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Origin: Director

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DIRECTORATE MATTERS

**ARRANGEMENTS FOR THE DEVELOPMENT, AGREEMENT AND
APPORTIONMENT OF THE BUDGET**

Executive Summary:	This document discusses possible arrangements for the development, agreement and apportionment of the Organization's budget and proposes a decision for consideration and possible adoption by the Assembly
Action to be taken:	Section 7
Relevant Documents:	ASSEMBLY/20/6.2, 13, 13.1

1 BACKGROUND

1.1 The Advisory Committee, at its Twelfth Session in October 2005 (AC/12/Report, paragraphs 6.15 and 6.16 refer), reviewed the Director's proposals for the development and agreement of the Organization's annual budget and, "recalling that Member States do not contribute to the budget and that this principle was embodied in the Convention, ... agreed that the following principles should be embodied in the budget apportionment scheme:

- (a) *the budget should be established on the three-year rolling basis proposed by the Director;*
- (b) *the Director's budget proposals should be agreed annually by the Advisory Committee, on behalf of the Assembly;*
- (c) *the budget should be paid by the providers as a fixed annual fee, payable in advance;*
- (d) *the full costs to evaluate and verify each new application; and*

- (e) *the proposed legal and contingency fund should be established as two separate funds; a Legal Fund and a Contingency Fund, to be used in the event of any litigation and for unexpected financial commitments; the Director should seek the Committee's agreement to any proposed expenditure from these funds."*

1.2 The Committee also noted that *"the Director will further refine the budget apportionment scheme as well as developing detailed proposals for how the legal and contingency funds will be developed, funded and operated, taking into account comments made."*

1.3 At its Thirteenth Session, in November 2005 (AC/13/Report, Section 4 refers), the Advisory Committee reviewed the Director's proposals regarding arrangements for the development, approval and apportionment of the Organization's budget, and recommended that the Assembly adopts the arrangements which were set out in Annex VI to AC/13/Report.

1.4 The Arrangements for the development, approval and apportionment of the Organization's budget, as recommended by the Advisory Committee, were submitted to the Eighteenth Session of the IMSO Assembly held in September 2006, as ASSEMBLY/18/11.1, but were not discussed.

1.5 At its Nineteenth (Extraordinary) Session, the Assembly adopted amendments to the IMSO Convention that, *inter alia*, extend the Organization's mandate to include the performance of the role of LRIT Coordinator. The Assembly will consider further amendments to the Convention at the present session, proposed and modified by the United States of America, with the aim of consolidating the Organization's position in relation to the LRIT Coordinator functions. It is therefore appropriate that procedures for the development, apportionment and agreement of the budget be established that take account of the requirements for LRIT in addition to the GMDSS work of the Organization.

1.6 This document builds on the previous work of the Advisory Committee and the existing procedures for budget approval, and proposes a scheme for developing separate GMDSS and LRIT budgets and apportioning the common costs of the Organization between the two business streams. The proposed scheme also foresees an environment in which more than one GMDSS Provider is subject to oversight by the Organization and provides for the Advisory Committee to work with

the Director to agree specific charges and fees on an annual basis for LRIT services. It incorporates also the existing agreed arrangements for the Contingency Fund.

2 GENERAL PRINCIPLES

2.1 Article 11 of the Convention on the International Mobile Satellite Organization, as amended in 2006, provides that:

“(1) ... the costs associated with the following shall be paid by the Providers:

(a) the operation of the Directorate;

(b) the holding of Assembly sessions and meetings of its subsidiary bodies; and

(c) the implementation of measures taken by the Organization in accordance with Article 4 to ensure that the Provider carries out its obligation of providing maritime mobile satellite communications services for the GMDSS.

(2) The costs defined in paragraph (1) shall be apportioned between all Providers according to rules set up by the Assembly.”

2.2 The Reference Public Services Agreement (ASSEMBLY/20/6.2), which is to be signed by every Provider of satellite services in the GMDSS, implements the provisions of the Convention as follows:

“10.1 The Company shall contribute to the costs of the Organization.

10.2 The Company shall pay to the Organization annually in pounds sterling, a proportion of the total budget of the Organization. The budget will be agreed and approved by the Assembly. The approved budget will be apportioned between all Companies with which the Organization has concluded a Public Services Agreement, in accordance with the formula adopted by the Assembly.

10.3 The Organization will conduct informal consultations with the Company when preparing its budget.”

2.3 Similarly, the right of the Organization to establish and levy charges for work it carries out in its capacity as the LRIT Coordinator is set out in IMO resolution MSC.263(84) – Revised Performance Standards and Functional Requirements for the Long Range Identification and Tracking of Ships, as follows:

“14.7 The LRIT Coordinator should establish and communicate to the Committee the charges it would be levying in order to recover the expenditure it incurs for providing the services specified in paragraphs 14.2 to 14.5.

14.8 The related charges should be paid to the LRIT Coordinator in accordance with agreed arrangements - taking into account the laws of the Contracting Government(s) concerned ...”

3 SEPARATION OF GMDSS AND LRIT BUDGETS

3.1 The amended Convention, as proposed, and subsequently modified, by the United States (ASSEMBLY/20/13.1 refers), includes the following provisions:

“COSTS

(1) The Organization shall keep separate accounts of costs incurred for (i) GMDSS oversight and (ii) LRIT Coordinator services. The Organization shall arrange for the costs associated with the following to be paid by Providers of GMDSS and by entities with which the Organization has entered into contractual relationships, relating to the LRIT Services Coordinator:

(a) the operation of the Directorate;

(b) the holding of Assembly sessions and meetings of its subsidiary bodies; and

(c) the implementation of measures taken by the Organization in accordance with Article 4 to ensure that the Provider carries out its

obligation of providing maritime mobile satellite communications services for the GMDSS; and

(d) the implementation of measures taken by the Organization in accordance with Article 6 in its role as LRIT Coordinator.

(2) The costs defined in paragraph (1) shall be apportioned as prescribed by the Assembly.

(3) No Party shall be obligated to pay for any costs associated with the performance by the Organization of the functions and duties of LRIT Coordination by reason of its status as a Party to this Convention.

(4) Each Party shall meet its own costs of representation at Assembly sessions and meetings of its subsidiary bodies.”

3.2 The Director, in anticipation that the above proposed text receives a broad measure of support, and will be adopted by the Assembly, has therefore developed his proposals accordingly.

3.3 The Director has already broadly implemented the measures proposed in these draft amendments. In particular entirely separate accounts and bank accounts have been established for GMDSS/Legacy services and LRIT services. These separate accounts are operated by the Head of Administration, Finance and Conferences with assistance from the Accountant. The proposed procedures take this into account and provide for the preparation and presentation of separate budgets for the two areas of responsibility. The 2007 Audited Financial Statements (ASSEMBLY/20/10.1 refers) also reflect the two separate budgets.

4 APPORTIONING THE COSTS OF GMDSS OVERSIGHT AMONG MULTIPLE PROVIDERS

4.1 The Director has considered a range of different options for apportioning the agreed costs of the Organization between multiple GMDSS Providers. The Director does not support any formula based on ability to pay, or that includes elements such as turnover, profit from the maritime sector, number of terminals etc. Any formula based on such criteria has the fundamental flaw that it requires an existing Provider to effectively subsidise the entry into the market of a new competitor.

4.2 The Director believes that the only equitable way of apportioning the Organization's costs must be based on the effort involved in providing oversight. The Director is convinced that there will be no appreciable difference in the cost of overseeing different companies based on the size of the company, type of satellite constellation, types of services, number of mobile terminals etc. The only difference in cost that can be foreseen realistically at the present arises from the location of the Company, which may lead to a difference in travel costs for essential periodical site visits. Such visits need not normally be frequent, and without knowing the locations of the facilities to be visited or their locations, it is not possible to estimate such costs at this time, but it is not anticipated that the differences in such costs will be large.

4.3 The Director therefore proposes that the formula for apportioning the Organization's costs for GMDSS oversight should be based on an informal proposal made by the United Kingdom at the Twelfth Session of the Advisory Committee that each Provider should bear an equal share of the Organization's approved costs. Under such a regime it is proposed that, after agreeing the budget for the following year, the Advisory Committee should then develop a single fixed fee by dividing the total agreed budget (including any contingency) by the number of Providers having valid Public Service Agreements in force at the beginning of the financial year.

4.4 Given the current level of the Organization's budget, and assuming that the Organization has not yet accepted any responsibilities outside the oversight of satellite services for the GMDSS against which a proportion of the headquarters overhead costs could be offset, this formula could result in a level of fixed fee in the region of £270,000 for each of two Providers in 2009. If there were three Providers, the fee that year would need to be set at a level of approximately £180,000.

4.5 New Providers joining the GMDSS during a financial year should be charged a pro rata fee calculated according to the number of days remaining in that financial year.

5 CHARGING FOR LRIT SERVICES

5.1 IMO Resolution MSC.263(84) - the Performance Standard, paragraph 14.8 sets out in detail those services for which the LRIT Coordinator is expected to charge, as follows:

"14.8 The related charges should be paid to the LRIT Coordinator in accordance with agreed arrangements - taking into account the laws of the Contracting Government(s) concerned - as follows:

- .1 in relation to the evaluation of proposals for the establishment of the International LRIT Data Centre and/or the International LRIT Data Exchange (paragraph 14.2.3), by those submitting the related proposals;*
- .2 when participating in the testing and integration of the International LRIT Data Centre and/or the International LRIT Data Exchange into the LRIT system (paragraph 14.2.4), by the International LRIT Data Centre and/or the International LRIT Data Exchange as the case may be;*
- .3 when undertaking the investigation of operational or technical disputes or invoicing difficulties (paragraph 14.3.1) by the party requesting the service;*
- .4 when participating in the testing and integration of LRIT Data Centre(s) into the LRIT system (paragraph 14.3.2) by the LRIT Data Centre(s) being tested or integrated;*
- .5 when participating in the testing of new or modified procedures or arrangements for communications between the International LRIT Data Exchange, the LRIT Data Centres and the LRIT Data Distribution Plan server (paragraph 14.3.3), by the International LRIT Data Exchange and/or the LRIT Data Centre(s);*
- .6 when reviewing the performance of ASPs (or CSPs when they act as ASPs) providing services to the International LRIT Data Centre (paragraph 14.4.1), by the ASPs concerned;*
- .7 when auditing the performance and fee structures of LRIT Data Centres (paragraph 14.4.2), by the LRIT Data Centre concerned;*
and

.8 *when auditing the performance and fee structure of the International LRIT Data Exchange (paragraph 14.4.3), by the International LRIT Data Exchange."*

5.2 The "agreed arrangements" referred to in the chapeau of 14.8 above will be included in the LRIT Service Agreement (ASSEMBLY/20/7.6/ADD/1) and will therefore be a matter of civil contract between IMSO and each Data Centre or other relevant entity concerned.

5.3 Charges for the eight different cases listed in the Performance Standard can conveniently be grouped into two types of charge:

.1 charges for "one off" services, such as evaluation of proposals, participation in testing and/or integration of new or revised LRIT entities or procedures, and investigation of operational or technical disputes etc. (14.8.1 to 14.8.5 above); and

.2 charges for the annual review and audit of LRIT Data Centres, certain ASPs or the International Data Exchange (14.8.6 to 14.8.8).

5.4 It is proposed that "one off" services should be charged for on a "per diem" (daily rate) basis, whilst annual review and audit services should be charged for on a fixed annual fee basis.

6 **CONTINGENCY FUND**

6.1 The purpose of the Contingency Fund is to provide the Organization with the capacity to meet unexpected or extraordinary operational costs without having to resort to the Providers on each occasion for additional money to meet those costs. This will have the desirable effect of removing any possible suggestion that the Providers could seek to control the organization's operations through control of that part of the budget.

6.2 The Director therefore proposes that the Contingency Fund should be established as a small percentage of the total annual operational budget each year. The percentage should be proposed by the Director and agreed by the Advisory Committee as part of the budget setting exercise each year. This procedure has in fact been applied since 2007, since when the Advisory Committee has agreed with

the Director's proposal that 1 percent should be added to the Organization's annual agreed budget for contingency purposes.

6.3 The money received for contingencies would be accumulated in a separate account and would not be returned to the Providers at the end of the year. The existing balance in the account and the history of the Fund's use would be taken into account when deciding on the percentage to be charged in subsequent years. Pending formal agreement of the Assembly to this procedure, any end-of-year surplus in the current Contingency Fund has so far been returned to Inmarsat and not allowed to accumulate.

7 ACTION REQUIRED

The Assembly is invited:

- (a) to adopt the arrangements for the development, agreement and apportionment of the Organization's budget set out in the annex;
 - (b) to decide that these arrangements shall be annexed to the Reference Public Services Agreement and shall form an integral part of any future Public Services Agreement signed by the Director on behalf of the Organization;
 - (c) to decide also to delegate the tasks of annual agreement of the Organization's budget to the Advisory Committee;
 - (d) to instruct the Director to provide a report on financial matters to every regular session of the Assembly; and
 - (e) to request the Director to keep these arrangements under review and to propose amendments to them as necessary.
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ARRANGEMENTS FOR THE DEVELOPMENT, APPROVAL AND APPORTIONMENT OF THE ORGANIZATION'S BUDGET

The Assembly of the International Mobile Satellite Organization (IMSO) has decided, at its [Twentieth] Session, that the arrangements for development, agreement and apportionment of the Organization's budget shall be as follows:

1 General Budget Development Principles

1.1 The Organization's overall budget should be developed by the Director and agreed annually by the Advisory Committee, on behalf of the Assembly.

1.2 The budget should be developed on a three-year rolling basis:

.1 The budget for year one should be as accurate as possible and agreed by the Advisory Committee for implementation by the Director.

.2 The budget for year two should be sufficiently accurate to provide a clear indication of the level of costs that may be expected in year two. The budget for year three should be indicative.

1.3 The Director should develop detailed budget proposals during the third quarter of each calendar year.

1.4 In preparing the GMDSS part of the budget, the Director should consult individually and informally with each Provider, generally during the month of September.

1.5 The Director should present the proposed budget for the following year to the Advisory Committee for agreement, plus the indicative budgets for the following two years for information, at a meeting of the Advisory Committee to be held normally during October or November of each year.

1.6 The Director should ensure that the proposed budget properly identifies and separates the costs of GMDSS oversight from the costs of the LRIT Coordinator role.

1.7 If, in future, the Organization agrees to undertake the provision of any other services, at the request of IMO or otherwise, the costs of such other services shall

be separately identified in the Organization's budget and charged only to those who receive or benefit from the services concerned.

1.8 Headquarters, staff and other fixed costs shall be apportioned fairly between all the various lines of business, taking account of the relative levels of resource and effort expended on each service.

GMDSS Budget

2 General

2.1 The costs of the Organization for the provision of GMDSS oversight shall be recovered from the Provider(s) of GMDSS Satellite Services in the form of a Fixed Annual Fee.

2.2 The Fixed Annual Fee shall be set at a sufficient level for recovery of the Organization's costs in relation to GMDSS oversight plus the relevant share of the Contingency Fund (see Section 10 below). The Fixed Annual Fee charged to Providers of satellite services for the GMDSS shall include the relevant proportion of the Organization's Headquarters, staff and other fixed costs but shall not take account of the costs of any other business the Organization might undertake.

2.3 The level of this Fee shall be proposed by the Director and agreed by the Advisory Committee on an annual basis.

3 Apportionment

3.1 The costs shall be apportioned between all Providers of satellite services for the GMDSS that are subject to oversight by the Organization and for which a Public Services Agreement is in force.

3.2 Each Provider shall pay:

- .1 an equal share of the operational GMDSS budget;
- .2 an equal share of the cross functional overheads; and
- .3 an equal share of the contingency requirement.

3.3 When a new Provider signs a Public Services Agreement with the Organization, the Fixed Annual Fee paid by that Provider, during that year only, shall be reduced in proportion to the number of days in that financial year that have already passed.

4 Fixed Annual Fees

4.1 Each year, following agreement of the budget, the Director will propose, for approval at the same session of the Advisory Committee, the level of Fixed Annual Fee to be paid by each Provider subject to oversight by the Organization in year one and the indicative level of Fixed Annual Fee expected to be levied in year two.

4.2 The level of Fixed Annual Fee shall be kept as low as is reasonable. It shall be sufficient to ensure that the financial needs of the Organization are always met, taking account of the agreed budget for the next year.

4.3 The level of Fixed Annual Fee should be proposed by the Director and approved by the Advisory Committee, taking account of the agreed budget for the year, any prudent need for contingencies, and the number of Providers for which signed Public Services Agreements are in force.

5 Terms of Business - GMDSS

5.1 Unless otherwise agreed between the Organization and the Provider concerned, the Fee shall become payable at the beginning of the year to which it applies.

5.2 The Organization shall require payment in full within 30 days of the date of invoice. Invoices shall not be sent out more than 60 days or less than 30 days before the first day of the period to which the invoice relates.

5.3 The Director may, at his discretion, permit any Provider to pay quarterly in advance on the same terms, except that the whole outstanding Fixed Annual Fee shall become payable immediately if a Provider does not pay any invoiced amount within the 30 day period allowed.

5.4 The Organization may charge interest at a rate of [2] per cent above the prevailing Bank of England Base Rate, in accordance with normal commercial practice, on any invoiced sums outstanding beyond the 30 days allowed.

5.5 The Director will take into account any surplus made in one year when deciding the level of fee to be charged in the following year, so that any surplus does not accumulate to an unacceptable extent;

LRIT Budget

6 General

6.1 IMO Resolution MSC.263(84) - the Performance Standard, paragraph 14.8 sets out in detail those services for which the LRIT Coordinator is expected to charge. Charges for the eight different cases listed in the Performance Standard can conveniently be grouped into two types of charge:

- .1 charges for "one off" services, such as evaluation of proposals, participation in testing and/or integration of new or revised LRIT entities or procedures, and investigation of operational or technical disputes etc. (IMO resolution MSC.263(84) paragraphs 14.8.1 to 14.8.5); and
- .2 charges for the annual review and audit of LRIT Data Centres, certain ASPs or the International Data Exchange (IMO resolution MSC.263(84) paragraphs 14.8.6 to 14.8.8).

6.2 "One off" services will be charged for on a "per diem" (daily rate) basis, whilst annual review and audit services will be charged for on a fixed annual fee basis.

6.3 In each case it is the Data Centre, ASP or IDE concerned that will be directly charged by IMSO and not the Contracting Governments to SOLAS or the Member States of IMSO in those capacities.

6.4 The actual values of the LRIT Audit/Review Fee and the Daily (Per Diem) Fee for each year will be decided by the Director, in consultation with the Advisory Committee, in the fourth quarter of the preceding calendar year, as part of the overall budget development, review and agreement process.

6.5 Because of the expectation that IMSO's predictable LRIT-related income will be derived almost entirely from Audit/Review Fees, the level of LRIT Audit/Review Fee for each year must be set to ensure that the Organization cannot make a loss,

but at no higher level than is required to achieve this (the so-called "not-for-profit" basis). Any "one-off" fees (of the type normally charged at a daily rate) may lead to the accumulation of a small surplus for the trading year. It is anticipated, therefore, that the Director will take into account any surplus made in one year when deciding the level of fee to be charged in the following year, so that any surplus does not accumulate to an unacceptable extent.

7 **Daily "Per Diem" Fees for "one off" contracts**

The level of "Per Diem" or Daily Fee to be charged for "one off" contracts should be set to reflect the full cost to the Organization of one day's LRIT work, that is, in a full year:

$$\frac{\text{Total LRIT Budget for the Year}}{260 \text{ working days}} = \text{Daily Cost}$$

This Daily Cost should then be rounded up and an allowance made for bad debt and contingencies, if required, to establish the actual Daily Fee to be charged by the Organization during that year.

8 **Fees for Annual Review and Audit**

8.1 The Fee for annual audit and review is established and apportioned according to the formula:

$$\text{Fee} = \text{total IMSO auditing costs} / \text{total number of units};$$

8.2 The number of units payable by any data centre will be in accordance with the following rule:

1. if flags < X and vessels < Y => DC fee = 1x unit
2. if flags < X and vessels > Y => DC fee = 1x unit
3. if flags > X and vessels < Y => DC fee = 1x unit
4. if flags > X and vessels > Y => DC fee = 5x unit

where:

X = number of flags per DC

Y = number of vessels per DC

8.3 For the time being, the value of X is set at 10 flags and the value of Y at 1000 ships.

Note: The Advisory Committee, at its Twenty-Second Session, agreed that this would be an interim decision in order to provide clarity to MSC 85 and to remain in use for approximately two years, until the number of data centres, participating ships and volumes of traffic are known more accurately, and the quantity of effort required from IMSO can also be known more accurately.

8.4 Application Service Providers (ASPs) providing services to the International Data Centre (IDC) should be counted and charged in the same way as Data Centres. They are likely to be few in number, and can be added to the formula when and if an IDC is established.

8.5 The interim International Data Exchange is provided free of charge to the LRIT system by the government of the United States. It is not a commercial operation and will not accumulate funds. It is difficult to know what time and resource will be needed to provide IMO with the assurances it seeks in relation to the operation of the IDE. For the time being, the audit and review procedures for the IDE will thus be a matter for discussion and agreement between IMSO and the IDE Operator. It is therefore intended that the Audit/Review Fee shall be based on a daily "Per Diem" fee basis for the interim IDE. A further decision, taking account of the degree of commercial enterprise in the permanent IDE will be taken when the permanent IDE is established.

9 Terms of Business – LRIT

9.1 Daily Fees for "one off" contracts should be invoiced when the final report for the contract is dispatched from IMSO. The invoice should include all known expenses in addition to the Fees payable for the contract. A further invoice may be raised at a later date to cover any further expenses that come to hand after the initial invoice has been submitted.

9.2 Data centres and those ASPs subject to audit become liable to pay the appropriate Fee for annual review and audit on the day that the audit or review process begins. However, the fees will be invoiced and become payable after the audit or review is complete but before the final report has been dispatched to the client and IMO.

9.3 The Organization shall require payment in full within 30 days of the date of invoice.

9.4 The Organization may charge interest at a rate of [2] per cent above the prevailing Bank of England Base Rate, in accordance with normal commercial practice, on any invoiced sums outstanding beyond the 30 days allowed.

10 **Contingency Fund**

10.1 The annual budget shall include an allowance for contingencies. The allowance for contingencies shall normally be 1% of the total non-contingency budget for the year, which shall be added to the total financial requirements of the Organization annually. The percentage should be proposed by the Director and agreed by the Advisory Committee as part of the budget setting exercise each year, taking account of the remaining balance in the Fund and the history of the Fund's use.

10.2 The Contingency Fund should accumulate in a separate account. Any amount remaining unspent should be retained by the Organization and not be returned to the Providers or LRIT entities at the end of the year.

10.3 The Director should report any expenditure from the Contingency Fund to the Advisory Committee at its next regular session.

11 **Budgetary Reporting**

11.1 During the first quarter of each calendar year the Director shall report to the Advisory Committee on actual expenditure compared with the agreed budget for the previous year.

11.2 The Director shall report on the budget to each regular two-yearly session of the Assembly.

11.3 The Director may report on expenditure versus budget to the Advisory Committee at any time. The Budget shall be a permanent item on the agenda of the Advisory Committee.

11.4 The Organization's financial accounts shall be subject to independent audit each year and the Auditors Reports shall be provided to the Advisory Committee and the Assembly. The Auditors shall be appointed by the Assembly.

11.5 The Director should report agreed levels of LRIT fees to IMO MSC annually, in accordance with paragraph 14.7 of the Performance Standard.
