



International Oil Pollution  
Compensation Funds

<b>Agenda Item 1</b>	IOPC/OCT22/1/3	
<b>Date</b>	3 October 2022	
<b>Original</b>	English	
<b>1992 Fund Assembly</b>	92A27	●
<b>1992 Fund Executive Committee</b>	92EC79	
<b>Supplementary Fund Assembly</b>	SA19	

## AMENDMENTS TO RULES OF PROCEDURE

### 1992 Fund Executive Committee

#### Note by the Secretariat

**Summary:**

At its March 2022 meeting, the 1992 Fund Assembly considered a proposal by the Secretariat to amend Rule 18 of the Rules of Procedure of the 1992 Fund Executive Committee in order to clarify the process for the election of the Chair and Vice-Chair of the Executive Committee.

At that time, one delegation suggested amendments to the Secretariat's proposal, which were published in working paper IOPC/MAR22/1/5/WP.1. Since this was a drafting matter concerning a minor procedural issue, the Assembly decided to postpone further discussions to the next meeting (document IOPC/MAR22/9/2, paragraph 1.4.12). It was noted that postponing the discussions would also give the Secretariat sufficient time to compare the proposed amendments to the Rules of Procedure of the 1992 Fund Assembly to ensure consistency throughout the rules of the governing bodies before finalising the text.

Following the discussions at the March 2022 meeting, this document sets out a revised proposal for amendments to the Rules of Procedure for the 1992 Fund Executive Committee for consideration by the 1992 Fund Assembly.

**Action to be taken:** 1992 Fund Assembly

Decide whether to approve the proposed amendments to Rule 18 of the Rules of Procedure of the 1992 Fund Executive Committee, as set out in paragraph 3.3.

### 1 Introduction

- 1.1 At its March 2022 meeting, the 1992 Fund Assembly considered a proposal by the Secretariat to amend Rule 18 of the Rules of Procedure of the 1992 Fund Executive Committee in order to clarify the process for the election of the Chair and Vice-Chair of the Executive Committee (document IOPC/MAR22/1/5).
- 1.2 One delegation suggested several amendments to the Secretariat's proposal which were published in working paper IOPC/MAR22/1/5/WP.1. Since this was a drafting matter concerning a minor procedural issue, the Assembly decided to postpone further discussions to the next meeting (document IOPC/MAR22/9/2, paragraph 1.4.12). It was noted that postponing the discussions would also give the Secretariat sufficient time to compare the proposed amendments to the Rules of Procedure of the 1992 Fund Assembly to ensure consistency throughout the rules of the governing bodies before finalising the text.

- 1.3 Following the discussions at the March 2022 meeting, this document sets out proposed amendments to the Rules of Procedure for the 1992 Fund Executive Committee for consideration by the 1992 Fund Assembly. Proposed amendments are set out below in paragraph 3.3.

## **2 Background information**

- 2.1 At its October 2014 session, the 1992 Fund Executive Committee decided to amend its practices for electing to ensure that Chairs did not preside over their own elections. Instead, it adopted a practice whereby the Director would chair this agenda item for all three governing bodies (document IOPC/OCT14/11/1/1, paragraph 2.2).
- 2.2 At the April 2015 sessions of the governing bodies, in order to ensure that there was an elected Chair and Vice-Chair in place between the sessions of the Executive Committee, it was decided that once the 1992 Fund Assembly had elected the incoming Executive Committee, the 1992 Fund Assembly Chair could invite nominations for the Chair and Vice-Chair positions from those newly elected Member States. Once confirmed, these positions would be considered as Chair-Elect and Vice-Chair-Elect, and the incumbents would assume responsibility for the position as soon as the regular sessions had concluded and the Records of Decisions for all relevant bodies had been adopted.
- 2.3 At the same April 2015 sessions, the 1992 Fund Assembly decided to amend Rule 21 of its Rules of Procedure to confirm that the Director would chair until the Assembly had elected a Chair for the session (document IOPC/APR15/9/1, paragraph 6.1.3 (i))<sup><1></sup>.

### *Issue encountered since 2020*

- 2.4 Overall, the practice of electing the Chair and Vice-Chair at the same time as the election of the Executive Committee has worked well, however, Rule 18 and the practice adopted do not provide for scenarios when a Chair or Vice-Chair resigns before the end of their term.
- 2.5 In this case, a Chair/Vice-Chair would need to be elected at the start of the next session (under agenda item 1, Procedural Matters) so that the Executive Committee session can proceed with a Chair/Vice-Chair in place. However, the Secretariat has found that there is a conflict with the practice and Rule 18, and it is unclear who should preside over this item under these circumstances.

### *Discussions during March 2022 meeting*

- 2.6 In order to clarify the process for the election of the Chair and Vice-Chair of the Executive Committee, the Secretariat submitted a proposal to amend Rule 18 to the 1992 Fund Assembly at its March 2022 meeting (document IOPC/MAR22/1/5).
- 2.7 During the consideration of the proposal, one delegation pointed out that Rule 19 provided for a situation where the Chair was absent or for any reason was unable to carry out his or her functions and suggested that the Director should only step in to preside over the election if both the Chair and Vice-Chair were to resign from their positions. That delegation considered that under this proposal, Rules 18 and 19 could cover all scenarios, as it was clear that the Vice-Chair can act on the Chair's behalf as provided in Rule 19.
- 2.8 Another delegation raised a similar concern pointing out that the proposal addressed only two situations out of three situations, which were:

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<1> The Supplementary Fund Assembly decided to make the same amendment to the equivalent rule provided in Rule 21 of the Rules of Procedure of the Supplementary Fund Assembly at its October 2015 session (document IOPC/OCT15/11/1, paragraph 7.3.2).

- both the Chair and Vice-Chair resign before the end of the term;
- the Chair resigns before the end of the term; or
- the Vice-Chair resigns before the end of the term.

2.9 That delegation therefore proposed a number of further amendments to the text to address all three situations, which were published in working paper IOPC/MAR22/1/5/WP.1.

2.10 Since this was a drafting matter concerning a minor procedural issue, the 1992 Fund Assembly decided to postpone further discussions to the next meeting (document IOPC/MAR22/9/2, paragraph 1.4.12). It was noted that postponing the discussions would also give the Secretariat sufficient time to compare the proposed amendments to the Rules of Procedure of the Assembly to ensure consistency throughout the rules of the governing bodies before finalising the text.

### **3 Director's considerations**

3.1 Taking into account the points raised during the March 2022 sessions, the Secretariat has again reviewed the Rules of Procedure relating to the election of Chairs and Vice-Chairs of the Executive Committee. It is noted that Rule 19 does provide that in the event that the Chair is absent from a meeting, or any part thereof or, for any reason, is unable to carry out his or her duties, the Vice-Chair shall act as Chair.

3.2 However, the Director does not recommend that the Vice-Chair preside over the election of a new Chair in the event that the serving Chair should resign from their post prior to the end of their term, since it is possible that the Vice-Chair themselves may be a candidate for the post. Since the Chair cannot preside over their own election, the Director therefore considers this to be a specific duty that should fall to the Director in those specific circumstances and that the process should be stipulated in Rule 18 to distinguish it from the general duties of the Vice-Chair outlined in Rule 19.

3.3 With this in mind, and to ensure that it is clear who should preside over the election of the Chair and/or Vice-Chair for the three possible scenarios described at the March 2022 meeting and listed in paragraph 2.8 above, the Director proposes the following amendments to Rule 18 of the 1992 Fund Executive Committee's Rules of Procedure (new text identified is indicated with underline):

#### Rule 18

The Executive Committee shall elect a Chair and a Vice-Chair from among the representatives of the Committee members, at each regular session of the 1992 Fund Assembly. The Chair and Vice-Chair shall hold office at all sessions of the Executive Committee from the conclusion of the regular session until the conclusion of the next regular session of the Assembly.

The 1992 Fund Assembly Chair shall invite nominations for the Chair and Vice-Chair positions once the Assembly has elected members of the incoming Executive Committee. Should the Chair and the Vice-Chair of the Executive Committee resign from their positions before the end of their term, at the opening of the Executive Committee session, the Director shall chair until the Executive Committee has elected a Chair and a Vice-Chair for the session. Should the Chair of the Executive Committee resign before the end of the term, at the opening of the Executive Committee session, the Director shall chair until the Executive Committee has elected a new Chair for the session. Should the Vice-Chair resign before the end of the term, the Chair of the Executive Committee shall preside over the election of a new Vice-Chair.

**4**     Action to be taken

1992 Fund Assembly

The 1992 Fund Assembly is invited to decide whether to approve the proposed amendments to Rule 18 of the Rules of Procedure of the 1992 Fund Executive Committee, as set out in paragraph 3.3.

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