



International Oil Pollution
Compensation Funds

Agenda Item 1	IOPC/MAY23/1/3	
Date	10 May 2023	
Original	English	
1992 Fund Assembly	92AES27	●
1992 Fund Executive Committee	92EC80	
Supplementary Fund Assembly	SAES11	●

INFORMATION ON THE FORMAT OF MEETINGS

Note by the Secretariat

Summary:

Due to the COVID-19 pandemic and the refurbishment of the International Maritime Organization (IMO) meeting facilities, the IOPC Funds' governing bodies held five remote meetings via the e-conferencing platform KUDO during the period December 2020 to March 2022.

Since April 2022, the IMO conference facilities have been back in full use. A refurbishment of the audio-visual facilities took place at IMO in early 2022, which included the installation of a 'hybrid infrastructure' in the Main Hall. Since September 2022, IMO meetings have been held in a hybrid format for a trial period. That trial is set to continue until September 2023. However, initial reports from the IMO Secretariat continue to be positive.

The Director has continued to liaise with the IMO Secretariat and noted the preliminary review of its experience as reported to the November 2022 session of the IMO Council. The Secretariat has also explored the possible options for the future format of IOPC Funds' meetings and has discussed various practicalities with IMO, taking into account the specific activities and requirements of the IOPC Funds' governing bodies. This document reports on the outcome of those discussions and invites the governing bodies to consider the preferred format of future meetings. Two options are presented, namely meetings held in-person but with a passive streaming service, which is the format of the May 2023 sessions, or both in-person and remotely, i.e. in hybrid format.

Should the governing bodies decide to hold hybrid meetings it will be necessary to amend a number of Rules of Procedure. Therefore, this document sets out the likely required amendments. However, it is suggested that any decision to amend the Rules of Procedure be postponed until after the trial period of IMO hybrid meetings is complete. This will allow the Secretariat to follow the discussions within IMO in respect of the amendment to its Rules of Procedure, since it now has the experience of many hybrid meetings and is best placed to identify areas where issues relating to the Rules may arise.

It is therefore proposed that, should the governing bodies decide to proceed with the November 2023 meeting in hybrid format, the relevant Rules be temporarily suspended or amended for that occasion.

Action to be taken: 1992 Fund Assembly and Supplementary Fund Assembly

- (a) Decide whether to hold future meetings of the IOPC Funds' governing bodies either:
 - (i) in-person but with a passive streaming service, requiring no amendments to the Rules of Procedure; or
 - (ii) in hybrid format; and
- (b) in the event that it is decided to hold future meetings in hybrid format, decide whether to temporarily suspend or amend the relevant Rules of Procedure, as set out at the Annex, to allow delegations to participate remotely in the November 2023 sessions.

1 Introduction

- 1.1 Due to the COVID-19 pandemic and the refurbishment of the International Maritime Organization (IMO) meeting facilities, the IOPC Funds' governing bodies held five remote meetings via the e-conferencing platform KUDO during the period December 2020 to March 2022.
- 1.2 There were significant challenges in adjusting to remote working methods and the limited timetable and direct contact between delegates did impact the discussions of governing bodies. However, there was an increase in meeting attendance, both in terms of participants and the number of Member States represented.
- 1.3 Since April 2022, the IMO conference facilities have been back in full use. A refurbishment of the audio-visual facilities took place at IMO in early 2022, which included the installation of a 'hybrid infrastructure' in the Main Hall. Since September 2022, IMO meetings have been held in a hybrid format for a trial period. That trial is set to continue until September 2023. However, initial reports from the IMO Secretariat continue to be positive.
- 1.4 At the October 2022 sessions of the IOPC Funds governing bodies, information was provided on the developments within IMO in respect of hybrid meetings and a discussion took place, during which some delegations suggested that the IOPC Funds should introduce hybrid meetings before the final outcome of the IMO trial in the latter part of 2023. It was pointed out by one delegation that a number of hybrid meetings had already been successfully held and that there was general satisfaction with the experience gained so far, which was already well-documented.
- 1.5 However, other delegations expressed some concerns with the idea of introducing hybrid meetings so quickly and considered that the Director was right to be prudent and await the outcome of the IMO trial, with one delegation noting that the Secretariat would need to have the necessary training and resources in place and that the relevant Rules of Procedure would need to be amended. Several delegations reiterated that the addition of any remote access to the meetings would be complementary to the default format of in-person meetings.
- 1.6 During the discussion of the matter in October 2022, the Director pointed out that whilst IMO held many meetings, the IOPC Funds held only two each year and the nature of the sessions were quite different, in that the Executive Committee in particular, was required to take decisions and could potentially be required to vote. With this in mind, the Director noted that particular consideration should be given as to how that could take place if the meetings were held in a hybrid format. He also pointed out that there were cost implications to running hybrid meetings, which needed to be taken into account.

- 1.7 Since October 2022, the Director has continued to liaise with the IMO Secretariat and noted the interim review of its experience as reported to the November 2022 session of the IMO Council (see section 2 below).
- 1.8 The Secretariat has also explored the possible options for the future format of IOPC Funds' meetings and has discussed various practicalities with IMO, taking into account the specific activities and requirements of the IOPC Funds' governing bodies (see section 3 below).
- 1.9 On the occasion of the May 2023 sessions of the governing bodies, a streaming service will be provided to allow additional members of delegations to follow the meeting remotely. This has not required any amendments to the Rules of Procedure.
- 1.10 Should the governing bodies decide to hold hybrid meetings it will be necessary to amend a number of Rules of Procedure. Therefore, this document sets out proposals for the required amendments, should the governing bodies decide to hold future meetings in hybrid format (see section 4 below).

2 Feedback on IMO's experience of hybrid meetings during the trial period

- 2.1 The IMO Council, at its 127th session, agreed to complement in-person meetings from September 2022 for a trial period of one year; to apply the Rules of Procedure of the Council and the Interim guidance to facilitate remote sessions of the IMO Council during the COVID-19 pandemic, as appropriate; and that only representatives of the Members attending a meeting in person at IMO Headquarters would be allowed to vote (IMO document C 127/D, paragraph 17.3.1–17.3.2).
- 2.2 The hybrid infrastructure installed in the Main Hall at IMO in 2022 is designed to adapt to e-conferencing platforms, including KUDO, however, IMO has been using Zoom, which can now host multilingual meetings. For further information on IMO hybrid meeting capabilities, see IMO Circular Letters No.4623 and No.4627.
- 2.3 A review of the experience gained from hybrid meetings was reported to the 128th session of the IMO Council in November 2022 (see document C 128/16). At that time a number of meetings had been held successfully in-person, complemented by IMO's hybrid system, with better AV quality in the Main Hall and for remote participants. It was reported that further fine-tuning of the hybrid system in the Main Hall would continue during the trial phase and that the hybrid capabilities would be extended to further committee rooms.
- 2.4 Document C 128/16/1, submitted by the United Arab Emirates, stated that it was clearly perceived that the hybrid capability had brought significant benefits for IMO's membership and their participation, simultaneous in-person and remote participation, to contribute, engage and advance the work of this Organization in a very inclusive manner. However, that delegation also stated that hybrid meeting capabilities had also brought challenges and noted that they should be considered carefully in order for them to be accommodated appropriately into the work of the Organization. Such challenges were also identified in the Council resolution on *The enhancement of information and communications technologies (ICT) at IMO* including financial, legal, procedural and technical challenges.
- 2.5 The Council invited the IMO Secretariat to continue working on a single list of requests to speak (showing the list of delegations requesting to speak from both in-person and remote participants), so that it was visible for delegates; and noted that the Secretariat would analyse how many participants attended meetings in person, how many participated remotely and how many were from developing countries.
- 2.6 Several more IMO meetings have been successfully held in hybrid format since November 2022. The next report to the IMO Council on that experience will be submitted to its 129th session in July 2023.

3 Discussions with IMO regarding the practicalities of organising IOPC Funds' meetings in hybrid format

- 3.1 The IMO Council, at its 127th session, requested that the Secretary-General put in place the necessary arrangements for the conduct of hybrid meetings, including the option on the Online Meeting Registration System (IMO OMRS), for Member States to indicate whether the participation is in-person or remote (IMO document C 127/D, paragraph 17.3.4). The IMO use the information relating to the registered participants to provide remote access to the meetings for both active and passive participants.
- 3.2 Only those delegations with a registered IMO account have access to that registration system. In order to manage the registration, credentials and general participation for IOPC Funds meetings, delegations are required to register via the IOPC Funds own online registration system. This will continue to be the case in the event that IOPC Funds meetings are held in hybrid format in the future. There are therefore a number of changes to be made to incorporate remote participation into the registration system. Some of those changes have already been put in place to facilitate the passive streaming of the May 2023 sessions. In addition, the Secretariat has met on three occasions with the Conference Division of IMO to discuss various other practical arrangements relating to providing access to IOPC Funds delegations when they are not registered through the IMO OMRS. A solution has been provisionally identified, although it is subject to further extensive testing, and the Secretariat is confident that access to the hybrid system and the passive streaming service will be possible.
- 3.3 At the October 2022 sessions of the governing bodies, the Director pointed out that there were cost implications to running hybrid meetings, which needed to be taken into account. He confirmed that there was currently no budget allocated to cover such costs. The Head of Administration further clarified that, following recent consultations with IMO, it was understood that at present IMO were required to engage external expertise to deliver and support hybrid meetings but that in the long-term they would likely look to train staff and provide that skillset internally. He commented that, in any event, this would inevitably incur an additional cost to delivering the meetings which would likely be passed on to the IOPC Funds at some point, should the organisation decide to deliver hybrid meetings.
- 3.4 It is understood that at this stage, whilst the trial period of hybrid meetings for IMO is ongoing, the running of such meetings continues to be dependant on the use of a number of external experts and technicians. It has not, therefore, been possible for IMO to determine an accurate estimate of costs for the running of hybrid meetings in the future, when such expertise will instead be engaged internally.

4 Rules of Procedure

- 4.1 At each of the IOPC Funds remote meetings held during 2020-2022, the governing bodies decided to temporarily suspend or amend a number of Rules of Procedure that presupposed in-person meetings to allow the meetings to take place remotely^{<1>}. These procedures were closely aligned to those implemented by IMO as contained in the Interim guidance to facilitate remote sessions during the COVID-19 pandemic adopted by the IMO Council and Extraordinary Session of All Committees (ALCOM) (IMO documents C/ES.32/D, Annex 3 and ALCOM/ES/5/1, Annex 1).
- 4.2 In addition, the Secretariat provided practical information on the conduct of remote meetings and guidance on using the KUDO platform, which was also the platform IMO was using at the time^{3<2>}.

<1> Documents IOPC/NOV20/1/3/1, IOPC/MAR21/1/3, IOPC/JUL21/1/3 and IOPC/NOV21/1/3.

<2> Documents IOPC/NOV20/1/4, IOPC/MAR21/1/4, IOPC/JUL21/1/4 and IOPC/NOV21/1/4.

- 4.3 During the November 2021 meeting of the IOPC Funds governing bodies, the election of the next Director took place in person by roll call, however, delegates were still required to log in via KUDO, and therefore the meeting was still considered a fully remote meeting.
- 4.4 In the event that the governing bodies were to decide to hold meetings in a hybrid format in the future, it is likely that the same Rules of Procedure that were suspended during the pandemic, would need to be formally amended. This would include the following Rules:
- Rule 3 on the location of the meeting;
 - Rule 9/8 on the timing of the submission of credentials (see also document IOPC/MAY23/1/2/1); and
 - Rule 27/23 on the adoption of the Record of Decisions.
- 4.5 At present the IMO Council continues to temporarily suspend its Rules of Procedure whilst the trial period continues. It has not taken any formal decision with regards to the amendment of the relevant Rules at this stage.

5 Director's considerations

- 5.1 The Director notes that, having gained experience of attending meetings of the IOPC Funds' governing bodies remotely since 2020 and following the successful trial so far of hybrid meetings at IMO, Member States may wish to consider the format of future IOPC Funds meetings.
- 5.2 On the occasion of the May 2023 sessions of the governing bodies, a passive streaming service will be provided to allow additional members of delegations to follow the meeting remotely. This has not required any amendments to the Rules of Procedure and could allow larger delegations to send fewer representatives in-person to London. However, anyone choosing to use this service will not be able to actively participate in the sessions and will not be included in the list of participants to the meeting. Only those States represented in person will be considered present and attending the meeting for the purpose of the quorum.
- 5.3 The Secretariat has explored the options for and practicalities of delivering hybrid meetings and the Director is confident that the organisation could be in a position to do so using the IMO hybrid meeting infrastructure but continuing to use the IOPC Funds meeting registration system, for the November 2023 sessions of the governing bodies.
- 5.4 The Director has also considered the Rules of Procedure which would require amendment in order to hold hybrid meetings on a long-term basis. However, noting that the trial period for hybrid meetings held by IMO is set to continue until September 2023, and that the IMO Council has not yet formally amended its Rules of Procedure, the Director considers it prudent to await the latest update from IMO at its next Council session in July 2023. In particular, the Director considers it important to follow the discussions within IMO in respect of the amendment to its Rules of Procedure, since it now has the experience of many hybrid meetings and is best placed to identify areas where issues relating to the Rules may arise.
- 5.5 Having said that, the Director does not wish to delay any decision with regard to holding hybrid meetings. Therefore, should the governing bodies wish to decide to hold hybrid meetings in November 2023, on that occasion, the governing bodies will be required to temporarily suspend or amend the relevant Rules of Procedure for those sessions. The decision to suspend such Rules, would however need to be taken at the May 2023 sessions. A full explanation of the Rules which will require temporary suspension or amendment is set out at the Annex. These proposals take fully into account the practices adopted by the governing bodies during previous remote sessions.

- 5.6 The Director remains of the view that, in order to safeguard full and equal participation of all Member States, and legitimacy of decisions taken, every effort will be made for sessions held in hybrid format in the future to retain established practices of in-person meetings to the extent that is reasonably possible.
- 5.7 The Director intends to continue to liaise with the IMO Secretariat on a regular basis; to take note of the outcome of the next review of IMO's experience which is expected to be reported to the IMO Council in July 2023; and to report developments, in particular with regards to the amendments of Rules of Procedure, to the governing bodies at their November 2023 sessions.

6 Action to be taken

1992 Fund Assembly and Supplementary Fund Assembly

The 1992 Fund Assembly and Supplementary Fund Assembly are invited to:

- (a) Decide whether to hold future meetings of the IOPC Funds' governing bodies either:
- (i) in-person but with a passive streaming service, requiring no amendments to the Rules of Procedure; or
 - (ii) in hybrid format; and
- (b) in the event that it is decided to hold future meetings in hybrid format, decide whether to temporarily suspend or amend the relevant Rules of Procedure, as set out at the Annex, to allow delegations to participate remotely in the November 2023 sessions.

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ANNEX

A summary of the Rules of Procedure that that the governing bodies will be invited to suspend in the event of deciding to hold the November 2023 meeting in hybrid format is set out below.

1. Proposal for temporary suspension of Rule 3 on the location of the meeting

1.1 Rule 3 of the Rules of Procedure of the 1992 Fund Assembly, 1992 Fund Executive Committee and Supplementary Fund Assembly reads as follows:

The Assembly [Executive Committee] shall hold its sessions in London (United Kingdom) unless it decides otherwise on any particular occasion. If between sessions, the Director, with the Chair's approval, or any Member proposes that the next session be held elsewhere, an affirmative decision to that effect may be taken by a majority of Members giving their approval in writing (including by telefax or electronic mail) to the Director. Such majority approval should be communicated to Members at least forty-five days before the commencement of that session.

1.2 It is proposed that the requirement for the governing bodies to hold sessions in London is suspended, to allow for full or partial remote sessions. Further to this, it is also recommended that the requirement for a majority of Member States to approve in writing a proposal for sessions to be held elsewhere, is also suspended to eliminate an excessive administrative burden on Member States and the Secretariat.

1.3 The governing bodies are invited to decide whether to temporarily suspend Rule 3 of the Rules of Procedure in relation to the location of the meeting to allow for remote sessions to be held.

2. Proposal relating to Rule 27/23^{<3>} on the preparation of the Record of Decisions

2.1 Rule 27 of the Rules of Procedure of the 1992 Fund Assembly and Supplementary Fund Assembly, and Rule 23 of the 1992 Fund Executive Committee reads as follows:

The Secretariat shall prepare a Record of Decisions of each session of the Assembly [Executive Committee].

2.2 In line with Rule 27/23, the Secretariat will prepare a draft Record of Decisions reflecting the decisions made during the remote sessions and in accordance with established practice, the draft Record of Decisions will be considered by the governing bodies on the last day of the virtual meeting.

2.3 Being mindful that technical failures and connectivity issues could occur at any time during the virtual meeting, including during the adoption of the Record of Decisions, it is proposed that the sessions remain open for an additional five working days for delegations to consider the draft Record of Decisions and comment by correspondence.

2.4 It is proposed that comments received during this five-day period should aim to address whether the draft Record of Decisions accurately reflects the decisions taken during the remote sessions and avoid the reopening of discussions. The Chairs of the governing bodies, supported by the Secretariat, would facilitate resolution of any comments received. After the conclusion of the five-day correspondence period, the Secretariat, in consultation with the Chairs, would publish a document containing the comments received, with an accompanying explanation on how they have been addressed. The Secretariat would then circulate the final Record of Decisions, after the publication of this document.

<3> The equivalent rules are provided in Rule 27 of the Rules of Procedure of the Supplementary Fund Assembly and Rule 23 of the Rules of Procedure of the 1992 Fund Executive Committee.

2.5 The governing bodies are invited to decide whether to have an additional five working day period to comment on the draft Record of the Decisions by correspondence.

3. Proposal relating to Rule 9/8^{<4>} on credentials

3.1 Rule 9 of the Rules of Procedure of the 1992 Fund Assembly and Supplementary Fund Assembly, and Rule 8 of the 1992 Fund Executive Committee reads as follows:

Each Member shall transmit to the Director the credentials of its representative, together with the names of any alternates or other members of its delegation not later than the opening day of the Assembly [Executive Committee].

3.2 Taking into account that only those delegates who have registered and submitted credentials (if required) will be sent a link and joining instructions to the virtual meeting. In the interests of facilitating the joining process and the smooth running of the sessions in general, it is proposed that Rule 9/8 is temporarily amended to ensure credentials are submitted 'not later than five working days prior to the opening day of the Assembly'.

3.3 This is discussed further in document IOPC/MAY23/1/2/1, which contains a separate proposal for the same amendment to be made, even if the meetings continue to be conducted in-person. In the event that the governing bodies decide to amend the Rules as part of the discussion of that document, there will be no need to temporarily amend this Rule for hybrid meetings.

3.4 The timely submission of credentials will be particularly important in November 2023 as a vote will be required for the election of members of the joint Audit Body.

4. Consideration of Rule 32/28^{<5>} on voting

4.1 Rule 32 of the Rules of Procedure of the 1992 Fund Assembly reads as follows:

Subject to Article 33 of the 1992 Fund Convention, decisions of the Assembly and of its subsidiary bodies shall be made, elections shall be determined, and reports, resolutions and recommendations shall be adopted, by a majority of the Members present and voting.

4.2 The established practice of the IOPC Funds' governing bodies is that decisions on the election of the Chairs, reports, resolutions and recommendations are in fact adopted by consensus among the Members present at a meeting. In the spirit of retaining the usual, established practice of in-person meetings, the governing bodies may wish to continue to adopt decisions by consensus during hybrid meetings.

4.3 To ensure all views expressed are taken into account, if at any point during the virtual meeting a delegation loses connectivity, and in particular, during a time the governing bodies are called upon to make a decision, that delegation should contact the Secretariat urgently either by phone or email. In this way, the Secretariat can inform the Chairs, who can then take action as they deem appropriate and necessary.

<4> The equivalent rules are provided in Rule 9 of the Rules of Procedure of the Supplementary Fund Assembly and Rule 8 of the Rules of Procedure of the 1992 Fund Executive Committee.

<5> The equivalent rules are provided in Rule 32 of the Rules of Procedure of the Supplementary Fund Assembly and Rule 28 of the Rules of Procedure of the 1992 Fund Executive Committee.

- 4.4 In consideration of the procedure for the appointment of the next Director, it was agreed at the July 2021 meeting that although the meeting would be held virtually, the vote should take place in-person. At the November 2023 session of the 1992 Fund Assembly, a vote will take place for the election of members of the joint Audit Body. It is proposed that, even if the meeting is held in hybrid format, such vote should take place in-person only. The governing bodies are invited to note the established practice for taking decisions and that in the event that the need for a vote should arise, it will be held in-person in line with established practice.
5. Consideration of Rule 33^{<6>} on the definition of ‘Members present’ and ‘Members present and voting’
- 5.1 Rule 33 of the Rules of Procedure of the 1992 Fund Assembly, and Supplementary Fund Assembly reads:
- Each Member shall have one vote. For the purposes of these Rules and in accordance with Article 32 of the 1992 Fund Convention:
- (a) the phrase “Members present” means Members present at the meeting at the time of the vote;
- (b) the phrase “Members present and voting” means Members present and casting an affirmative or negative vote. Members who abstain from voting or who cast an invalid vote shall be considered as not voting.
- 5.2 Rules 32/28^{<7>}, 34/30^{<8>} and 43/39^{<9>} of the governing bodies, imply that Members are physically present at a meeting. However, the governing bodies may, in the context of remote sessions, wish to interpret ‘Members present’ as defined in Rule 33(a), as Members registered for the sessions using the online registration system, and listed as a participant in the remote sessions, using the virtual meeting platform.
- 5.3 Taking into account that Rule 33(b) defines ‘Members present and voting’ as Members voting by casting an affirmative or negative vote, it is proposed that the governing bodies should continue to follow established practice of taking decisions by consensus wherever possible, as set out in paragraph 4.2 above.
- 5.4 The governing bodies are therefore invited to decide whether for the purposes of a hybrid meeting ‘present’ shall be interpreted as being registered for the sessions using the online registration system, and listed as a participant in the remote sessions, using the virtual meeting platform, for the purposes of Rules 32/28, 34/30 and 43/39.

<6> There is no equivalent rule in the Rules of Procedure of the 1992 Fund Executive Committee.

<7> The equivalent rules are provided in Rule 32 of the Rules of Procedure of the Supplementary Fund Assembly and Rule 28 of the Rules of Procedure of the 1992 Fund Executive Committee.

<8> The equivalent rules are provided in Rule 34 of the Rules of Procedure of the Supplementary Fund Assembly and Rule 30 of the Rules of Procedure of the 1992 Fund Executive Committee.

<9> The equivalent rules are provided in Rule 43 of the Rules of Procedure of the Supplementary Fund Assembly and Rule 39 of the Rules of Procedure of the 1992 Fund Executive Committee.