

ASSEMBLY - 1st session

SUMMARY RECORD OF THE FOURTH PLENARY MEETING

held at IMCO Headquarters, 104 Piccadilly, London, W.1,
on Tuesday, 14 November 1978 at 2.40 p.m.

Chairman: Mr. J. BREDHOLT (Denmark)
Director designate: Mr. R.H. GANTEN
Secretary-General of IMCO: Mr. C.P. SRIVASTAVA
Secretary: Mr. T.S. BUSHA (IMCO Secretariat)

A list of participants is given in OPCF/A.I/INF.1

CONTENTS

	<u>Page</u>
<u>Agenda item 3:</u> Determination of Rules of Procedure (continued)	2
<u>Agenda item 7:</u> Structure of the Secretariat	8
<u>Agenda item 9:</u> Adoption of Internal Regulations	12

AGENDA ITEM 3: DETERMINATION OF RULES OF PROCEDURE (OPCF/A.I/5 and Corr.1 and OPCF/A.I/WP.1) (continued)

The CHAIRMAN drew attention to the report of the Working Group set up to examine the draft Rules of Procedure (OPCF/A.I/WP.1). He thanked the representatives of France, Japan, Sweden and the United Kingdom for their valuable work and invited the Swedish representative to introduce the Group's report.

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that in the short time at its disposal the Group had not been able to examine the rules in great detail and hence certain elements of uncertainty remained. For example, it had not been possible to investigate to what extent the rules should be applicable to subsidiary bodies as well as to the Assembly itself. It would be for the Director to look into that question and to make proposals to the next Assembly.

The CHAIRMAN invited the Assembly to consider the draft text rule by rule. He stressed that members would be approving the rules only on a provisional basis.

Rules 1 and 2 were provisionally approved.

Rule 3

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that the last phrase of the second sentence "if the Executive Committee deems it necessary" should be deleted. The majority of the Group had felt it should be for the Assembly to decide whether sessions should be held away from Headquarters.

Mr. NAKAYAMA (Japan) said he would prefer the second sentence to read "the Assembly may hold its sessions in any place other than the Headquarters if the Executive Committee deems it appropriate". Since the Assembly met only every two years, it would be more practicable for the Executive Committee to make recommendations on the matter should invitations be received to hold a session outside Headquarters in the course of the two-year period.

Mr. DOUAY (France) preferred the existing text. Any decision to hold sessions outside Headquarters would have financial implications, and it would be quite contrary to normal practice for the Executive Committee, which was a subordinate body, to be empowered to take such a decision.

Mr. HALL (United Kingdom) supported that view.

Mr. NAKAYAMA (Japan) said that in view of the arguments advanced he would not press his proposal.

Rule 3 was provisionally approved, with the deletion of the phrase "if the Executive Committee deems it necessary".

Rule 4

Mr. BUSHA (IMCO Secretariat) pointed out that in line 4 a comma should be added after the words "in force".

With that amendment, Rule 4 was provisionally approved.

Rule 5

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that it might be thought appropriate to refer to the United Nations itself, as well as to its agencies, in paragraph (ii). If so, such a reference could easily be added at a later stage.

The CHAIRMAN said that a decision on that point would be taken when the Assembly came to deal with item 18 (Relations with IMCO and other Organizations).

On that understanding, Rule 5 was provisionally approved.

Rules 6 to 8

Rules 6 to 8 were provisionally approved.

Rule 9

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that the original Secretariat draft had provided for two types of requirement, one demanding full credentials and the other being less stringent. The Group had felt that since the Assembly would be taking important decisions binding upon Member States, full credentials would be more appropriate, although that requirement need not be strictly imposed at the first session.

Rule 9 was provisionally approved.

Rules 10 and 11

Rules 10 and 11 were provisionally approved.

Rule 12

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that the Group had submitted two alternatives where the question of publicity was concerned. On the one hand, if matters of a business nature were to be discussed, it might be thought that meetings should be held in private. On the other hand, where governmental matters were at issue it might be felt that the discussion should be public.

Mr. HERBER (Federal Republic of Germany) said that although in practice meetings would sometimes need to be held in private because of the confidential nature of the discussions, he nevertheless favoured Alternative A because the principle of holding public meetings should be seen to be upheld.

Mr. DOUAY (France) and Ms BRUZELIUS (Norway) supported that view.

Mr. HALL (United Kingdom) also supported it. His Government was committed to the principle of more open discussion on matters of public concern, and oil pollution was clearly a matter that came within that category.

Rule 12, Alternative A, was provisionally approved.

Rule 13

Rule 13 was provisionally approved.

Rule 14

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that the Group had deleted the words "reports and" in paragraph (iii), and had deleted paragraph (v) of the Secretariat draft, renumbering the paragraphs accordingly.

Rule 14 was provisionally approved.

Rule 15

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that the period of 45 days for communication of the agenda had been chosen as a compromise between the period of 60 days required for some bodies and 30 for others.

Mr. NAKAYAMA (Japan) drew attention to the second sentence of Rule 2, which drew a distinction between regular and extraordinary sessions of the Assembly. He proposed that Rule 15 should be amended to provide that the agenda should be communicated forty-five days before regular sessions and thirty days before extraordinary sessions.

Mr. JACOBSSON (Sweden), Chairman of the Working Group, supported that proposal.

With that amendment, Rule 15 was provisionally approved.

Rules 16 and 17

Rules 16 and 17 were provisionally approved.

Rule 18

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that the original draft had provided that the Director might decide to include further items in a supplementary provisional agenda after consultation with the Executive Committee. However, the Group had thought it preferable for the Director to take such a decision after consultation with the Chairman.

Ms BRUZELIUS (Norway) suggested that in order to make clear which chairman was meant, the words "of the Assembly" should be added after the word "Chairman".

Mr. JACOBSSON (Sweden), Chairman of the Working Group, explained that the Group had felt that it was sufficiently clear that in any rule dealing with the Assembly any reference to the Chairman would mean the Chairman of the Assembly.

Mr. DOUAY (France) agreed that it was unnecessary and cumbersome to have to specify which body was concerned each time the word "Chairman" was used.

Rule 18 was provisionally approved.

Rule 19

Rule 19 was provisionally approved.

Rule 20

The SECRETARY-GENERAL of IMCO suggested that it might be preferable to amend the wording of the second phrase of the sentence to bring it into line with Article 18(1) of the Convention, namely "a Chairman and two Vice-Chairmen".

Mr. HERBER (Federal Republic of Germany) supported that suggestion.

Mr. DOUAY (France) preferred the existing text, on the grounds that it would make it clear which of the Vice-Chairmen would be first to succeed to the Chair in the absence of the Chairman.

Mr. NAKAYAMA (Japan) supported that view.

It was decided to retain the existing text.

Rule 20 was provisionally approved.

Rules 21 to 26

Rules 21 to 26 were provisionally approved.

Rule 27

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that the original draft had provided that the Secretariat should prepare summary records of the sessions of the Assembly. The Group had felt that such records would be of value either for a diplomatic conference, where they could help to clarify the different points raised, or for subsidiary bodies reporting to superior bodies. However, the Assembly would be, as it were, reporting to itself. The cost involved in producing summary records, as well as the work load imposed on the Secretariat, would not seem to be justified, and reports would be preferable. It would be for the Director in consultation with the Assembly, to decide how extensive the reports would be.

Rule 27 was provisionally approved.

Rule 28

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that the Working Group had, as a consequential amendment, deleted the words "resolutions and recommendations".

Rule 28 was provisionally approved.

Rule 29

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that the Working Group had proposed deletion of the square brackets.

Rule 29 was provisionally approved.

Rule 30

Rule 30 was provisionally approved.

Rule 31

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that the Working Group had proposed adoption of the following wording: "All reports of the Assembly and its subsidiary bodies and all supporting documents to agenda

items of the Assembly and its subsidiary bodies shall be issued in the official languages."

Rule 31 was provisionally approved.

Rules 32, 33 and 34

Rules 32, 33 and 34 were provisionally approved.

Rule 35

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that the Working Group had decided to replace the words "summary record" by the word "report".

Rule 35 was provisionally approved.

Rule 36

Mr. HERBER (Federal Republic of Germany) pointed out that at international meetings an equal vote on a motion was normally tantamount to rejection of the motion. He therefore suggested deletion of Rule 36.

Ms BRUZELIUS (Norway) accepted that rejection of a proposal where the voting was equal was the normal procedure at diplomatic or legal conferences or where specific texts were under discussion. In questions affecting pollution and related matters, however, it was desirable that every effort should be made to arrive at a decision. Rule 36 should, therefore, be retained.

Rule 36 was provisionally approved.

Rule 37

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that the Working Group had proposed the addition of the words "unless the Assembly decides otherwise".

Rule 37 was provisionally approved.

Rule 38

Rule 38 was provisionally approved.

Rule 39

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that the Working Group proposed replacement of the word "ensuing" by the word "next".

Rule 39 was provisionally approved.

Rules 40 and 41

Rules 40 and 41 were provisionally approved.

Rule 42

Mr. JACOBSSON (Sweden), Chairman of the Working Group, said that the Working Group had proposed deletion of the words "and of its subsidiary bodies".

Rule 42 was provisionally approved.

Rules 43 to 57

Rules 43 to 57 were provisionally approved.

AGENDA ITEM 7 - STRUCTURE OF THE SECRETARIAT (OPCF/A.I/17)

The CHAIRMAN said that it would be helpful if the Assembly could give some guidance to the Director on the establishment of the secretariat, to enable him to prepare detailed proposals for the next session of the Assembly. Those proposals would of course be prepared well in advance.

Mr. NAKAYAMA (Japan) said that a small secretariat was required on grounds both of economy and efficiency. He envisaged a staff of between 4 and 6 persons. Hierarchical divisions of the secretariat would not be necessary.

Mr. NILSSON (Sweden) said that the workload on the secretariat would vary greatly, depending on the occurrence of large-scale incidents and the settlement of claims. In other words, there would be a very heavy workload for limited periods. That situation suggested the establishment of a small permanent secretariat and the use of outside experts to cover peak load periods. Such experts would in any case be required in connexion with lawsuits and investment advice. Contacts on a permanent basis would be necessary in order to guarantee the availability of qualified experts when required. The establishment of permanent contacts would also enable the experts to become familiar with the working of the Fund.

The CHAIRMAN said that the Assembly was faced with two separate problems. They had to take decisions on matters of principle for the future, but they had at the same time to give some guidance to the Director on the arrangements to be made during the interim period.

Mr. SMITH (United Kingdom) said that it would be of interest to know how organizations with similar aims, such as CRISTAL and TOVALOP,

had solved their staff problems. He suggested that the representatives of those organizations be invited to give the Assembly the benefit of their experience on staff structures and methods of work.

Mr. DOUAY (France) was also in favour of keeping the staff structure as simple as possible. He hoped to see specific proposals with estimated costs, at least by the next session of the Assembly. Members of the secretariat would have to be familiar with the situation in countries exposed to the risk of pollution and be well versed in pollution control procedures. It would also be necessary to call on the assistance of experts of sufficient standing to carry out surveys after the occurrence of incidents.

Mr. STEYN (Observer, CRISTAL), speaking at the invitation of the Chairman, said that, when his organization was set up seven years ago, the guiding principle had been, as suggested at the present session of the Assembly, a small permanent staff, supported by specialist assistance as required. His staff included no permanent legal officers, for example, and experts such as marine surveyors and average adjusters were hired when necessary. It had been estimated that the use of outside experts had produced a saving of about 50 per cent.

There were two points which he thought might be of interest to the Assembly. A very large item in the budget of his organization had been and had to be travel, since it was necessary to see the situation on the spot. Incidents resulting in claims under CRISTAL amounted to about one third of those reported. The first echelon of any compensation scheme would take care of the majority of incidents.

The CHAIRMAN said that opinion so far was in favour of a small secretariat and a modest budget. It would be useful to hear the views of the Director on his task during the period until the second session of the Assembly.

Mr. GANTEN (Director designate) said that any views he expressed could only be strictly provisional; the structure of the secretariat depended on a number of other matters, as pointed out by the Chairman, and would need careful consideration and consultation.

It was clear from the discussion that the Fund should be administered as economically as possible and that the Secretariat should be small. There was no intention on the part of himself or anyone else, to build up a large Secretariat, but the small staff referred to by the representative of Japan would be adequate for administering the Fund in normal times, and in the event of a major incident external consultants would be used.

With regard to the work to be done between the present and the second session of the Assembly, it was too soon for him to say whether he could deal single-handed with the many matters already referred to him by the Assembly, and there would obviously be more before the end of the session. He would certainly need a secretary and perhaps an official such as a Deputy-Director. He suggested that the Assembly should give him authority to engage a secretary and at least one more staff member to enable him to carry out all the work requested in time for the second session.

Mr. NAKAYAMA (Japan) said that in suggesting a secretariat of 5 to 6 members, he had not envisaged the Director having to wait until the next session to engage them. The Director should be given a free hand to employ the staff he needed - the Director had suggested a secretary and a Deputy-Director - to establish the headquarters and carry out the work arising from the present session. The Council had already authorized IMCO to advance funds for the purpose. It was undesirable to impose too many restrictions on the Director at the present stage.

Mr. DOUAY (France) said it was essential for the Director to have the necessary competent high-level staff, in order to carry out the tasks assigned to him as speedily as possible.

Administering the Fund would necessitate travel to the countries parties to the Fund, to establish contact and ensure co-ordination with the competent bodies and authorities concerned with combating pollution. Staff must also be able to go to the spot immediately in the event of accidents and to deal with damage and compensation efficiently and rapidly.

Ms BRUZELIUS (Norway) agreed with the speakers who were in favour of a small secretariat with extra assistance at peak periods. She welcomed the offer of advice and assistance from the Observer for CRISTAL.

On the more immediate problem of the staff required for the period until the second session of the Assembly, the Director would obviously need a secretary and would also require an assistant for the preparatory work for the next Assembly Session. However, while the preparatory work would be largely paper work on procedural matters the permanent work would be of a different kind. She suggested that the Director should keep in mind the long-term as well as the short-term aspects. Perhaps outside assistance could be obtained for the preparatory work.

Mr. HERBER (Federal Republic of Germany) supported the views of the Norwegian representative. Moreover, if the Director engaged a staff member in addition to a secretary - particularly if it were a Deputy-Director - that might prejudice the future structure of the Secretariat. He wondered whether IMCO could second a staff member to assist with the preparatory work.

The SECRETARY-GENERAL of IMCO said that the IMCO Secretariat had already been instructed by the Council to provide all possible assistance. He would be happy to help in any way.

The CHAIRMAN, summing up the discussion, stressed the point made by the representatives of Norway and the Federal Republic of Germany on the need to consider both long-term and short-term aspects; the importance of the Director's work between sessions; and the Japanese representative's point on the need to give the Director a free hand. Everyone was agreed that the Secretariat should be small. In his opinion, it might be important to appoint a Deputy-Director from the start, especially from the point of view of building up the organization. He would like to hear comments on that point.

Mr. NAKAYAMA (Japan) supported the idea of appointing a Deputy-Director from the start. It would be desirable to appoint someone who was conversant with conditions in the host country.

Mr. WALDER (Observer, OCIMF), speaking at the invitation of the Chairman, said that his organization had had nine-and-a-half years' experience. None of the organizations on the industrial side had had a deputy executive until a month previously, when he himself had acquired one as he intended to retire in the not too distant future. In his opinion it would be inappropriate for anyone to decide on the structure of the organization until a thorough examination of what the Fund would have to do had been carried out by expert consultants. Only then would it be known whether a Deputy-Director was needed.

Mr. SMITH (United Kingdom) said that the previous speaker's comments would be helpful to the Assembly in making a decision. He agreed with the representative of the Federal Republic of Germany that the appointment of a Deputy-Director could prejudice the Assembly's final decision on the Secretariat structure. In any case, no decision had yet been taken on the vital question of the terms and conditions for the Director.

The CHAIRMAN said that the conclusion appeared to be that the Director should be given a free hand in appointing a secretary and if necessary a senior official. The question of a Deputy-Director would be dealt with at the second session of the Assembly, at which time the Assembly would consider proposals on the secretariat structure submitted by the Director.

It was so decided.

Mr. GANTEN (Director designate) expressed appreciation of the offers of help from IMCO and CRISTAL. He assured representatives that in the period until the second session, during which he would be preparing a paper on his ideas for submission to the Assembly, he would employ as few staff as possible and would use outside consultants where necessary. There was no question of facing the Assembly with a vast administration at its next session. He concluded by thanking representatives and observers for their comments.

Mr. NAKAYAMA (Japan) explained that in supporting the Chairman on the question of a deputy, he had had in mind merely an assistant to the Director.

AGENDA ITEM 9 - ADOPTION OF INTERNAL REGULATIONS (A.I/3, A.I/3/1 and A.I/3/2)

The CHAIRMAN, introducing the documents, said that there were various ways of dealing with the item. The Assembly could consider and adopt regulations in plenary meeting at the present session - but that would be too optimistic. Alternatively, after a general debate in the plenary meeting, it could appoint a working party to deal with the matter and complete its work at the present session or in the intervening period between the present and the second session. In any case, the Assembly would have to consider each rule first. He invited comments on the procedure to be followed.

Mr. HERBER (Federal Republic of Germany) suggested that the plenary meeting should agree to appoint a working party but should first have a general debate on the internal regulations and decide on the working party's terms of reference when the debate had been concluded.

Mr. DOUAY (France) agreed that there should be a general discussion. He suggested that the working party should be given broad terms of reference. It should take into account the views expressed in the debate and the comments in the documents and prepare proposals and amendments for submission to the plenary. It would be desirable for the working party to start work on the following day and consequently for the general debate to start without delay.

Mr. SMITH (United Kingdom) supported the idea of establishing a working party. Since the documents were very substantial, he agreed with the procedure suggested by the representative of the Federal Republic of Germany. He also suggested that if the working party operated between sessions it would be necessary to decide at the present session on matters requiring urgent decision, such as the currency of contributions.

The CHAIRMAN said that it was essential for the working party to know the views expressed in the general debate.

Mr. NILSSON (Sweden) supported the views of the Chairman and the representative of the Federal Republic of Germany. It was essential for the members of the Working Party to attend the general debate in order to know the Assembly's views. He suggested that the plenary meeting should start going through the regulations at the following meeting and then establish the working party and decide when it should meet.

Mr. NAKAYAMA (Japan) said that he had no objection to an intersessional working party. He merely wished to stress the urgency of the subject since in accordance with the Convention, initial contributions were due by 16 January 1979. The working party must therefore complete its work in time for countries to be duly notified concerning payment of contributions.

The CHAIRMAN suggested that the plenary should consider the internal regulations when it next met and should then consider the question of a working party and discuss whether the latter could complete its work during the current session or whether it should meet between sessions. In the latter case, it would be necessary to have interim regulations between the sessions.

It was so decided.

The meeting rose at 5.20 p.m.