

ASSEMBLY - 1st session
Agenda item 3

DETERMINATION OF RULES OF PROCEDURE

Report of a Working Group

The Assembly established a Working Group consisting of representatives of France, Japan, Sweden and the United Kingdom to examine the draft Rules of Procedure on the basis of a general exchange of views the Assembly had held on the text prepared by the Secretariat (OPCF/A.I/5, ANNEX). It met on 13 November under the chairmanship of Mr. M. Jacobssen (Sweden) and prepared the revised text annexed to this Report.

Changes in the draft Rules of Procedure proposed by the Working Group are indicated by lines drawn vertically in the margins of the text, and any comment of the Group is either contained in a footnote or will be presented by the Chairman.

It was the understanding of the Working Group that the draft Rules of Procedure upon adoption by the first session of the Assembly would be reviewed by the newly-appointed Director and any errors or inconsistencies disclosed could be corrected at the second session. Progress under other agenda items in the course of the present session might also necessitate alteration of the draft.

The Working Group recommends that the annexed draft Rules of Procedure be adopted as the applicable Rules for the purposes of the present session.

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ANNEX

INTERNATIONAL OIL POLLUTION COMPENSATION FUND

DRAFT RULES OF PROCEDURE OF THE ASSEMBLY

Membership

Rule 1

For the purpose of these Rules the word "Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, the word "Member" means a Contracting State to the Convention and the word "Fund" means the International Oil Pollution Compensation Fund.

Sessions

Rule 2

Sessions of the Assembly shall be held in conformity with Article 19 of the Convention. The Director shall inform Members of the opening date of each regular session at least sixty days in advance and of each extraordinary session at least 30 days in advance.

Rule 3

The Assembly shall normally hold its sessions at the headquarters of the Fund. The Assembly may decide to hold its sessions in any place other than the headquarters if the Executive Committee deems it necessary.^{1/}

Rule 4

The Director with the approval of the Executive Committee shall invite States which have signed the Convention or which have deposited the appropriate instrument in respect of the Convention, but for which the Convention is not yet in force to send observers to sessions of the Assembly, and such observers upon invitation by the Chairman and with the consent of the Assembly or its subsidiary body concerned, may participate without vote on matters of direct concern to them.

^{1/} One delegation thought that, for practical reasons, it should be left to the Executive Committee to take a decision on the holding of sessions outside headquarters.

Rule 5^{1/}

The Director shall invite to be represented by observers at any session of the Assembly:

- (i) the Inter-Governmental Maritime Consultative Organization;
- (ii) any other specialized agency of the United Nations whose interests and those of the Fund are of common concern;
- (iii) any inter-governmental organization, other than the specialized agencies of the United Nations, with which an agreement or special arrangement has been made; and
- (iv) any non-governmental international organization which the Assembly or the Executive Committee has decided to admit into special relationship with the Fund in accordance with Article 18(10) of the Convention.

Rule 6

Observers may, upon invitation by the Chairman and with the consent of the Assembly, participate without vote in the deliberations of the Assembly in matters of direct concern to them. They shall have access to non-confidential documents and to such other documents as the Director, with the approval of the Chairman, may decide may be made available.

Delegations

Rule 7

Each Member of the Assembly shall designate a representative, and may also designate alternates and such advisers and experts as may be required.

Rule 8

Upon designation by a representative, the Chairman may allow any other member of the representative's delegation to speak on any particular point at any meeting of the Assembly.

^{1/} The Working Group, in accordance with its terms of reference, did not consider this Rule. It was, however, pointed out that it might be appropriate to include a reference to the United Nations among the organizations to be represented by observers.

Credentials

Rule 9

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. The credentials shall be issued by the Head of State or by the Head of Government or by the Minister for Foreign Affairs or other appropriate authority as determined by the Government and communicated to the Director.^{1/}

Rule 10

The Director shall examine the credentials of delegations and report to the Assembly without delay.

Rule 11

Any representative to whose admission a Member has made objection shall be seated provisionally with the same rights as other representatives until the Assembly has given its decision on the report of the Director on credentials.

Publicity

Rule 12

Alternative A

Sessions of the Assembly shall be held in public unless the Assembly decides otherwise. Meetings of subsidiary bodies of the Assembly shall be held in private unless the Assembly decides otherwise in any particular case.

Alternative B

Sessions of the Assembly and of meetings of its subsidiary bodies shall be held in private unless the Assembly decides otherwise.

Agenda

Rule 13

The provisional agenda of each session of the Assembly shall be prepared by the Director and submitted to the Chairman for approval prior to issue.

^{1/} The Working Group concluded that credentials would be appropriate to sessions of the Assembly but that the Rule should not be applied with full rigour at the present session if any delegation attending it were subjected to inconvenience by so doing.

Rule 14

The provisional agenda of each regular session of the Assembly shall include in addition to those items required by the application of Article 18 of the Convention:

- (i) all items, the inclusion of which has been requested by the Assembly at a previous session;
- (ii) all items the inclusion of which has been requested by the Executive Committee;
- (iii) all recommendations made by the Executive Committee;
- (iv) any item proposed by a Member of the Fund;
- (v) an item on matters pertaining to the budget, accounts and financial arrangements of the Fund;
- (vi) subject to such preliminary consultations as may be necessary, any item proposed by any of the specialized agencies of the United Nations.

Rule 15

The provisional agenda together with supporting documents for each session shall normally be communicated by the Director to the Members at least forty-five days before the opening of the session.

Rule 16

The first item on the provisional agenda for each session shall be the adoption of the agenda.

Rule 17

Any item of the agenda of a session of the Assembly, consideration of which has not been completed at that session, shall be included automatically in the agenda of the next session unless otherwise decided by the Assembly.

Rule 18

In exceptional circumstances the Director may, after consultation with the Chairman, include any other question which may arise between the despatch of the provisional agenda and the opening day of the session, in a supplementary provisional agenda which the Assembly shall examine together with the provisional agenda. The Director shall advise Members immediately of the intention to include an item in a supplementary provisional agenda.

Rule 19

The Director shall report to the Assembly on any administrative, financial and legal implications of all substantive agenda items submitted to the Assembly, before they are considered by that body. Unless the Assembly decides otherwise, no such item shall be considered until the Assembly has been in possession of the Director's report for at least forty-eight hours.

Chairman and Vice-Chairmen

Rule 20

The Assembly shall at the first meeting of each regular session elect a Chairman, a first Vice-Chairman and a second Vice-Chairman from among the representatives of its Members.

Rule 21

At the opening of each regular session of the Assembly, the representative of the delegation from which the Chairman of the previous regular session was elected shall preside until the Assembly has elected a Chairman for the session.

Rule 22

If the Chairman is absent from a meeting, or any part thereof or, for any reason, is unable to carry out his duties until the expiry of his term of office, one of the Vice-Chairmen shall act as Chairman.

Rule 23

A Chairman or a Vice-Chairman acting as Chairman shall not vote but he may appoint another member of his delegation to act as the representative of his Government in plenary meetings.

Subsidiary Bodies

Rule 24

The Assembly may establish such temporary or permanent subsidiary bodies as it considers necessary. Such subsidiary bodies shall follow the present Rules of Procedure so far as they are applicable.

Secretariat

Rule 25

The Director shall act as Secretary of the Assembly and of its subsidiary bodies and shall be responsible for making the necessary arrangements for their meetings. He may delegate his functions to a member of the Secretariat.

Rule 26

The Director or a member of the Secretariat designated by him for the purpose may make either oral or written statements concerning any question under consideration.

Rule 27

The Secretariat shall prepare reports of the sessions of the Assembly incorporating the decisions taken.

Rule 28

It shall be the duty of the Secretariat to receive, translate and circulate to Members all reports and other documents of the Assembly and its subsidiary bodies.

Languages

Rule 29

The official and working languages of the Fund are English and French.

Rule 30

Speeches at the Assembly and its subsidiary bodies shall be made in one of the official languages and will be interpreted into the other official language.

Rule 31

| 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.

Voting

Rule 32

Subject to the relevant provisions of Article 33 of the Convention, decisions of the Assembly and of its subsidiary bodies shall be made, elections, including those subject to the provisions of Article 22 of the Convention, determined, and reports, resolutions and recommendations adopted by a majority of the Members present and voting.

Rule 33

Each Member shall have one vote. For the purposes of Article 32 of the Convention and of these Rules:

- (i) the phrase "Members present" means "Members present at the meeting at the time of the vote";
- (ii) the phrase "Members present and voting" means "Members present and casting an affirmative or negative vote". Members who abstain from voting shall be considered as not voting.

Rule 34

The Assembly shall normally vote by show of hands. However, any Member may request a roll-call which shall be taken in the alphabetical order of the names of the Members in English, beginning with the Member whose name is drawn by lot by the Chairman.

Rule 35

| The vote of each Member participating in any roll-call shall be | inserted in the report of the meeting concerned.

Rule 36

If a vote is equally divided, a second vote shall be taken at the next meeting. If this vote also is equally divided, the proposal shall be regarded as rejected.

Rule 37

Elections shall be decided by secret ballot unless the Assembly decides otherwise.

Rule 38

In a secret ballot two scrutineers shall, on the proposal of the Chairman, be appointed by the Assembly from the delegations present and shall proceed to scrutinize the votes cast. All invalid votes cast shall be reported to the Assembly.

Rule 39

If one person or Member only is to be elected and no candidate obtains a majority in the first ballot, a second ballot shall be taken confined normally to the two candidates obtaining the largest number of votes. If in the second ballot the votes are equally divided the election shall be deferred until the next meeting, when if another tie results, the Chairman shall decide between the candidates by drawing lots.

Rule 40

- (a) When two or more places are to be filled by election at one time under the same conditions, those candidates obtaining the majority required under Rule 32 in the first ballot shall be declared elected.
- (b) If the number of candidates obtaining the requisite majority is greater than the number of seats to be filled, those candidates obtaining the greatest number of votes shall be declared elected.
- (c) If the number of candidates obtaining the requisite majority is less than the number of persons or Members to be elected, there shall be an additional ballot or ballots, as necessary, to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot and the number of candidates being not more than twice as many as the places remaining to be filled. Should the same number of votes be obtained, however, by two or more candidates for the last place in this restricted list, they shall all be placed on the list.

- (d) If two or more candidates obtain the same number of votes for the last seat or seats to be filled, there shall be a further ballot among these candidates only. Should the votes again be divided equally, the Chairman shall draw by lot the name of the candidate to be eliminated in the subsequent ballot.
- (e) A voting paper containing the names of a greater number of candidates than the number required to be elected shall be considered invalid.

Rule 41

For the elections to the Executive Committee, to be held in accordance with Articles 22 and 23 of the Convention, ballots shall first be held for the election of candidates under Article 22(2)(b). Thereafter ballots shall be held for the election of candidates to the remaining seats on the Executive Committee.

Conduct of Business

Rule 42

A majority of the Members shall constitute a quorum for the meetings of the Assembly.

Rule 43

In addition to exercising the powers conferred upon him elsewhere by these Rules, the Chairman shall declare the opening and the closing of the session of the Assembly. He shall direct the discussion and ensure observance of these Rules, accord the right to speak, put questions to the vote and announce decisions resulting from the voting.

Rule 44

Proposals and amendments shall normally be introduced in writing and handed to the Director who shall circulate copies to delegations. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Assembly unless copies of it have been circulated to delegations not later than the day preceding the meeting. The Chairman may, however, permit the discussion and consideration of amendments or of motions as to procedure even though these amendments and motions have not been circulated or have only been circulated the same day.

Rule 45

The Assembly may on the proposal of the Chairman limit the time to be allowed to each speaker on any particular subject under discussion.

Rule 46

During the discussions of any matter a representative of a Member may rise to a point of order and the point of order shall be decided immediately by the Chairman, in accordance with these Rules of Procedure. A representative of a Member may appeal against the ruling of the Chairman. The appeal shall be put to the vote immediately and the Chairman's ruling shall stand unless overruled by a majority of the Members present and voting.

A representative rising to a point of order may not speak on the substance of the matter under discussion.

Rule 47

Subject to the provisions of Rule 43 the following motions shall have precedence, in the order indicated below, over all other proposals or motions before the meeting:

- (a) to suspend a meeting,
- (b) to adjourn a meeting,
- (c) to adjourn the debate on the question under discussion, and
- (d) for the closure of the debate on the question under discussion.

Permission to speak on a motion falling within (a) to (d) above shall be granted only to the proposer and in addition to one speaker in favour of and two against the motion, after which it shall be put immediately to the vote.

Rule 48

If two or more proposals relate to the same question, the Assembly, unless it decides otherwise, shall vote on the proposals in the order in which they have been submitted.

Rule 49

Parts of a proposal or amendment thereto shall be voted on separately if the Chairman, with the consent of the proposer, so decides, or if any representative of a Member requests that the proposal or amendment thereto be divided and the proposer raises no objection. If objection is raised,

permission to speak on the point shall be given first to the mover of the motion to divide the proposal or amendment, and then to the mover of the original proposal or amendment under discussion, after which the motion to divide the proposal or amendment shall be put immediately to the vote.

Rule 50

Those parts of a proposal which have been approved shall then be put to the vote as a whole; if all the operative parts of the proposal or amendment have been rejected, the proposal or amendment shall be considered to be rejected as a whole.

Rule 51

A motion is considered to be an amendment to a proposal if it merely adds to, deletes from or revises part of that proposal. An amendment shall be voted on before the proposal to which it relates is put to the vote, and if the amendment is adopted, the amended proposal shall then be voted on.

Rule 52

If two or more amendments are moved to a proposal, the Assembly shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom and so on until all amendments have been put to the vote. The Chairman shall determine the order of voting on the amendments under this Rule.

Rule 53

A motion may be withdrawn by its proposer at any time before voting on it has begun, provided that the motion has not been amended or that an amendment to it is not under discussion. A motion withdrawn may be reintroduced by any Member.

Rule 54

When a proposal has been adopted or rejected, it may not be reconsidered at the same session of the Assembly unless the Assembly, by a majority of the Members present and voting, decides in favour of reconsideration. Permission to speak on a motion to reconsider shall be accorded only to the mover and one other supporter and to two speakers opposing the motion, after which it shall be put immediately to the vote.

Appointment of Director

Rule 55

For the appointment of the Director, the Assembly shall vote by secret ballot in private meeting.

Amendments of Rules of Procedure

Rule 56

These Rules of Procedure may be amended by a decision of the Assembly taken by a majority of the Members present and voting.

Overriding Authority of the Convention

Rule 57

In the event of any conflict between any provision of these Rules and any provision of the Convention, the Convention shall prevail.
