



International Oil Pollution
Compensation Funds

Agenda Item 1	IOPC/NOV20/1/3	
Date	9 October 2020	
Original	English	
1992 Fund Assembly	92A25	●
1992 Fund Executive Committee	92EC74	●
Supplementary Fund Assembly	SA17	●

TEMPORARY SUSPENSION OF RULES OF PROCEDURE IN CONNECTION WITH REMOTE SESSIONS

Note by the Secretariat

Summary:

Article 19.1 of the 1992 Fund Convention and Article 16.2 of the Supplementary Fund Protocol provide that regular sessions of the governing bodies shall take place once every calendar year.

Ordinarily, sessions of the governing bodies take place in the International Maritime Organization (IMO) headquarters building, however, due to the COVID-19 pandemic, the IMO building is not available for physical meetings for the remainder of 2020 and therefore, meetings, including that of the IOPC Funds, will be held remotely.

Taking into account that certain Rules of Procedure of the governing bodies presuppose in-person meetings, such rules would need to be suspended temporarily or amended on an exceptional basis to allow for the regular sessions of the governing bodies to be conducted remotely in 2020.

The Director and members of the Secretariat have attended IMO virtual meetings and have closely followed the discussions relating to the holding of remote sessions and the resulting procedural practices which have been adopted by the various IMO bodies.

Having monitored the outcomes of these discussions, the Director is in a position to propose amendments to IOPC Funds procedures that will facilitate remote sessions, and which are as closely as possible aligned to those organised by IMO.

The following documents contain proposals for the temporary suspension and amendments to certain rules of procedure of the IOPC Funds' governing bodies:

- IOPC/NOV20/1/3/1 Temporary suspension of Rules of Procedure in connection with remote sessions – Facilitating remote sessions
- IOPC/NOV20/1/3/2 Temporary suspension of Rules of Procedure in connection with remote sessions – Voting (to be read in conjunction with IOPC/NOV20/6/1/1 Election of members of the joint Audit Body – Ballot procedure)

In addition, as agenda item 6 of the provisional agenda includes the election of the members of the joint Audit Body, an election needs to be carried out during the remote sessions. Document IOPC/NOV20/6/1/1 provides three possible options for conducting the ballot procedure on this occasion, and as each option requires the temporary suspension of certain Rules of Procedure, the proposal for the suspension of these rules is contained in document IOPC/NOV20/1/3/2. The governing bodies are therefore

invited to consider document IOPC/NOV20/1/3/2 in reference to document IOPC/NOV20/6/1/1.

In the interest of expediting the discussions on procedural matters at the opening of the sessions, the Director would like to invite Member States to carefully consider these documents in advance of the sessions and either confirm their support for the proposed temporary suspension or amendment to the relevant rules or to make alternative suggestions by Friday, 23 October 2020.

The Director will publish the feedback received from Member States in document IOPC/NOV20/1/3/3 and, taking the feedback into account, will submit revised proposals. The governing bodies will be invited to make decisions on these proposals when the sessions open on Wednesday, 2 December 2020.

Action to be taken: 1992 Fund Assembly, 1992 Fund Executive Committee and Supplementary Fund Assembly

Information to be noted.

1 Introduction

- 1.1 Article 19.1 of the 1992 Fund Convention and Article 16.2 of the Supplementary Fund Protocol provide that regular sessions of the governing bodies shall take place once every calendar year.
- 1.2 Ordinarily, sessions of the governing bodies take place in the International Maritime Organization (IMO) headquarters building, which also houses the IOPC Funds' offices. However, due to the COVID-19 pandemic, the IMO building is not available for physical meetings for the remainder of 2020 and therefore, meetings, including that of the IOPC Funds, will be held remotely. Following the closure of the IMO building and the subsequent revision of the IMO calendar of meetings, the March 2020 sessions of the IOPC Funds' governing bodies were cancelled and the regular sessions, originally due to take place in November, were rescheduled to December (circulars IOPC/2020/Circ.4, IOPC/2020/Circ.5, IOPC/2020/Circ.12 and IMO circular letter No.4213/Add.6).
- 1.3 Taking into account that certain Rules of Procedure of the governing bodies presuppose in-person meetings, such rules would need to be suspended temporarily on an exceptional basis to allow for the regular sessions of the governing bodies to be conducted remotely in 2020. Since the regular sessions must go ahead in December 2020, suspending or amending the Rules of Procedure to enable the sessions to take place remotely would be in accordance with Rule 56^{<1>} of the Rules of Procedure of the 1992 Fund Assembly. Rule 56, which is headed 'Overriding Authority of the 1992 Fund Convention', provides that 'In the event of any conflict between any provision of these Rules and any provision of the 1992 Fund Convention, that Convention shall prevail.'
- 1.4 This document explains how the Director intends to organise the discussions relating to the proposed temporary suspension or amendment of the relevant Rules of Procedure in connection with remote sessions.

<1> The equivalent rules are provided in Rule 55 of the Rules of Procedure of the Supplementary Fund Assembly and Rule 52 of the Rules of Procedure of the 1992 Fund Executive Committee.

2 Organisation of discussions relating to Rules of Procedure in connection with remote sessions

- 2.1 Unfortunately, unlike IMO, due to the rescheduling of the IMO meetings and the proximity of the IOPC Funds' meeting, the Director is not able to convene extraordinary sessions of the governing bodies to consider procedural matters arising from the holding of remote sessions.
- 2.2 The Director and members of the Secretariat have attended IMO virtual meetings and have closely followed the discussions relating to the holding of remote sessions and the resulting procedural practices which have been adopted by the various IMO bodies. In particular, the Secretariat has followed discussions of the 32nd extraordinary session of the IMO Council and the simultaneous extraordinary sessions of the Maritime Safety Committee, the Legal Committee, the Marine Environment Protection Committee, the Technical Cooperation Committee and the Facilitation Committee (referred to as ALCOM/ES) and has noted documents C/ES.32/D, Annex 3, and ALCOM/ES/5/1, Annex 1, which contain Interim guidance to facilitate remote sessions during the COVID-19 pandemic (IMO Interim Guidance).
- 2.3 Having monitored the outcomes of these discussions, the Director is in a position to propose amendments to IOPC Funds procedures that will facilitate remote sessions, and which are as closely as possible aligned to those organised by IMO.
- 2.4 The following documents propose the temporary suspension or amendment of certain rules of procedure in respect of the 25th session of the 1992 Fund Assembly, the 74th session of the 1992 Fund Executive Committee, and the 17th session of the Supplementary Fund Assembly, which will be held remotely:

		92A	92EC	SA
IOPC/NOV20/1/3/1	Temporary suspension of Rules of Procedure in connection with remote sessions – Facilitating remote sessions	●	●	●
IOPC/NOV20/1/3/2	Temporary suspension of Rules of Procedure in connection with remote sessions – Voting (to be read in conjunction with document IOPC/NOV20/6/1/1 Election of members of the joint Audit Body – Ballot procedure)	●		●

- 2.5 The documents are not intended to provide an interpretation of the Conventions or the Rules of Procedure of the governing bodies or to set a precedent for the methods of work of the IOPC Funds, but simply to facilitate remote sessions in these exceptional circumstances under the prevailing COVID-19 pandemic.
- 2.6 The full sets of the Rules of Procedure for each of the governing bodies can be found via the About Us section of the IOPC Funds website: iopcfunds.org/about-us/structure/rules-and-regulations.

3 Director's considerations

- 3.1 The Director and members of the Secretariat monitored the outcomes of the 32nd extraordinary session of the IMO Council and ALCOM/ES very closely, in particular, the discussions relating to the holding of remote sessions and the procedural practices that have been approved by the various IMO bodies.
- 3.2 In the interests of standardising remote procedures and using platforms and processes that may already be familiar to the IOPC Funds' delegates, the proposals for the temporary suspension or amendment of certain rules of procedure contained in document IOPC/NOV20/1/3/1 are as closely aligned as possible to those proposed by IMO. Taking this into account, the regular sessions will be convened via the virtual meeting platform KUDO, which supports simultaneous interpretation of each official language.

- 3.3 Thus far, there has not been a need for voting during the remote sessions of the IMO bodies. The IMO Interim Guidance provides that 'should a need for voting arise, the Secretariat should be requested to submit options to facilitate remote voting for consideration'. As item 6 of the provisional agenda includes the election of the members of the joint Audit Body, an election needs to be carried out at the December 2020 meeting.
- 3.4 Given that it will not be possible to organise a physical voting process for the election of the Audit Body, document IOPC/NOV20/6/1/1 invites the 1992 Fund Assembly to consider three possible options for conducting the ballot procedure on this occasion. As each option requires the temporary suspension of certain Rules of Procedure, the proposal for the suspension of these rules is contained in document IOPC/NOV20/1/3/2.
- 3.5 Some changes to procedures are inevitable, however, the Director aims to retain the usual, established practices of in-person meetings to the extent that is reasonably possible, for any changes to be clear and transparent, and for changes to be made only in the interest of adhering to the Conventions.

Request from the Director for feedback from Member States

- 3.6 In the interest of expediting the discussions on procedural matters at the opening of the sessions and to ensure sufficient time is available to cover essential substantive items during the meeting, **the Director would like to invite Member States to carefully consider the documents listed in paragraph 2.4 in advance of the sessions.** Member States are kindly requested to either confirm their support for the proposed temporary suspension or amendments to the relevant rules or to make alternative suggestions by **Friday, 23 October 2020** via email to the Secretariat or, if preferred, in the form of a meeting document, to be submitted to: conference@iopcfunds.org.
- 3.7 In order for every delegation to be aware of the views of others and for the process to be transparent, the Director will publish the feedback received in document IOPC/NOV20/1/3/3 and, taking the feedback into account, will submit revised proposals as appropriate. The governing bodies will be invited to make decisions on these proposals when the sessions open on Wednesday, 2 December 2020.

4 Action to be taken

1992 Fund Assembly, 1992 Fund Executive Committee and the Supplementary Fund Assembly

The 1992 Fund Assembly, 1992 Fund Executive Committee and the Supplementary Fund Assembly are invited to take note of the information contained in this document.
