



International Oil Pollution
Compensation Funds

Agenda Item 1	IOPC/NOV20/1/3/3	
Date	2 November 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

FEEDBACK FROM MEMBER STATES

Note by the Secretariat

Summary:

As explained in document IOPC/NOV20/1/3, the closure of the International Maritime Organization (IMO) building as a result of the COVID-19 pandemic prevents physical sessions of the governing bodies from convening, therefore, certain Rules of Procedure that presuppose in-person meetings would need to be suspended to allow for the December 2020 regular sessions of the governing bodies to take place. Documents IOPC/NOV20/1/3/1 and IOPC/NOV20/1/3/2 draw attention to certain key rules and provide proposals, where appropriate, for the temporary suspension or amendment of a few of those rules.

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 invited Member States to consider the proposals set out in those two documents in advance of the meeting. He also invited Member States to provide feedback, confirm support for the proposed temporary suspension or amendments to the relevant rules or make alternative suggestions by Friday, 23 October 2020.

The Secretariat has received feedback from 15 1992 Fund Member States. This document summarises the feedback received. The full text of the feedback is contained in the Annex.

The governing bodies will be invited to take this feedback into account and make decisions on the proposals contained in document IOPC/NOV20/1/3/1 and IOPC/NOV20/1/3/2 when the sessions open on Wednesday, 2 December 2020.

Action to be taken:

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

- (a) Recall the information contained in documents IOPC/NOV20/1/3, IOPC/NOV20/1/3/1 and IOPC/NOV20/1/3/2 (to be read in conjunction with IOPC/NOV20/6/1/1); and
- (b) in light of the feedback received from Member States on those documents, as set out in sections 2 and 3 below, decide whether to temporarily suspend or amend the Rules of Procedure in respect of the December 2020 meeting of the governing

bodies as set out in section 5 of document IOPC/NOV20/1/3/1 and section 6 of IOPC/NOV20/6/1/1.

1 Introduction

- 1.1 As explained in document IOPC/NOV20/1/3, the closure of the International Maritime Organization (IMO) building as a result of the COVID-19 pandemic prevents physical sessions of the governing bodies from convening, therefore, certain Rules of Procedure that presuppose in-person meetings would need to be suspended to allow for the December 2020 regular sessions of the governing bodies to take place. Documents IOPC/NOV20/1/3/1 and IOPC/NOV20/1/3/2 (to be read in conjunction with document IOPC/NOV20/6/1/1) draw attention to certain key rules and provide proposals, where appropriate, for the temporary suspension or amendment of a few of those rules.
- 1.2 In the interests 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 invited Member States to consider the proposals set out in those two documents in advance of the meeting. He also invited Member States to provide feedback, confirm support for the proposed temporary suspension or amendments to the relevant rules or make alternative suggestions by Friday, 23 October 2020.
- 1.3 The Secretariat has received feedback from the following 15 1992 Fund Member States.

Australia	Greece	Portugal
Canada	Italy	Republic of Korea
Cyprus	Japan	Singapore
Denmark	Latvia	Turkey
France	New Zealand	United Kingdom

- 1.4 This document summarises the feedback received. The full text of the feedback received and any comments or responses from the Director to that feedback are provided in the Annex. The governing bodies will be invited to take this document into account and make decisions on the proposals relating to the Rules of Procedure when the sessions open on Wednesday, 2 December 2020.

2 Feedback received in respect of document IOPC/NOV20/1/3/1 on facilitating remote sessions

- 2.1 Document IOPC/NOV20/1/3/1 sets out the following:
- (i) Proposal for temporary suspension of Rule 3 on the location of the meeting to allow for remote sessions to be held
 - (ii) Proposal relating to Rule 27/23^{<1>} on the preparation of the Record of Decisions to have an additional five working day period to comment on the draft Record of Decisions
 - (iii) Information to be noted regarding Rule 9/8^{<2>} on credentials
 - (iv) Consideration of Rule 32/28^{<3>} on voting
 - (v) Consideration of Rule 33^{<4>} on the definition of 'Members present' and 'Members present and voting'

^{<1>} 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>} 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.

^{<3>} 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>} There is no equivalent rule in the Rules of Procedure of the 1992 Fund Executive Committee.

2.2 All States that submitted feedback expressed their support for each proposal, explanation or interpretation of the specific Rules as provided in document IOPC/NOV20/1/3/1 and listed above, including the proposal to temporarily suspend Rule 3.

3 Feedback received in respect of document IOPC/NOV20/1/3/2 on voting (read in conjunction with document IOPC/NOV20/6/1/1)

3.1 All States who submitted feedback supported the Director's view that Rules 34–36 and 39–40 would not be affected by an election taking place during a remote session.

3.2 Fourteen of the 15 States who submitted feedback supported the proposal that the election of the joint Audit Body should be carried out through the use of an online voting tool and also supported the consequential proposal to temporarily suspend Rule 38 relating to the appointment of scrutineers. Three of those States provided additional comments, suggestions or questions. All feedback is provided in full in the Annex.

3.3 One State, Singapore, expressed the view that voting by correspondence offers greater secrecy and security for the election process than online voting and that such a postal ballot may not necessarily require the suspension of Rule 37. Singapore has invited the Director to explore what procedures could be put in place to improve secrecy for voting by correspondence. Singapore's feedback, together with the Director's comments, are set out in the Annex.

4 Developments within IMO

4.1 Since issuing document IOPC/NOV20/1/3/2, the Council of the IMO has held its 124th session, during which the subject of voting procedures during remote sessions was discussed. The Director has noted those discussions and the concerns raised by a number of States specifically surrounding the confidentiality of any remote voting procedures. The Director noted that the IMO Secretariat intends to submit a comparative analysis of remote meeting modalities, together with information on the practice of the United Nations system organizations on voting by secret ballot, to the 125th session of the Council for consideration.

4.2 It is the Director's understanding that such analysis will be undertaken by the IMO Secretariat over the coming months, as more international organisations of the UN system or related agencies are required to carry out elections during the COVID-19 pandemic, and more experience is gained in that area. In the meantime, having carried out its own initial research into any similar elections taking place earlier this year, when first considering ways in which the IOPC Funds could carry out its election of the joint Audit Body, the IOPC Funds Secretariat found very few examples. This led the Director to acknowledge that in the current exceptional circumstances, pragmatic solutions are required. In the Director's view, the use of the online voting system offered by UK Engage provides such a pragmatic solution and remains the better option in terms of providing a ballot procedure which is the closest to the spirit of maintaining established practice, is secure, enables the vote to take place by secret ballot and ensures it can be conducted in a timely manner. It will also enable the results to be confirmed and the Audit Body to commence its term of office immediately.

4.3 However, should the governing bodies, after trialling the UK Engage system, find that they still have concerns with regards to the use of such a ballot procedure, the Director would consider postponing the election, as set out in section 5.

5 Director's considerations

- 5.1 The Director expresses his appreciation to all 15 States who submitted feedback on his proposals for the temporary suspension or amendment of certain Rules of Procedure to facilitate remote sessions. He has carefully considered all comments received, and the Secretariat has responded individually to those States to acknowledge receipt and respond to any questions or suggestions.
- 5.2 With regards to the proposals in document IOPC/NOV20/1/3/1, the Director is pleased to note the full support of the responding States and hopes this feedback will expedite discussions in respect of the relevant Rules of Procedure at the opening of the December 2020 sessions.
- 5.3 In respect of the information contained in document IOPC/NOV20/1/3/2, in conjunction with document IOPC/NOV20/6/1/1, relating to the use of an online voting tool for the election of the members of the joint Audit Body and the subsequent requirement to temporarily suspend Rule 38, the Director is pleased to note the full support of 13 of the responding States for his proposal. In respect of the questions received from Cyprus on the data management practices of UK Engage, the third-party provider of the proposed online voting system, the Director has provided detailed responses in the Annex, confirming that UK Engage has a number of accreditations, complies with the latest industry standards and complies with all Data Protection Legislation as applicable in the United Kingdom.
- 5.4 The Director also notes with interest the alternative suggestion of Singapore in respect of providing a hybrid solution of both online voting and vote by correspondence. The Secretariat has explored the practicalities of this suggestion, and the Director's comments are provided in the Annex.
- 5.5 Finally, the Director has noted the helpful suggestion of Canada to provide a trial version of the online voting system to interested Member States in advance of the sessions and is in the process of organising such a trial. The Heads of Delegations registered to participate in the sessions will be sent further instructions by email of how to access the trial once the recommended date for online registration has passed, i.e. after 20 November 2020.
- 5.6 However, should the governing bodies, after trialling the UK Engage system, find that they still have concerns with regards to adopting any of the options presented, namely voting online, by email or by correspondence, the Director would consider postponing the election of the Audit Body until the next regular session of the 1992 Fund Assembly, at such a time when the results of the IMO review are known.

6 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:

- (a) Recall the information contained in documents IOPC/NOV20/1/3, IOPC/NOV20/1/3/1 and IOPC/NOV20/1/3/2 (to be read in conjunction with IOPC/NOV20/6/1/1); and
- (b) in light of the feedback received from Member States on those documents, as set out in sections 2 and 3 above, decide whether to temporarily suspend or amend the Rules of Procedure in respect of the December 2020 meeting of the governing bodies as set out in section 5 of document IOPC/NOV20/1/3/1 and section 6 of IOPC/NOV20/6/1/1.

ANNEX

FEEDBACK RECEIVED FROM MEMBER STATES IN RESPONSE TO THE PROPOSALS CONTAINED IN DOCUMENTS IOPC/NOV20/1/3/1 AND IOPC/NOV20/1/3/2 RELATING TO THE TEMPORARY SUSPENSION OF RULES OF PROCEDURE IN CONNECTION WITH REMOTE SESSIONS

AUSTRALIA	Position on IOPC/NOV20/1/3/1	Endorsement
	Position on IOPC/NOV20/1/3/2	Endorsement

Facilitating remote sessions

Australia notes the information provided in IOPC/NOV20/1/3 and supports the approach to accommodate the virtual meeting required due to the COVID-19 pandemic.

Australia notes the Director's request set out in sections 2 and 3 of IOPC/NOV20/1/3/1, noting the proposal is to suspend the below Rules for the 1992 Fund Assembly and Supplementary Fund Assembly, and the 1992 Fund Executive Committee:

- Rule 3 – on the location of meeting
- Rule 27/23 – on the adoption of the Record of Decisions
- Rule 9/8 – on the timing of the submission of credentials
- Rule 32/28 – on voting; and
- Rule 33 – on the definition of 'Members present' and 'Members present and voting'.

Australia supports the proposed temporary measures.

Australia notes feedback will be published in a separate document – IOPC/NOV20/1/3/3.

Australia notes the timing for a decision on the temporary suspension/amendments to the Rules of Procedure.

Voting

Australia notes the information on the Rules of Procedure for the 1992 Fund Assembly in relation to the election of members to the joint Audit Body as discussed in IOPC/NOV20/6/1/1. The proposal relates to rules 32–40:

- Rules 32–33 – Members present and voting – this is considered in IOPC/NOV20/1/3/1 and supported by Australia.
- Rule 34, 35 and 36 – vote by roll call for Members – Australia notes no amendments are required by proposals in IOPC/NOV20/6/1/1.
- Rule 37 – elections shall be decided by secret ballot – this issue is discussed in detail in IOPC/NOV20/6/1/1. Australia supports electronic voting to ensure the integrity of the secret ballot can be maintained. Australia notes that voting by email or post could not be conducted as a secret ballot as proposed in IOPC/NOV20/6/1/1.
- Rule 38 – appointment of scrutineers – Australia supports the temporary suspension of Rule 38 to support an electronic voting option.
- Rules 39 and 40 – finalising a vote – Australia notes no amendments are required.

Australia notes feedback will be published in IOPC/NOV20/1/3/3.

Australia supports the recommendation of the Director to use an online voting tool to be provided by UK Engage.

If an online voting tool is adopted, Australia supports the suspension of Rule 38 of the Rules of Procedure (the appointment of scrutineers).

Australia does not support a vote by email or correspondence, as this would remove the anonymity of the vote under Rule 37 of the Rules of Procedure.

Australia notes that there are options to have anonymous voting by postal vote as used in some Australian jurisdictions for Government elections. Noting however, the impact on postal delivery services (timeliness) internationally, due to the COVID-19 pandemic, Australia does not think this option should be revisited at this time.

Comments by the Director: Noted.

CANADA	Position on IOPC/NOV20/1/3/1	Endorsement
	Position on IOPC/NOV20/1/3/2	Endorsement

Facilitating remote sessions

We have read through the documents identifying rules and procedures that would need to be suspended or amended and we can confirm our support as these rules and procedures are closely aligned to the rules and procedures adopted by IMO during the pandemic.

Voting

In addition, we support the recommendation to use online voting as the ballot procedure, as it maintains confidentiality and is orderly and timely. As a result, we would support the suspension of Rule 38 respecting the appointment of scrutineers.

In order to instil confidence in the online voting system should there be expected concerns or opposition to this, one possible option may be to allow Member States to trial the online voting system being proposed. For example, Member States could be asked to select up to 6 numbers between 1 and 10 and the results could be shared at the meeting. Canada would be available to help trial the system. Testing the online voting system would also allow the 1992 Assembly to identify any issues with the system prior to it being used for a vote, should the Assembly agree to using an online voting system.

Comments by the Director:

The Director has noted the helpful suggestion of Canada to provide a trial version of the online voting system to interested Member States in advance of the sessions and is in the process of organising such a trial. The Heads of Delegations registered to participate in the sessions will be sent further instructions by email of how to access the trial once the recommended date for online registration has passed, i.e. after 20 November 2020.

DENMARK	Position on IOPC/NOV20/1/3/1	Endorsement
	Position on IOPC/NOV20/1/3/2	Endorsement

Facilitating remote sessions

Referring to document IOPC/NOV20/1/3/1, Denmark takes note of the content of the document and supports the proposed temporary suspension or amendment to the relevant rules.

Voting

Referring to documents IOPC/NOV20/1/3/2 and IOPC/NOV20/6/1/1, Denmark takes note of the content of the documents and supports conducting the ballot procedure for the election of members of the joint Audit Body in December 2020 through the use of an online voting tool, specifically that provided by the third-party provider UK Engage. In consequence, Denmark supports the temporary suspension of Rule 38 of the Rules of Procedure.

Comments by the Director: Noted.

CYPRUS	Position on IOPC/NOV20/1/3/1	Endorsement
	Position on IOPC/NOV20/1/3/2	Endorsement

Facilitating remote sessions

In any State Party to the 1992 Fund Convention (the Treaty), victims of oil pollution damage entitled to be compensated for the damage they have suffered have to be paid if the limits of the 1992 Civil Liability Convention (CLC) are exceeded, as well as, the admissible incurred expenditure for any preventive measures, wherever taken, to prevent or minimise such damage.

Thus, a State Party to the Treaty (State Party) has the responsibility and obligation to put in place those measures and arrangements which enable and ensure that the 1992 Fund (the Fund) functions on a 24/7 basis irrespective of any pandemic and/or the spread of anything which has affected human life, including COVID-19.

This includes, *inter alia*, the 1992 Fund Assembly (the Assembly), the 1992 Fund Executive Committee and subsidiary bodies they have established, as well as the Director and the Secretariat of the Fund, to whom we owe our thanks and gratitude for the actions they have taken thus far to enable and ensure that the Fund continues its uninterrupted operation in the era of the COVID-19 pandemic.

As a State Party, in view of the prevailing circumstances and recognising the role of the Assembly, we have no objection if the 25th regular session of the Assembly was to be held using audio-visual computer-based conference software which enables the State Parties to participate in the Assembly remotely in the proceedings and does not require them to travel to London, United Kingdom for a physical and in-person meeting of the Assembly.

In this respect and in relation to the Rules of Procedure of the Assembly, for the purpose of convening and holding the 25th regular session of the Assembly, we would have no objection if in connection with:

- (a) Rule 3, the existing requirement to hold the Assembly in London, United Kingdom was not to be applied provided the 25th regular session of the Assembly was to be held as outlined above;
- (b) Rule 9, if the existing requirement for submission of the original of the credentials to the Director not later than the opening day of the session of the Assembly was to remain. However, for practical reasons, an electronically transmitted copy of the credentials was to be provisionally accepted provided such a transmission included or was accompanied by a written statement indicating that the original of the credentials was to follow;
- (c) Rule 27, if the requirement for the preparation of the Record of Decisions was to remain. However, in lieu of the established practice in relation to its adoption, the following arrangements were to be applied. The Record of Decisions of the Assembly as adopted by the 25th regular session was to be published the soonest possible after its adoption. Due to technical failures and connectivity issues which may occur during the session, the adopted Record of Decisions was to remain open until the 11 December 2020 for the submission to the Director by correspondence of any corrections thereto by those Members and Observers who participated in the session. As a result, as the 25th regular session of the Assembly will be continuing after the adoption of the Record of Decisions, solely for the submission of such corrections, if any, and it was to end on the 11 December 2020;
- (d) Rule 32, and subject to the comments made in relation to voting below, the practice of determining elections and adopting reports, resolutions and recommendations, whenever possible, by consensus of the Members present and voting was to be continued during the 25th regular session of the Assembly, which we understand that it will be carried remotely as outlined above; and

- (e) Rule 33(a) was to be interpreted as meaning and referring to those named in the credentials, registered as participating in the 25th regular session of the Assembly using the online registration system and listed as participants in the session by the virtual meeting platform in use.

Cyprus notes that Rule 55 of the Rules of Procedure of the Assembly states ‘These Rules of Procedure may be amended by decision of the Assembly taken by a majority of the Members present and voting.’

Cyprus further notes that the matters mentioned in paragraphs (a)–(e) above constituted non application, the establishment of additional requirements, the continuation of established practice and interpretation of Rules of Procedure proposed solely for facilitating the conduct of the 25th session of the Assembly remotely.

Cyprus is of the view that it is not necessary to amend the existing Rules of Procedure. Whilst a specific part of Rule 3 may be considered as suspended or may not be applied and additional requirements are established in relation to Rule 27, Cyprus is also of the view that is within the right of the Assembly to record in the Record of Decisions of the 25th session of the Assembly how it applied the Rules of Procedure in question in order to facilitate the conduct of the session remotely, bearing in mind that these were adopted and amended by the Assembly assuming in-person meetings.

Voting

Rule 37 of the Rules of Procedure of the Assembly states ‘Elections shall be determined by a secret ballot unless the Assembly decides otherwise.’ The aspect of the rule referring to the authority of the Assembly is not discussed in this communication.

Rule 37 ensures that once the vote is cast and the ballot box is opened, following the completion of the voting, by the scrutineers and those designated to assist them in opening the ballot box and handling its contents, the scrutineers and those designated are unable to identify who casted a particular vote. All votes are treated by them equally and the ability to apply any form of discrimination against any vote does not exist. This rule also ensures that those voting are doing so by exercising their free will and they cannot be subjected to any form of duress or coercion. Thus, the conduct of free and fair election by secret ballot is ensured.

Bearing this in mind, provided Rule 37 and 38 are appropriately altered and subject to the observation regarding the ability to cast an invalid vote below and the questions set out in paragraphs (a)–(d) below, Cyprus prefers the use, when voting, of an online voting tool to be agreed by the Members participating in the 25th regular session of the Assembly, since this provides the most expedient route in reaching the results of the vote and simultaneously ensures the impartiality of the vote.

Voting either by e-mail or by correspondence can provide a workable solution provided additional safeguards are introduced.

Reading the Rules of Procedure, the online voting tool must afford the ability to cast an invalid vote.

With respect to what is written in paragraph 2.3 of document IOPC/NOV20/6/1/1 in relation to UK Engage, the following information is sought:

- (a) What are the accreditations of the UK Engage and to which standards it complies?
- (b) What happens to the data which the UK Engage collects, as a result of the voting, after the results of the vote have been entered in the Record of Decisions and this has been made, following any admissible corrections, final?
- (c) How such data are treated (for example where they are stored and how they are protected)?
- (d) How and when they are disposed?

Whilst the above endeavoured to provide replies to the key questions for holding the 25th regular session remotely, they should not be construed as providing the final position of Cyprus cast in stone, as Cyprus is willing to consider the views expressed by the other State Parties and reach, preferably, consensus decisions.

Comments by the Director:

With regards to the questions related to the company identified to conduct the online voting process (UK Engage), the Director is pleased to provide the following answers:

- (a) UK Engage has a number of accreditations and complies with the latest industry standards. These accreditations include ISO 9001 (Quality Management System), ISO 27001 (Information Security Management System) and Cyber Essentials (accredited data security, handling and retention). For the personal data handling aspects, as per the agreement between UK Engage and the IOPC Funds, it complies with all Data Protection Legislation as applicable in the United Kingdom, comprising of the General Data Protection Regulation (Regulation (EU) 2016/679) and any applicable national implementing Laws as amended from time to time; the Data Protection Act (DPA) 2018 to the extent that it relates to processing of personal data and privacy and all applicable Law about the processing of personal data and privacy.
- (b) The personal data provided by the IOPC Funds to UK Engage for the purpose of the online vote will be limited to the name and email address of the delegates eligible to vote (i.e. Heads of Delegations registered to attend the meeting and with credentials in order). The personal data provided under the agreement will not be kept any longer than necessary and will be destroyed or erased (including all copies whether paper or electronic) by UK Engage, immediately after the Record of Decisions of the meeting is finalised.
- (c) Regarding the storage and protection of personal data, UK Engage will ensure that it has appropriate technical and organisational measures to ensure the secure storage of all personal data provided under this agreement, including physical security of the premises and hardware used, as well as access controls. In particular, only the individuals within UK Engage identified to handle that particular set of personal data will be provided with access to the systems and data, in accordance with least privilege and need to know principles.
- (d) Once the Record of Decisions is finalised, UK Engage will ensure that all electronic data is destroyed in an appropriate manner which renders it irretrievable. This could be logically, physically, digitally or magnetically destroyed. All paper documents shall be immediately cross shredded or incinerated. UK Engage will provide the IOPC Funds with confirmation in writing that all the data has been destroyed, the date of destruction and the manner of destruction upon expiry of the agreement.

Regarding the reference to invalid votes in Rule 38, the standard ballot procedure that has been in place for the election of the Audit Body indicate that:

In each ballot, a Member State whose credentials are in order shall indicate the candidate(s) it supports by ticking the relevant box. If a list indicates support for six or fewer candidates, the vote is valid. If a list indicates support for more than six candidates, the vote is invalid.

Such option will be replicated in the online platform whereby it will be possible for a delegate to choose more than six candidates. In such case, that vote shall not be counted as valid.

FRANCE (ORIGINAL: FRENCH)	Position on IOPC/NOV20/1/3/1	Endorsement
	Position on IOPC/NOV20/1/3/2	Endorsement

Facilitating remote sessions

France thanks the Director for his proposal to hold the IOPC Funds December 2020 meeting remotely with interpretation via the online virtual platform KUDO as a result of the COVID-19 pandemic.

France thanks him, in particular, for the preparatory work undertaken in order to propose to States the necessary amendments to the IOPC Funds' procedures so that the necessary decisions can be taken at these meetings to ensure the proper functioning of the Funds, despite the global health crisis.

France has no objection to the temporary suspension of some of the Rules of Procedure as proposed in documents IOPC/NOV20/1/3, IOPC/NOV20/1/3/1 and document IOPC/NOV20/1/3/2, which in the case of the latter, will depend on the choice/option adopted for the ballot procedure.

Voting

On this last point, concerning the choice of ballot procedure (document IOPC/NOV20/6/1/1), France is in favour of the first option, namely the use of an online voting tool, as proposed in section 2.

Comments by the Director: Noted.

GREECE	Position on IOPC/NOV20/1/3/1	Endorsement
	Position on IOPC/NOV20/1/3/2	Endorsement

Facilitating remote sessions

Being highly cognizant of the existing need for the Rules of Procedure to be suspended temporarily or amended on an exceptional basis to allow for the regular sessions of the IOPC Funds' governing bodies to be conducted remotely in 2020 due to the COVID-19 pandemic, we would like to **confirm our support for the proposed temporary suspension or amendments to the relevant rules set out in documents IOPC/NOV20/1/3/1 and IOPC/NOV20/1/3/2**, taking further into account that the proposals made by the IOPC Fund Secretariat are as closely aligned as possible to those implemented by IMO wherever applicable.

Voting

With regard to the forthcoming elections of the joint Audit Body (**IOPC/NOV20/6/1/1**), we would like to **express our support for the ballot procedure to be conducted through the use of the online voting tool** provided by the third-party provider UK Engage as this option seems to facilitate a secure, confidential and timely voting procedure, which, although new to the IOPC Funds, could offer the Assembly a pragmatic solution to carrying out an important election in unusual circumstances, in a remote setting. Accordingly, we agree that Rule 38 of the Rules of Procedure is suspended, as this would allow the votes to be scrutinized by the independent third-party instead of two scrutineers appointed by Member States.

We remain at your disposal for any further action required to be taken by the Member States so that continuous operation of the IOPC Funds is safeguarded.

Comments by the Director: Noted.

ITALY	Position on IOPC/NOV20/1/3/1	Endorsement
	Position on IOPC/NOV20/1/3/2	Endorsement

Facilitating remote sessions and voting

As requested in circular IOPC/2020/Circ.13, Italy hereby states its agreement with the suspension and amendments of the Rules of Procedure as outlined in documents IOPC/NOV20/1/3, IOPC/NOV20/1/3/1 and IOPC/NOV20/1/3/2.

Comments by the Director: Noted.

JAPAN	Position on IOPC/NOV20/1/3/1	Endorsement
	Position on IOPC/NOV20/1/3/2	Endorsement

Facilitating remote sessions

On behalf of Japan, I would like to inform you that Japan supports your proposals mentioned in the documents below;

- IOPC/NOV20/1/3;
- IOPC/NOV20/1/3/1; and
- IOPC/NOV20/1/3/2.

Voting

Additionally, with regard to the document IOPC/NOV20/6/1/1, please be advised that Japan supports the Director's consideration that an online voting platform, which might be provided by UK Engage, should be used for the election of the members of the Audit Body on this occasion.

Comments by the Director: Noted.

LATVIA	Position on IOPC/NOV20/1/3/1	Endorsement
	Position on IOPC/NOV20/1/3/2	Endorsement

Facilitating remote sessions

Latvia would like to thank the Director and members of the Secretariat for the work done to prepare proposed amendments to IOPC Funds procedures that will facilitate remote IOPC Funds' governing bodies sessions.

Latvia in general supports proposed Temporary suspension of Rules of Procedure in connection with remote sessions – Facilitating remote sessions contained in document IOPC/NOV20/1/3/1.

Voting

As regards 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) contained in document IOPC/NOV20/1/3/2, Latvia is in line with the Director's view that the most practical and secure method to carry out the ballot is through the use of an online voting tool.

Of the three proposed possible options for conducting the ballot procedure during the remote sessions, Latvia would like to support **Option 1 – Use of an online voting tool** and required temporary suspension or amendment of relevant Rules of procedure.

Comments by the Director: Noted.

NEW ZEALAND	Position on IOPC/NOV20/1/3/1	Endorsement
	Position on IOPC/NOV20/1/3/2	Endorsement

Facilitating remote sessions and voting

The New Zealand delegation has considered the documents numbered IOPC/NOV20/1/3/1 and IOPC/NOV20/1/3/2 and wishes to confirm its support for the proposed temporary suspension or amendments to the relevant rules. In relation to IOPC/NOV20/1/3/2 and IOPC/NOV20/6/1/1 regarding voting, the New Zealand delegation supports the Director's recommendation to use a secure online voting platform for the election of the members of the Audit Body.

Comments by the Director: Noted.

PORTUGAL	Position on IOPC/NOV20/1/3/1	Endorsement
	Position on IOPC/NOV20/1/3/2	Endorsement

With reference to IOPC Funds documents IOPC/NOV20/1/3, IOPC/NOV20/1/3/1 and IOPC/NOV20/1/3/2, I am pleased to share with you that Portugal supports the following:

Facilitating remote sessions

- The proposal for temporary suspension of Rule 3 regarding the location of the meeting, in order to allow remote sessions to be held. Portugal considers that due to the COVID-19 pandemic, it is not possible to comply with said Rule;
- The proposal relating to Rule 27/23 on the adoption of the Record of Decisions, in particular to allow the sessions to remain open for an additional five working day period for delegations to comment on the draft Record of the Decisions by correspondence, due until Friday 11 December 2020;
- The consideration of Rule 32/28 on voting and that the governing bodies continue to adopt decisions by consensus during the remote sessions, as it is a rule that has allowed full confidence to be maintained between Member States. Portugal also concurs that in the event that the need for a vote should arise, an alternative voting procedure would need to be adopted;
- The consideration of Rule 33(a) on the definition of 'Members present' and Rule 33(b) on the definition of 'Members present and voting', in particular with the interpretation of 'Members present' 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. Portugal agrees with the interpretation being adapted to the current circumstances.

Voting

- In line with the Director's considerations and in particular his recommendation in paragraph 5.5 of document IOPC/NOV20/6/1/1 in reference to the ballot procedures for the election of the joint Audit Body, Portugal considers the most practical and secure method would be to use an online voting tool, allowing the election to be conducted via secret ballot and in a timely manner, and for the results to be confirmed quickly so the Audit Body may commence its term of office immediately.

Comments by the Director: Noted.

REPUBLIC OF KOREA	Position on IOPC/NOV20/1/3/1	Endorsement
	Position on IOPC/NOV20/1/3/2	Endorsement

The delegation of the Republic of Korea reviewed the documents (IOPC/NOV20/1/3, 1/3/1, 1/3/2) and would like to submit the feedback below.

Facilitating remote sessions

1. Rule 3 on the location of the meeting
We would like to support the proposal in document IOPC/NOV20/1/3/1 on the suspension of Rule 3 of the Rules of Procedure.
2. Rule 9/8 on the timing of the submission of credentials
The delegation is to register and submit credentials via the online registration system by 20 November 2020.
3. Rule 32/38 on voting
The delegation notes the established practices for taking decisions of IOPC Funds and hopes that these practices be retained in this remote session.
4. Rule 33(a), 33(b)
As this session will be held remotely, this delegation supports the proposal that the definition of 'Members presents' and 'Members present and voting' shall be interpreted as proposed in the document.

Voting

5. Rule 37 or Rule 38
The voting procedure will be decided by the 1992 Fund Assembly.
In the event that the 1992 Fund Assembly were to decide to carry out the election by using an online voting system, we would like to support the proposal in document IOPC/NOV20/1/3/2 on the suspension of Rule 38 of the Rules of Procedure.

In the event that the 1992 Fund Assembly were to decide to carry out the election by email or correspondence, we would like to support the proposal in document IOPC/NOV20/1/3/2 on the suspension of Rule 37 of the Rules of Procedure.

Comments by the Director: Noted.

SINGAPORE	Position on IOPC/NOV20/1/3/1	No comment
	Position on IOPC/NOV20/1/3/2	Endorsement

Voting

Singapore thanks the IOPC Funds Director and Secretariat for their efforts to ensure that the December 2020 meeting can be held. With reference to the request for feedback on the proposed suspension of Rules of Procedure, Singapore would like to offer the following views.

The proposal for the suspension of the Rules of Procedure appears to presume that only one modality of voting for the election of the joint Audit Body can be offered. In this regard, Singapore's view is that voting by correspondence offers greater secrecy and security for the election process. Singapore would however propose that the Director also considers offering Member States a choice of options.

Singapore would also highlight that voting by correspondence (postal ballot) may not necessarily require suspension of Rule 37 that elections shall be decided by secret ballot. For example, the return of sealed envelopes containing

ballot papers or additional procedures could allow such votes to remain secret. We thus propose that the Director also explores what procedures could be put in place to improve secrecy for voting by correspondence.

In this regard, Singapore notes that the example of the election of the International Hydrographic Organization (IHO) Director carried out in 2020 may be instructive. In that election, Member States were offered a choice of both paper-based and digital voting options, with votes from both modalities to be subsequently compiled.

Comments by the Director:

The Director has noted the suggestion from Singapore to consider offering a combination of options to Member States for the voting for the election of the joint Audit Body.

To that end, Singapore referred to the example of the election of the International Hydrographic Organization's (IHO) Director, where Member States were offered a choice of both paper-based and digital voting options.

The Director thanks Singapore for that reference and after investigating the matter with the IHO, would like to offer the following comments:

Due to the postponement of the IHO Assembly and the need to proceed with the election of a replacement to the outgoing Director before a certain date, the Assembly agreed to the conduct of the election process in offering two alternatives but equivalent options: paper-based voting and digital voting. The paper-based voting was the default option, with envelopes containing the voting ballots being posted to Member States. The digital voting option was a technical solution based on an IHO online form developed internally. The process took place over a period of three months, including four weeks to conduct the actual voting process (paper and digital). Out of 81 IHO Member States, 75 voted electronically while 6 sent their paper ballots by mail to the Secretariat. The procedure had included the possibility of a second round of vote in case of a tie. However, in light of the wide acceptance by Member States of the electronic voting option and the negative experiences with long haul dispatch of paper ballots, the Secretariat informed the Member States that should a second round be necessary, it should be conducted electronically and those who voted using paper ballots in the first round were invited to consider the electronic option if deemed necessary. Eventually there was no need for a second round.

On the basis of that feedback, the Director is still of the view that the secure online voting platform identified by the Secretariat and described in document IOPC/NOV20/6/1/1, should be exclusively used for the election of the members of the Audit Body on this occasion as the simplest and most secure option, allowing for the election to be conducted in a timely manner. Alternatively, the other two options described in the same document offer a reasonable choice to the 1992 Fund Assembly.

The Director has also noted the view from Singapore that a postal ballot does not necessarily mean that Rule 37 (secret ballot) should be suspended, and its suggestion to consider additional measures to improve the secrecy of a vote by correspondence. If the option of a vote by correspondence was to be chosen by the Assembly, the Secretariat could send a circular letter to all Member States containing ballot papers in anonymous envelopes to be returned sealed and unmarked by a certain date. The rest of the procedure would be as described in paragraphs 4.10 to 4.13 of document IOPC/NOV20/6/1/1.

TURKEY	Position on IOPC/NOV20/1/3/1	Endorsement
	Position on IOPC/NOV20/1/3/2	Endorsement

Facilitating remote sessions and voting

As a result of this extraordinary situation caused by the COVID-19 pandemic, it is not possible to carry out full, physical sessions of the governing bodies from convening. Therefore, we understood that certain Rules of Procedure would need to be suspended to allow for the December 2020 regular sessions of the governing bodies to take place.

In this regard, Turkey confirms support for the proposed temporary suspension or amendments to the relevant rules proposed by the IOPC Funds Secretariat in documents IOPC/NOV20/1/3/1 and IOPC/NOV20/1/3/2.

With regards to the election of the Audit Body, we share your concerns about option 2 and option 3. Although Turkey does not have any objection on using an online voting tool provided by the third-party provider UK Engage, any alternative method that would be proposed by Member States should also be taken into account.

Comments by the Director: Noted.

UNITED KINGDOM	Position on IOPC/NOV20/1/3/1	Endorsement
	Position on IOPC/NOV20/1/3/2	Endorsement

Facilitating remote sessions

I am writing in relation to the invitation to the December 2020 meeting of the IOPC Funds' Governing Bodies, and the following documents proposing the temporary suspension or amendments to certain rules of procedure:

- IOPC/NOV20/1/3 – Temporary suspension of Rules of Procedure in connection with remote sessions;
- IOPC/NOV20/1/3/1 – Temporary suspension of Rules of Procedure in connection with remote sessions – Facilitating remote sessions; and
- IOPC/NOV20/1/3/2 – Temporary suspension of Rules of Procedure in connection with remote sessions – Voting.

Having considered the issues raised in these documents very carefully, I can confirm that the UK is able to fully support the proposed temporary suspension or amendments to the relevant rules.

Voting

Document IOPC/NOV20/6/1/1 invites the 1992 Fund Assembly to consider three possible options for conducting the ballot procedure on this occasion, namely by using an online voting system, voting by email or voting by correspondence. Although the UK's preference would be for an online voting system, we can support any (or a combination) of the three options in the circumstances.

Comments by the Director: Noted.
