

COUNCIL  
120th session  
Agenda item 5

C 120/5/2  
23 May 2018  
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## **RULES OF PROCEDURE OF THE ASSEMBLY**

### **Rule 40 – Election of Members of the Council**

#### **Note by the Secretary-General**

#### **SUMMARY**

*Executive summary:* This document proposes amendments to Rule 40 of the Rules of Procedure of the Assembly, in light of its decision to end the practice of election by acclamation

*Strategic direction,  
if applicable:* 7

*Output:* Not applicable

*Action to be taken:* Paragraph 10

*Related document:* A 30/D

#### **Background**

1 At its thirtieth session, the Assembly decided to discontinue the practice of electing Members of the Council by acclamation, in cases where the number of candidates was the same as the number of seats available (A 30/D, paragraph 21.1). Prior to this decision, several Member States approached the Secretariat with questions regarding procedural steps in the case where the initial number of candidates was the same as the number of seats available, but a candidate or candidates fail to receive the required majority for election. As the Rules of Procedure of the Assembly do not currently address this point, it was expected that, if this eventuality occurred, the Assembly would need to decide the process sui generis. As such, it is appropriate for the Council to consider potential Rules changes so that the issue can be decided in advance.

#### **Current Rules**

2 Article 16 of the IMO Convention states that "The Council shall be composed of forty Members elected by the Assembly" (emphasis added). The sub-paragraphs of Article 17 of the IMO Convention, in describing the different categories for election to the Council, state that for each category there shall be 10 or 20 Member States elected, the number of seats depending on the category. Given the use of the word "shall" in Articles 16 and 17, there does not appear to be the possibility of completing elections with less than the required number of Member States elected.

3 Rule 32 of the Rules of Procedure of the Assembly states that elections, including elections under Article 16 of the Convention, shall be determined by a majority of Members, other than Associate Members, present and voting.

4 Rule 40(c) of the Rules of Procedure of the Assembly states:

If the number of candidates obtaining the requisite majority [under Rule 32] is less than the number of [...] 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 the number of places remaining to be filled. [...]

### **Analysis**

5 While Rule 40(c) addresses the situation of a candidate failing to obtain the requisite majority after the first ballot, it does not indicate a process in the event that a candidate also does not obtain a majority after a second or subsequent ballots. While the balloting process could go on ad infinitum, if a candidate or candidates are the sole remaining, and still fail to receive a majority, there should be a logical end to the process. However, this would lead to a requirement to fill the remaining seats so as to comply with Article 17. However, there is no process established for this contingency.

6 With respect to the process, should a candidate fail to receive the requisite majority on the additional ballots contemplated in Rule 40(c), Rule 19 of the Rules of Procedure of the Council requires that the Council hold a special meeting following each regular session of the Assembly, and that meeting normally occurs three to four business days after the conduct of the elections. As the Council must be composed of 40 Members to convene, there would be little or no time available to postpone the elections in order for candidates to gather additional support. Therefore, it is proposed that candidates failing to receive the requisite majority on subsequent ballots in Rule 40(c) be declared not elected.

7 If a candidate is declared not elected, there would be a vacant seat that must be filled, and additional candidates would be required, as the ballots under Rule 40(c) are restricted only to those candidates failing to receive a majority on the first ballot. The issue becomes one of timing as to when the subsequent voting would occur. If there are still elections to be held in different Article 17 categories, the precedence of those elections should be considered. Option 1 would be to complete the election in the category needing to fill vacant seats before conducting elections in any subsequent categories. Option 2 would be to postpone the election to fill the vacant seats until after the elections in the subsequent categories had been completed.

8 In the case of an election to fill vacant places in category (a), option 1 would allow candidates in categories (b) or (c) to consider moving into category (a). However, this option may not allow time for potential candidates to consult with their capitals, etc., in order to declare a candidacy. Option 2 would allow more time to consult, but might also limit the ability of a candidate elected in category (b) or (c) to move, should they so desire.

### **Proposed Rule change**

9 To address the issues raised in this document, it is proposed that the Council approve, for consideration and adoption by the Assembly, a new rule 40(c)(*bis*) as follows. The Council may wish to indicate a preference on the language in square brackets, which addresses the options described in paragraphs 7 and 8:

(c)(*bis*) If, after the additional ballot or ballots described in paragraph (c), a candidate still does not obtain the requisite majority, that candidate shall be declared not elected. Subsequently, the President of the Assembly shall call for additional candidates to fill the remaining places, and a new ballot for the additional candidates shall be put to a vote. For elections under Article 16 of the Convention, the voting to fill the remaining places [shall take place prior to the election for any subsequent category under Article 17 of the Convention] [shall take place at a subsequent meeting of the Assembly].

**Action requested of the Council**

10 The Council is requested to consider the information in this document, and the proposed amendments to the Rules of Procedure of the Assembly, and decide as appropriate.