

IHO File No. S1/6100/2020

ASSEMBLY CIRCULAR LETTER N° 26
24 June 2020

2nd SESSION OF THE IHO ASSEMBLY (A-2)
Monaco, 16-18 November 2020

**APPROVAL OF THE FIRST TRANCHE OF PROPOSALS ORIGINALLY FOR
CONSIDERATION BY THE 2ND SESSION OF THE ASSEMBLY**

References:

- A. IHO ACL 17/2020 dated 20 March 2020 – *Proposed Scenario on the Postponement of A-2.*
- B. IHO ACL 19/2020 dated 21 April 2020 – *Approval of the scenario on the postponement of the 2nd Session of the IHO Assembly and associated activities resulting from exceptional circumstances due to COVID-19*
- C. IHO ACL 21/2020 dated 4 May 2020 – *Call for approval of the first tranche of proposal originally for consideration by the 2nd session of the Assembly*
- D. Assembly Document – A2_2020_G_03_EN - Table of Tonnages, Shares, Contribution and Votes (2021-2023)

Dear Hydrographer,

1. Reference B informed you about the approval of the Member States on the proposed scenario on the postponement of the 2nd Session of the IHO Assembly and associated activities resulting from exceptional circumstances due to COVID-19 (Reference A refers).
2. As a consequence, Reference C invited Member States to vote on the first tranche of proposals originally for consideration by the 2nd session of the Assembly.
3. The IHO Secretariat thanks the following 56 Member States who responded to all, or some of, the proposals submitted through Reference B: Algeria, Argentina, Australia, Bangladesh, Belgium, Brazil, Canada, Chile, China, Colombia, Croatia, Cyprus, Denmark, Egypt, Estonia, Finland, France, Germany, Ghana, Greece, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Japan, Latvia, Malaysia, Malta, Mauritius, Mexico, Monaco, Morocco, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Papua New Guinea, Poland, Portugal, Republic of Korea, Saudi Arabia, Singapore, Solomon Islands, South Africa, Spain, Sri Lanka, Sweden, Thailand, Tunisia, Turkey, Ukraine, United Kingdom, United States of America and Uruguay.
4. This first tranche consisted of four separate final proposals (annexed to Reference C). The results of the votes are summarized in the following table:

A-2 Proposal	Title of the Proposal	Number of MS who voted yes	Number of MS who voted no
PRO 1.1	Interpretation of some articles in Basic Documents of the IHO	55	0
PRO 1.2	Revision of Articles 14, 15, 20 and 25 of the General Regulations of the IHO	52	2
PRO 1.3	Revision of Clause (c) of Article 16 of the General Regulations of the IHO – Hydrographic Interest	51	4
	Approval of the table of tonnage, shares and votes applicable to 2021-2023	54	0

5. Ten Member States (Colombia, Chile, Croatia, Egypt, France, India, Indonesia, Malaysia, Malta and United Kingdom) offered comments in addition to their vote. These comments and the outcome of their review by the Secretariat are provided in Annex A to this Circular Letter.

6. When Reference A was issued, there were 93 Member States of the IHO with four States suspended. In accordance with the provisions of the Convention on the IHO in force, the conditions for approval of the proposal as stipulated in paragraph 28 of Reference A have been met.

7. As a consequence, and in application of the principles stated in Reference A (paragraphs 14 and 28), *ex-post facto* approval of the final Proposals 1.1, 1.2 and 1.3 plus the table of tonnage, shares and votes applicable to 2021-2023 is deemed as to have been given by the Assembly.

Decision No.2 of A-2, 2020 is
The Assembly, following the approved voting procedure by correspondence as reported in ACL 19/2020, approved the interpretation that the Council has the authority to request and consider proposals submitted by Member States or the Secretary-General and confirmed that the Council is entitled to propose amendments to the General Regulations of the IHO for Member States' approval (ACL 26/2020 refers).
Decision No.3 of A-2, 2020 is
The Assembly, following the approved voting procedure by correspondence as reported in ACL 19/2020, approved the final proposal compiled by the Secretary-General on the revision of Articles 14, 15, 20 and 25 of the General Regulations of the IHO (ACL 26/2020 refers).
Decision No.4 of A-2, 2020 is
The Assembly, following the approved voting procedure by correspondence as reported in ACL 19/2020, approved the final proposal compiled by the Secretary-General on the revision

of Clause (c) of Article 16 of the General Regulations of the IHO – Hydrographic Interest (ACL 26/2020 refers).

Decision No.5 of A-2, 2020 is

- E. The Assembly, following the approved voting procedure by correspondence as reported in ACL 19/2020, approved the Table of Tonnages, Shares, Contribution and Votes (2021-2023) (Assembly Document – A2_2020_G_03_EN - Table of Tonnages, Shares, Contribution and Votes (2021-2023) refers).

8. The detailed text of the decisions been made for PRO 1.2 and PRO 1.3 are provided in Annexes B and C to this Assembly Circular Letter for ease convenience and are to be implemented in the IHO Basic Documents in due course (M-1). The cumulative list of all ex-post facto decisions, made by the Assembly so far, are provided in Annex D.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Mathias Jonas', with a stylized flourish at the end.

Mathias JONAS
Secretary-General

Annex A: Member State's responses to IHO ACL 21/2020 and comments from the Secretariat

Annex B: Red Line versions of the approved text of Proposals 1.2 and 1.3

Annex C: Clean versions of the approved text of Proposals 1.2 and 1.3

Annex D: Cumulative List of Assembly Decisions as of 24 June 2020

**MEMBER STATES' RESPONSES TO IHO ACL 21/2020 AND COMMENTS
FROM THE IHO SECRETARY-GENERAL**

**APPROVAL OF THE FIRST TRANCHE OF PROPOSALS ORIGINALLY FOR
CONSIDERATION BY THE 2ND SESSION OF THE ASSEMBLY**

PRO 1.1	Interpretation of some articles in Basic Documents of the IHO
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COLOMBIA (Vote = YES)

El Consejo OHI está ejerciendo una gran labor de coordinación en la Organización. Se considera apropiado facultarlo.

The IHO Council is doing a great job of coordination in the Organization. Empowerment is considered appropriate.

Comments by the Secretary-General:

Noted.

INDONESIA (Vote = YES)

Indonesia approves the interpretation of some article in IHO basic document

Comments by the Secretary-General:

Noted.

PRO 1.2	Revision of Articles 14, 15, 20 and 25 of the General Regulations of the IHO
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COLOMBIA (Vote = YES)

Muy conveniente la adición del literal "c" al Artículo 20.

The addition of the sub-paragraph "c" to Article 20 is very convenient.

Comments by the Secretary-General:

Noted.

CHILE (Vote = YES to Art. 14, 15 and 25 Vote = NO for Art. 20)

SI: Artículos 14, 15 y 25

NO: Artículo 20

Se concuerda con lo sensible de este párrafo, el que requiere de un texto muy prudente. Las palabras en inglés 'defects, diseases, apparente symptom • no parecen adecuadas por diferentes razones y por ello se sugiere que la letra c) del Artículo 20 , en Inglés se lea como sigue:

It agrees with the sensitivity of this paragraph, which requires a very cautious text. The English words' defects, diseases, apparent symptom do not seem adequate for different reasons and it is therefore suggested that the letter c) of Article 20, in English, be read as follows:

(c) Each nomination shall include a medical certificate issued by a duly qualified medical practitioner stating that the candidate is in good health to properly discharge his/her duties. In the event that such a certificate cannot be provided the nomination will not be accepted.

Comments by the Secretary-General:

The Secretariat shares Chile's view on the sensitivity of this paragraph, but believes that the proposed text balances it appropriately.

FRANCE (Vote = YES)

La France approuve ces amendements au Règlement général. Compte-tenu des enseignements qui seront tirés de la crise du covid-19, de nouveaux amendements pourraient être apportés au Règlement général pour tenir compte de circonstances exceptionnelles empêchant la tenue normale d'une session ordinaire de l'Assemblée.

France approves these amendments to the General Regulations. In view of the lessons to be drawn from the covid-19 crisis, further amendments could be made to the General Regulations to take account of exceptional circumstances preventing the normal holding of an ordinary session of the Assembly.

Comments by the Secretary-General:

The Secretariat is constantly monitoring the effects of the Covid-19 crisis on the operations of the IHO organs as well as the Secretariat. The Secretariat is of the view that advance preparation of the framework of IHO regulations for all imaginable exceptional circumstances is not possible, but believes that the *new normal* will result in new forms of consultations. This new type of collective deliberations will compose meetings, video conferences, digital voting and correspondences in hybrid arrangements consisting of more than one of those elements.

A specific challenge to be met will be decision making through voting in direct timely coincidence to subject matter discussions. The Secretariat is currently investigating all sorts of combinations of the noted elements, searches for best practice examples and invests in technology for their proper conduct. The fact that IHO membership stretches over 20 time zones and the working languages are not the mother tongue for the majority of the Member States adds to the challenge.

INDONESIA (Vote = YES)

Indonesian agree with revision of article 14, 15, 20 and 25 (IHO General Regulations) proposed by Secretary General.

Comments by the Secretary-General:

Noted.

UNITED KINGDOM (Vote = NO)

Article 20 clause C still has the potential to be discriminatory despite the substitution of 'no apparent symptom' for 'free from any defect or disease' as there is still no provision for a reasonable adjustment to be made in the event anyone with a disability wishes to apply for the position.

Comments by the Secretary-General:

The Secretariat does not share United Kingdom's view on the potential of this paragraph to be discriminatory, but believes that the proposed text balances it appropriately.

PRO 1.3

Revision of Clause (c) of Article 16 of the General Regulations of the IHO – Hydrographic Interest

COLOMBIA (Vote = NO)

Sea por el nuevo concepto de Interés Hidrográfico, o por el tonelaje actual, así será la distribución de las sillas en el Consejo.

Colombia understands that the seats of the Council will be distributed either taking into account the new concept of hydrographic interest, or by considering the current tonnage.

Comments by the Secretary-General:

The Secretariat likes to highlight that the wording of the final proposal made does change the method in place for the designation of Council seats. The principle of designation by one third of the Council seats according to the tonnage list and the designation of two third of the Council seats via the respective election process of all fifteen Regional Hydrographic Commissions remains valid and applied until the Assembly decides differently.

CROATIA (Vote = YES)

Croatia supports this proposal for editorial purpose only, in order to remove one specific task from the General Regulations which is related only to the second session of the IHO Assembly.

Comments by the Secretary-General:

Noted.

EGYPT (Vote = NO)

The regulation should include a firm updated definition of the extent of the "Hydrographic Interest" term.

Comments by the Secretary-General:

The Secretariat likes to highlight that the wording of the final proposal made does not preclude the forthcoming Assembly to consider the subject of the definition of hydrographic interest as suggested by a number of Member States. Reference A lists the definition of hydrographic interest as an agenda item for the postponed Assembly scheduled in November 2020.

INDIA (Vote = NO)

Defining hydrographic interest based on tonnage was an interim arrangement due to lack of alternate definition. However, in light of two firm proposals by Uruguay and India, same needs further deliberation.

Comments by the Secretary-General:

The Secretariat likes to highlight that the wording of the final proposal made does not preclude the forthcoming Assembly to consider the subject of the definition of hydrographic interest as

suggested by a number of Member States. Reference A lists the definition of hydrographic interest as an agenda item for the postponed Assembly scheduled in November 2020.

INDONESIA (Vote = YES)

Indonesia agree with the final proposal for the revision of clause (c) of article 16 (IHO General Regulation) Hydrographic interest as proposed by Secretary General.

Comments by the Secretary-General:

Noted.

MALAYSIA (Vote = NO)

Malaysia believes the Council should be tasked to come up with more effective measuring mechanism rather than measuring from national flag state tonnage.

Comments by the Secretary-General:

The Secretariat likes to highlight that the wording of the final proposal made does not preclude the forthcoming Assembly to consider the subject of the definition of hydrographic interest as suggested by a number of Member States. Reference A lists the definition of hydrographic interest as an agenda item for the postponed Assembly scheduled in November 2020.

MALTA (Vote = YES)

Malta agrees with the final proposal as originally submitted in the clean version of the initial version made to A2.

Comments by the Secretary-General:

Noted.

	Approval of the table of tonnage, shares and votes applicable to 2021-2023
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Comments by the Secretary-General:

No further Member States comments received.

Red Line versions of the approved text of Proposals 1.2 and 1.3

PRO 1.2: Revision of Articles 14, 15, 20 and 25 of the General Regulations of the IHO
(*Final proposal compiled by the Secretary-General*)

Red-line version of the approved revision

Amendments to Articles 14, 15, 20 and 25 of the General Regulations

Secretary-General and Directors

ARTICLE 14

A Secretary-General or a Director elected at an ordinary session of the Assembly shall assume his/her duties on the following 1 September. The duties of his/her predecessor shall terminate on 31 August.

ARTICLE 15

A Secretary-General or a Director who has been incapacitated for duty for six consecutive months, or otherwise for an aggregate of twelve months, during his/her term of office shall automatically cease to be Secretary-General or Director.

ARTICLE 20

- (a) Each nomination shall indicate whether it is for the post of Secretary-General or Director or for both posts, and shall include a statement detailing the candidate's qualifications. The following specific information should be provided:
- nominating Member State;
 - name;
 - nationality;
 - date of birth;
 - titles and decorations;
 - education (periods including specialized or special qualifications);
 - languages (speaking and reading capacity);
 - all service and experience relevant to the nomination and which provide an indication of the extent to which the candidate is qualified to serve as Secretary-General or Director;
 - candidate's Position, which should include, but is not limited to, the candidate's vision of the importance of hydrography and cartography, of the role of the IHO and of the objectives and approach envisaged to best advance the priorities of the Organization as established by the Member States; and

- such additional information as may be relevant;
- (b) Each nomination shall be signed by the candidate and by a representative of the nominating Member State.
- (c) Each nomination shall include a medical certificate issued by a duly qualified medical practitioner stating that the candidate presents no apparent symptom likely to interfere with the proper discharge of their duties. In the event that such a certificate cannot be provided the nomination will not be accepted.

ARTICLE 25

Notwithstanding Article 17, if the post of the Secretary-General or of any Director falls vacant during the period between two ordinary sessions of the Assembly the following provisions shall apply.

- (a) If the post of Secretary-General falls vacant one year or less before the opening day of the next ordinary session of the Assembly the Council shall appoint one of the Directors as Acting Secretary-General until the 31 August following the next ordinary session of the Assembly.
- (b) If any post of Director falls vacant one year or less before the opening day of the next ordinary session of the Assembly, including where such a post falls vacant due to the operation of Article 25 (a) above, no replacement shall be appointed before the next ordinary session of the Assembly.
- (c) If the post of Secretary-General falls vacant more than one year before the opening day of the next ordinary session of the Assembly, the Council shall appoint one of the Directors as Acting Secretary-General until a new Secretary-General elect takes up his/her_duties. A new Secretary-General shall be elected by correspondence in accordance with the principles set forth in Articles 17 to 23. In such a case the Chair of the Council, with the support of the Secretariat, shall conduct the election by postal ballot, immediately notify Member States of the result and invite the Secretary-General to take up his/her duties.
- (d) If any post of Director falls vacant more than one year before the opening day of the next ordinary session of the Assembly a new Director shall be elected by correspondence in accordance with the principles set forth in Articles 17 to 23. In such a case the Secretary-General shall conduct the election by postal ballot, immediately notify Member States of the result and invite the Director to take up his/her duties.
- (e) The term of office of any Secretary-General or Director elected in accordance with Articles 25 (c) or (d) above shall end at the same time as would have his/her predecessor's.

PRO 1.3: Revision of Clause (c) of Article 16 of the General Regulations of the IHO – Hydrographic Interest (*Final proposal compiled by the Secretary-General*)

Red-line version of the approved revision

Clause (c) of Article 16 of the General Regulations

The remaining one-third of Council seats shall be held by Member States that have the greatest interest in hydrographic matters and have not been selected under the procedure described in subparagraph (b) above. ~~The definition of what constitutes an interest in hydrographic matters shall be reconsidered at the latest at the second Assembly meeting.~~ Meanwhile, The scale by which an interest in hydrographic matters is measured shall be national flag tonnage. The table of national flag tonnages is derived in accordance with the procedures set forth in Articles 5 and 6 of the Financial Regulations. The Secretary-General shall determine which Member States will hold this one third of Council seats by identifying them in descending order of their national flag tonnages, referring to the table of current national flag tonnages produced in accordance with Article 6 (a) of the Financial Regulations, and by having ascertained the willingness of each of them to hold a seat on the Council.

Clean versions of the approved text of Proposals 1.2 and 1.3

PRO 1.2: Revision of Articles 14, 15, 20 and 25 of the General Regulations of the IHO
(*Final proposal compiled by the Secretary-General*)

Clean version of the approved revision

Amendments to Articles 14, 15, 20 and 25 of the General Regulations

Secretary-General and Directors

ARTICLE 14

A Secretary-General or a Director elected at an ordinary session of the Assembly shall assume his/her duties on the following 1 September. The duties of his/her predecessor shall terminate on 31 August.

ARTICLE 15

A Secretary-General or a Director who has been incapacitated for duty for six consecutive months, or otherwise for an aggregate of twelve months, during his/her term of office shall automatically cease to be Secretary-General or Director.

ARTICLE 20

(a) Each nomination shall indicate whether it is for the post of Secretary-General or Director or for both posts, and shall include a statement detailing the candidate's qualifications. The following specific information should be provided:

- nominating Member State;
- name;
- nationality;
- date of birth;
- titles and decorations;
- education (periods including specialized or special qualifications);
- languages (speaking and reading capacity);
- all service and experience relevant to the nomination and which provide an indication of the extent to which the candidate is qualified to serve as Secretary-General or Director;
- candidate's Position, which should include, but is not limited to, the candidate's vision of the importance of hydrography and cartography, of the role of the IHO and of the objectives and approach envisaged to best advance the priorities of the Organization as established by the Member States; and

- such additional information as may be relevant;
- (b) Each nomination shall be signed by the candidate and by a representative of the nominating Member State.
- (c) Each nomination shall include a medical certificate issued by a duly qualified medical practitioner stating that the candidate presents no apparent symptom likely to interfere with the proper discharge of their duties. In the event that such a certificate cannot be provided the nomination will not be accepted.

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- (b) If any post of Director falls vacant one year or less before the opening day of the next ordinary session of the Assembly, including where such a post falls vacant due to the operation of Article 25 (a) above, no replacement shall be appointed before the next ordinary session of the Assembly.
- (c) If the post of Secretary-General falls vacant more than one year before the opening day of the next ordinary session of the Assembly, the Council shall appoint one of the Directors as Acting Secretary-General until a new Secretary-General elect takes up his/her duties. A new Secretary-General shall be elected by correspondence in accordance with the principles set forth in Articles 17 to 23. In such a case the Chair of the Council, with the support of the Secretariat, shall conduct the election by postal ballot, immediately notify Member States of the result and invite the Secretary-General to take up his/her duties.
- (d) If any post of Director falls vacant more than one year before the opening day of the next ordinary session of the Assembly a new Director shall be elected by correspondence in accordance with the principles set forth in Articles 17 to 23. In such a case the Secretary-General shall conduct the election by postal ballot, immediately notify Member States of the result and invite the Director to take up his/her duties.
- (e) The term of office of any Secretary-General or Director elected in accordance with Articles 25 (c) or (d) above shall end at the same time as would have his/her predecessor's.

PRO 1.3: Revision of Clause (c) of Article 16 of the General Regulations of the IHO – Hydrographic Interest *(Final proposal compiled by the Secretary-General)*

Clean version of the approved revision

Clause (c) of Article 16 of the General Regulations

The remaining one-third of Council seats shall be held by Member States that have the greatest interest in hydrographic matters and have not been selected under the procedure described in subparagraph (b) above. The scale by which an interest in hydrographic matters is measured shall be national flag tonnage. The table of national flag tonnages is derived in accordance with the procedures set forth in Articles 5 and 6 of the Financial Regulations. The Secretary-General shall determine which Member States will hold this one third of Council seats by identifying them in descending order of their national flag tonnages, referring to the table of current national flag tonnages produced in accordance with Article 6 (a) of the Financial Regulations, and by having ascertained the willingness of each of them to hold a seat on the Council.

Cumulative List of Assembly Decisions as of 24 June 2020

Decision No.1 of A-2, 2020 is
The Assembly, following a special voting procedure depicted in ACL 20/2020 and reported in ACL 25/2020, elected Rear Admiral Luigi SINAPI (Italy) to a post of Director for a term of office of six years starting on 1 September 2020.
Decision No.2 of A-2, 2020 is
The Assembly, following the approved voting procedure by correspondence as reported in ACL 19/2020, approved the interpretation that the Council has the authority to request and consider proposals submitted by Member States or the Secretary-General and confirmed that the Council is entitled to propose amendments to the General Regulations of the IHO for Member States' approval.
Decision No.3 of A-2, 2020 is
The Assembly, following the approved voting procedure by correspondence as reported in ACL 19/2020, approved the final proposal compiled by the Secretary-General on the revision of Articles 14, 15, 20 and 25 of the General Regulations of the IHO (ACL 26/2020 refers).
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The Assembly, following the approved voting procedure by correspondence as reported in ACL 19/2020, approved the final proposal compiled by the Secretary-General on the revision of Clause (c) of Article 16 of the General Regulations of the IHO – Hydrographic Interest (ACL 26/2020 refers).
Decision No.5 of A-2, 2020 is
The Assembly, following the approved voting procedure by correspondence as reported in ACL 19/2020, approved Table of Tonnages, Shares, Contribution and Votes (2021-2023) (Assembly Document – A2_2020_G_03_EN - Table of Tonnages, Shares, Contribution and Votes (2021-2023))