

PRO-1.1 INTERPRETATION OF SOME ARTICLES IN BASIC DOCUMENTS OF THE IHO

Submitted by: Council (Secretary-General, as Council Secretary)

- References** : A. Convention on the IHO.
B. General Regulations of the IHO.
C. Rules of Procedures of the IHO Council.
D. 3rd Meeting of the Council – Summary Report.

PROPOSAL

After having considered Article VI (g)(ii) of the Convention on the IHO and Rule 8(i) of the Rules of Procedure of the Council in common, the Assembly is invited:

- **to approve the interpretation that the Council has the authority to request and consider proposals submitted by Member States or the Secretary-General.**

Noting the endorsement of the Council, the Assembly is invited:

- **to confirm that the Council is entitled to propose amendments to the General Regulations of the IHO for Member States' approval.**

EXPLANATORY NOTE

1. At the 1st meeting of the Council (C-1) in October 2017, the United Kingdom introduced a possible conflict between the Convention on the IHO and the Council Rules of Procedure, noting that Article VI of the Convention does not *specifically* state that it is a function of the Council to review, consider, or take any other action on proposals presented by Member States or the Secretary General.
2. At the 2nd meeting of the Council (C-2) in October 2018, the United States of America provided a thorough legal analysis of the arguments (Doc. C2-7.4INF refers). The Council subsequently agreed that there was indeed no conflict regarding the Rule of Procedure 8(i) of the Council and the Article VI (g)(vii) of the Convention on the IHO. This interpretation was supported by the United Kingdom.
3. The Council agreed to seek the formal approval of the Assembly on this interpretation (Reference D, Decision C3/17).
4. At the 3rd meeting of the Council, while considering proposed amendments to the General Regulations of the IHO, the Council agreed (Reference D, Decision C3/07) that the functions of the Assembly are "...to decide on any proposal put to it by any Member State, the Council or the Secretary-General..." (Art. V.e.(viii) of the Convention of the IHO), such as amendments to the General Regulations for instance, as these General Regulations are not part of the Convention itself (Art. XI of the Convention). However, the Council noted that "*Decisions taken on...including amendments to the General Regulations...shall be taken by a 2/3 majority of Member States present and voting.*" (Art. IX.d of the IHO Convention).
5. Confirmation of this interpretation is requested from the Assembly, prior to the consideration of PRO-1.2 related to Article 20 (Medical Fitness of Candidates for Election of Secretary-General and Directors) and PRO-1.3 related to Article 16 (Hydrographic Interests) of the General Regulations of the IHO.