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STRATEGY, PLANNING AND REFORM

(b) Reform

Proposed terms of reference for the Working Group on Council Reform

Submitted by Cook Islands, Japan, Marshall Islands, Panama, United Arab Emirates,
United Kingdom and United States of America

SUMMARY

Executive summary: This document proposes terms of reference (TORs) for a working group on Council reform that will meet during the 121st session of the Council

Strategic direction, if applicable: 7

Output: 7.8 and 7.9

Action to be taken: Paragraph 17

Related documents: C120/4/3, C120/4/5, C120/4/6, C120/4/8, C120/5/1, C120/5/2 and C120/D

Introduction

1 The co-sponsors support the efforts of the Council to begin a discussion on possible reform ideas to improve the functionality, demographics and effectiveness of the Council. In that regard, it was agreed at C 120 that a working group on Council reform would convene at this session.

2 The co-sponsors are of the view that in order to have meaningful and timely reform, it is imperative that the Council provide recommendations to the thirty-first session of the Assembly. Consistent with the views expressed by many Member States and observers during C 120 and in an effort to complete this work during C 121 and C 122, there is a need to choose discrete terms of reference (TORs) in order to meet this timeline.

3 As noted in C 120/D, the Council agreed that the Chair and Vice-Chair in consultation with the Secretary-General would develop draft terms of reference and that Member States could provide further proposals for the Council's consideration.

4 The six related documents introduced at C 120, and the interventions that followed, provided a general idea of those reform ideas ready for consideration. The co-sponsors have identified eight topics that emerged from the documents and discussion at the 120th session, and after taking into consideration the urgency, potential impacts, means of implementation, and potential for consensus regarding each topic, the co-sponsors recommend that five of those topics presented be included in the Working Group TORs. These include: number of Council Members; Council categories; term lengths for Council Members; rules and schedule for electing Council Members; and the policy regarding ethics and conduct. All eight topics are considered below.

Council's role in policymaking

5 During the reform discussion at C 120, many Member States affirmed that the Council already has many opportunities to provide non-technical policy direction to the technical committees. A number of Member States mentioned that the Council should not involve itself in the committees' technical work. We note that currently this separation of responsibility is clearly outlined in Article 21(c) of the IMO Convention. Based on this information the co-sponsors recommend that this topic/issue not be addressed by the Working Group.

Access to discussions and decisions

6 During the 120th session of Council, the Secretariat submitted document C 120/4/3 wherein they provided a synopsis of IMO's current policies on releasing information to the public. During the subsequent discussion, the Council agreed to make some changes to increase the level of transparency that is afforded to the public. It was clear from the interventions made that a number of countries had reservations regarding further expansion of access to information, some attributing this to a concern that it could lead to outside influence. Based on this, the co-sponsors recommend that this topic/issue not be included in the terms of reference of the Working Group.

Number of Council Members

7 As noted in document C 120/4/5, the Council's current categories were defined by the 1964 amendments to the Convention on the Intergovernmental Maritime Consultative Organization, the predecessor of IMO. In 1993, additional amendments were introduced, expanding the membership of the Council from 32 to 40 Member States. These amendments entered into force on 7 November 2002, nearly 10 years after they were initiated.

8 At the 120th session of Council, many Members expressed their support for an expansion of Members, others voiced concerns over the ramifications of this action. Some Members clearly indicated that they believe the Council does not currently reflect a balance of shipping and geographical interests, while others raised concerns over decreased productivity.

9 Due to the vast amount of discussion around this topic at C 120, the co-sponsors recommend this topic is included in the terms of reference of the Working Group. We believe that this discussion would benefit from comparison with practices from other United Nations organizations in conjunction with an evaluation of the existing Council categories.

Council categories

10 During C 120, many countries raised concerns over existing categories and whether those categories are effective in ensuring balanced geographical and shipping interests on the Council. A discussion on the Council categories should be included in the terms of reference of the Working Group, as was supported by the majority at C 120.

The term lengths for Council Members

11 Another area identified in document C 120/4/5 and the following interventions was the length of Council terms. The co-sponsors are of the view that the length of terms of Council Members is intrinsically related with the scheduling of elections, campaign ethics and the rules governing elections. If changes are made regarding these aforementioned issues, it may be possible that the issue of term lengths is alleviated to a lesser degree. While term lengths were mentioned in two of the documents submitted to C 120, it was not widely addressed in the plenary. Due to the interrelation of these topics, the co-sponsors propose including term length as a term of reference for the Working Group to consider.

Rules and schedule for electing Members of the Council

12 At the thirtieth session of the Assembly, it was agreed to discontinue the practice of election by acclamation for uncontested categories. This change raised concerns regarding the steps to be taken should the Assembly fail to elect the required number of Member States to a particular category. As a result of this concern, the Secretariat presented the Council with document C 120/5/2 wherein they outlined proposed amendments to Rule 40 of the Rules of Procedure of the Assembly.

13 Several Council Members expressed concerns that the options provided by the Secretariat would leave little time for Member States to consult with their capitals regarding new candidacies that may emerge. To alleviate this concern it may be necessary to evaluate the schedule for elections. A discussion in the Working Group on the rules and schedule for elections may help to alleviate the concerns expressed. The co-sponsors therefore support including this matter in the terms of reference of the Working Group.

Policy regarding ethics and conduct related to campaigns

14 General concerns were expressed over the increasing number of receptions that are held with each successive election and the overall costs associated with election campaigns for the Council. In document C 120/5/1, the Secretary-General noted issues with election receptions and gifts, and referenced the recommendation of the Joint Inspection Unit for United Nations System to establish policies addressing ethical issues associated with elections. In light of these recommendations and due to the interventions at C 120 the co-sponsors agree that a discussion of campaign ethics and conduct should be included in the terms of reference of the Working Group.

The role of industry bodies

15 While the co-sponsors of document C 120/4/5 addressed this issue in their document, it is noted that there were minimal interventions in the subsequent plenary discussion supporting its inclusion. Industry bodies play an important role in providing technical advice, counsel and support to IMO. The guidelines for organizations to obtain consultative status may be in need of improvement. However, as demonstrated by the lack of support, the co-sponsors do not recommend this issue be included in the terms of reference of the Working Group.

The way forward

16 The number of reform issues presented during C 120 were considerable. While most of these topics have merit and would benefit from consideration by the Council, the co-sponsors are of the view that to include all issues in the terms of reference of the Working Group would be to the detriment of the Council's ability to provide considered recommendations to the thirty-first session of the Assembly. Accordingly, the co-sponsors propose the terms of reference as outlined in the annex of this document to assist the Council in the deliberations of Council reform.

Action requested of the Council

17 The Council is invited to consider the foregoing and endorse the Working Group on Council reform terms of reference as set out in the annex.

ANNEX

TERMS OF REFERENCE

The Working Group on Council Reform, taking into consideration documents C 120/4/5, C 120/5/1, C 120/5/2 (and other submitted documents) and comments made in plenary, shall:

- 1 consider the need for changes to the IMO Council and in particular, the following:
 - .1 number of Council Members;
 - .2 structure of Council and categories of Members; and
 - .3 term length for Council Members.
- 2 consider the following items associated with electing Council Members:
 - .1 the need to amend the rules for voting Members on the Council and the schedule during the Assembly when the Council elections will be held; and
 - .2 the need to establish an IMO policy governing ethical conduct, including promises, favours, invitations, gifts, etc., related to campaigns in the run up to elections; and
- 3 be open to all IMO Member States and accredited observers.
