

## Possible Questions Relating to the Rules and Procedures for Election of the Director General

The present document is prepared by the IOM Department of Legal Affairs to address possible questions that may arise in relation to the rules and procedures for the election of the Director General and to present information regarding the implementation of these rules and procedures from past elections of the Director General and the Deputy Director General, when the latter position was also subject to elections.

### A. GENERAL

#### 1. Where can the rules and procedures for the election of the Director General be found?

The rules and procedures for the election of the Director General in May 2023 are set out in the [IOM Constitution](#) and [the Rules of Procedure of the Council](#). Additional elements are set out in [C/113/INF/2](#), which contains the “additional elements” set out in MC/2236/Rev.1, as adopted by the Council in 2007, and elements of the “decisions taken at the ambassadorial level briefing held on 16 May 2008 on pending matters”.

#### 2. When is the deadline for presenting candidatures to the post of Director General?

Paragraph 11 of C/113/INF/2 states that the “[c]andidatures to the post of Director General shall be received by the Chairperson of the Council no later than two months prior to the date of the special session of the Council called for the election.”

The first day of the special session of the Council is 15 May 2023. The deadline for presenting candidatures is 15 March 2023.

#### 3. When will the official list of candidatures be communicated to Member States?

Paragraph 12 of C/113/INF/2 states that “eight weeks prior to the special session of the Council, the Bureau of the Council shall communicate the official list to the Member States.”

The official list of candidates to the post of Director General will be communicated on 20 March 2023.

#### 4. Which States will have the right to vote for the Director General?

Article 7, paragraph 3, of the IOM Constitution states that “[e]ach Member State shall have one vote in the Council”. Moreover, Article 4, paragraph 1, of the IOM Constitution provides that:

“A Member State which is in arrears in the payment of its financial contributions to the Organization shall have no right to vote if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two years. However, the loss of voting rights shall become effective one year after the Council

has been informed that the member concerned is in arrears to an extent entailing the loss of voting rights, if at that time the Member State is still in arrears to the said extent. The Council may nevertheless, by a simple majority vote, maintain or restore the right to vote of such a Member State if it is satisfied that the failure to pay is due to conditions beyond the control of the Member State.”

All Member States have the right to vote for the Director General unless they have lost their right to vote pursuant to Article 4 of the IOM Constitution. The “Status report on outstanding contributions to the Administrative Part of the Budget and Member State voting rights” will be issued and circulated to Member States prior to the special session of the Council. The report will list the Member States that have lost their right to vote pursuant to Article 4 of the IOM Constitution and any updates will be announced at the beginning of the special session.

#### **5. Who will have the right to cast a vote on behalf of a Member State?**

Rule 9 of the Rules of Procedure of the Council states that a “formal communication from a Member State to the Director General announcing the names of its representatives and any alternates and advisers shall be deemed sufficient credentials”.

The practice of the Organization has been to require the communication to be in writing and signed. The individuals who will have the right to cast a vote on behalf of a Member State will be those who are listed in the formal communication as representing the Member State.

Designating a representative of one Member State to vote on behalf of another Member State (“voting by proxy”) is not provided for in the Rules of Procedure of the Council. In previous discussions on the issue of proxy voting, the Council Bureau reportedly decided that specific procedures for proxy voting need to be approved by the Council. In the 2018 and 2019 elections for the Director General and the Deputy Director General, individual Member States were informed, upon inquiry, that proxy voting would require approval by the Council. In the absence of specific Council approval to date and in view of the past practice, voting by proxy will not be permitted in the 2023 election for the Director General.

#### **6. What is the deadline for Member States sending formal communications for registration for the special session of the Council?**

Member States will be requested to send a formal communication by email to [iomcr@iom.int](mailto:iomcr@iom.int), by Tuesday, 9 May 2023. Registrations received after the Chairperson has opened the special session of the Council will not be accepted.

#### **7. Will voting on-line be permitted?**

Paragraph 18(b) of C/113/INF/2 states that the “ballot box shall be placed on the podium in front of the Chairperson and delegates shall come to the podium to cast their vote”.

As delegates are required to cast their respective vote in the ballot box on the podium, voting on-line will not be permitted.

## B. CONDUCT OF ELECTIONS

### 8. If there are only two candidates when the voting begins, when is one candidate removed?

The rule in paragraph 15(a) of C/113/INF/2 states as follows:

“When there is plurality of candidates, and until such time as the Council adopts a more detailed regulation, the following rule will apply: There will be as many ballots as necessary until a candidate has obtained the required two-thirds majority. If there is a need to go to a fourth ballot because no candidate has obtained by then the majority required, the candidate having obtained the smallest number of votes shall be removed from the next ballot. When only two candidates remain on the ballot and the candidate having obtained the greater number of votes has obtained the absolute majority but not the required two-thirds majority, that candidate alone will be put on the last ballot, unless the Council agrees to an election by consensus/acclamation in favour of that candidate. However, the whole electoral process shall begin anew if that candidate withdraws or does not obtain the required two-thirds majority on the last ballot.”

The rule in paragraph 15(a) of C/113/INF/2 describes a series of steps to arrive at a single candidate and is set out in four sentences which are to be read together.

- The first sentence establishes a general rule that there will be as many ballots as necessary until a candidate has obtained the required two-thirds majority.
- The second sentence establishes that a candidate is not removed until the fourth ballot.
- The third sentence establishes that when only two candidates remain, the candidate with the greater number of votes is considered elected when one of three conditions are met – (a) that candidate has already obtained the two-thirds majority; (b) that candidate is placed on a subsequent ballot and obtains the two-thirds majority; or (c) the Council agrees to an election by consensus/acclamation in favour of that candidate and no further ballot is needed.
- The fourth sentence establishes that if the ballots do not result in the election of a candidate, the whole electoral process begins anew.

In the 2009 elections for the Deputy Director General, two candidates withdrew after the first ballot, and there remained two candidates on the second ballot. After neither candidate obtained the required two-thirds majority, one candidate was removed and only one candidate was placed on the third ballot. In the 2018 elections for the Director General, there were three candidates on the first ballot. In briefing the Council, the Legal Counsel explained that a consequence of the rule was that “if a candidate withdraws after the first ballot for instance, ballots two and three will continue with two candidates and then when you get to four, the candidate with the lowest number will be removed and only the other one would remain on the ballot”.

In view of the foregoing, if there are two candidates when the voting begins in the 2023 election for the Director General, the removal of one candidate will only occur once there is a need to go to a fourth ballot.

### **9. What happens if there are two candidates and they receive an equal number of votes on the third ballot?**

If there are two candidates and they receive an equal number of votes on the third ballot, then the condition for removing one candidate is not met. There is no candidate who receives the smallest number of votes. Therefore, the rule in the first sentence in paragraph 15(a) of C/113/INF/2 on the conduct of “many ballots as necessary until a candidate has obtained the required two-thirds majority” would continue to apply.

## **C. COUNTING OF VOTES**

### **10. When is a vote valid?**

Article 24, paragraph 3, of the IOM Constitution states that: “No vote shall be valid unless a majority of the members of the Council [...] are present.”

Currently there are 175 members of the Council. In order for a vote to be valid, 88 members must be present; in other words, 88 members must register for the special session.

### **11. When is a vote void?**

Rule 38, paragraph 5, of the Rules of Procedure of the Council states: “If the total number of votes cast is less than half the number of the members present, the vote shall be void.”

For example, if 155 members are present, that is, 155 members register for the special session, then the vote will be void if only 77 votes are cast because 77 is less than one half of 155. Abstentions and invalid votes will not be included calculating the total of votes cast.

### **12. What is the majority required for the election of the Director General?**

Article 13, paragraph 1, of the IOM Constitution states that: “The Director General shall be elected by a two-thirds majority vote of the Council”.

### **13. How is the two-thirds majority vote calculated?**

The relevant rules in the IOM Constitution and Rules of Procedure of the Council are as follows:

- Article 24, paragraph 2, of the IOM Constitution states that: “Majorities provided for in this Constitution or rules made by the Council shall refer to members present and voting.”
- Rule 38, paragraph 4, of the Rules of Procedure of the Council states that: “For the purpose of these Rules, the phrase ‘members present and voting’ means members casting an affirmative or negative vote. Members which abstain from voting are considered as not voting.”

From the votes cast in the ballot box, the number of invalid ballots and abstentions will be subtracted to arrive at the number of Members present and voting.

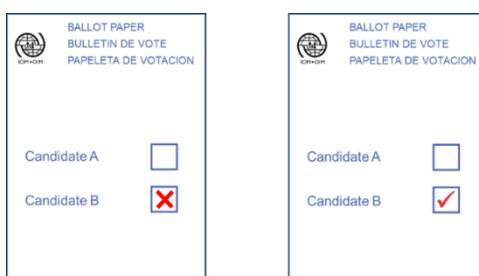
**For example:**

Number of ballot papers submitted	155
Number of invalid ballots	2
Number of valid ballots	153
Number of abstentions	3
Number of Members present and voting	150
Required majority	100

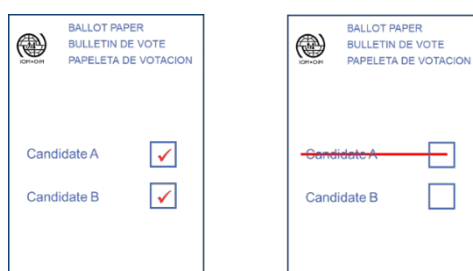
**14. What is a valid ballot?**

Paragraph 18(a) of C/113/INF/2 provides that “To vote for a candidate, delegations shall put an ‘X’ or a tick in a box across from the name of the candidate for whom they vote, so that there is no doubt as to the intention of the voters.”

A valid ballot is a ballot with an ‘X’ or a tick (✓) in the box for only one candidate.



Examples of invalid ballots include a ballot that has an ‘X’ or a tick in the box of more than one candidate or a ballot that crosses out a candidate.



**15. How is a blank ballot treated?**

A blank ballot is treated as an abstention. As an abstention, a blank ballot is not included in calculating the number of Members “present and voting”.