

#### 5.4 Draft MoU with China

Input paper LAP15.5.4.1 was introduced.

The LAP considered the new text submitted by China. The main amendment compared to the previous draft was about observer status at IALA when IGO and the participation of Taiwan in IALA's important activities.

Some representatives suggested that there might be a need for a clarification of Organizations from Taiwan and Taiwanese individuals. The latter should still be able to be called upon when expertise on specific subjects does not exist within the IGO.

The meeting first recognized that the One China policy is a UN policy for all international governmental organizations, and came to the conclusion that the application of the One China policy should be mentioned in an as concise way as possible, as done by other IGOs. It was recognized that the One China Policy should not pose a problem if the Contracting Parties are UN members only but uncertainty remains with regards to associate and affiliate members.

The representative of Japan was of the opinion that the issue should not be debated at LAP, the members of which are not in a position to discuss such a highly diplomatic issue. The reservation thus expressed by Japan Coast Guard was duly recorded.

The representative of China provided that it was Council 57 that tasked the LAP to prepare a draft MoU and report to Council.

**Action item 13:** *The Secretariat and China to work together on an appropriate solution to Taiwan Issue at IALA and to present an input paper to Council based on examples of other similar MoUs and other agreements, with the current proposed MoU as an annex.*

#### 5.5 Input to CoS

LAP15 will forward the revised draft Convention text, as amended after completion of action items 6 to 10, which then will be forwarded to CoS2 as an input paper.

**Action item 14:** *The Secretariat to finalize the draft Convention text and forward it to CoS2.*

### 6 IALA Basic Documents

Input paper LAP15-6.1 refers. LAP focused on the revision of Article 10 of the Financial Regulations for which a slightly amended text was proposed.

They however went through the whole document making further amendments, which are reflected in output paper LAP15-20.3 that also contains comments on the changes made.

**Action item 15:** *PAP to look into Rules and Procedures for Committees and Terms of Reference with a view to have them integrated into the Basic Documents and approved by Council 61, and going into force.*

### 7 Review of IALA Constitution

Input paper LAP15-7.1 refers.

**Action item 16:** *The Secretariat to add a reference to the Basic Documents in the ongoing revised draft Constitution.*

### 8 IALA Standards

LAP looked at input papers LAP15-8.1 to LAP15-8.4.

The Deputy Secretary General reported briefly on the Council decision about the implementation of IALA standards and the pyramid structure for IALA documentation.

**Memorandum of Understanding**  
**between**  
**the Ministry of Transport of the People's Republic of China**  
**and**  
**the International Organization for Marine Aids to**  
**Navigation**

The Ministry of Transport (MOT) of the People's Republic of China (PRC) and the International Organization for Marine Aids to Navigation (IALA), with regard to the change of legal status of IALA for the benefit of the development of world marine aids to navigation in general, have agreed to the following principles:

1. As a result of IALA's transformation from a non-governmental organization to an intergovernmental organization, its membership covers both country members and non-country members.
2. IALA, as an intergovernmental organization, acknowledges and follows the position and policy of the government of the People's Republic of China (PRC) in regard to the "One China Principle" regarding Chinese Taiwan.
3. In keeping with the "One China Principle", among IALA members PRC shall be the country member as a sovereign state, represented by the Maritime Safety Administration of the PRC (China MSA) under MOT, and shall be referred to by the designation of "China". In no cases shall Chinese Taiwan become any form of IALA member without the prior authorization of MOT. Similarly, no individuals, organizations or institutions of Chinese Taiwan shall be allowed to become any form of IALA member without the due authorization of MOT.

4. In no cases shall Chinese Taiwan become an observer of IALA without the prior consent of MOT. No individuals, organizations or institutions of Chinese Taiwan shall be allowed to become observer of IALA without due authorization of MOT.
5. To follow the "One China Principle", nothing bearing the symbol of Chinese Taiwan (such as flag, card, emblem and anthem) or any expression which may give rise to the interpretation of "Two Chinas" or "One China, One Taiwan", shall be used in conjunction with IALA activities, publications or websites.
6. Prior consent shall be obtained from MOT should any candidates from Chinese Taiwan are to assume important positions of IALA, or any activities of IALA are to be held in Chinese Taiwan.

This Memorandum of Understanding (MOU) is signed on \*\*\*in \*\*\*, and becomes effective from the date of its signature. The MOU is established in duplicate in the English and Chinese language, each text being equally authentic.

Authorized signature:

Authorized Signature:

For and on Behalf of IALA

For and on Behalf of MOT

*Action item 5*

*The Secretariat (Francis Zachariae) to get clarification from the IMC regarding the clause on participation in industrial exhibitions at IALA Conferences.*

**7.2 One China Policy**

Input paper LAP16-7.2.1 refers.

LAP was of the opinion that the issue would be better addressed by the means of a General Assembly Resolution rather than a MoU.

*Action item 6*

*The Secretariat (Marie-Hélène Grillet) to forward the draft General Assembly Resolution to the Council for noting.*

**7.3 Draft Convention text as approved by Council 61**

The input LAP16-7.3.1 was noted with no particular comments.

**7.4 Input to CoS Advisory Group**

As reported under 7. input papers to the CoS would be sent by correspondence, as follows:

- Draft General Regulations including Financial Regulations
- Updated action plan
- Updated project risk register.

*Action item 7*

*The Secretariat (Francis Zachariae) to forward to CoS the draft General Regulations including Financial Regulations; the updated action plan; and the updated project risk register.*

**8. REVIEW OF IALA CONSTITUTION**

Input paper LAP16-8.1 was reviewed as an ongoing task for LAP.

It was noted that the draft amended IALA Constitution should be sent to the 64<sup>th</sup> session of the Council after its final review by LAP18.

**9. PATENT POLICY**

Secretary-General Francis Zachariae reported that he was to meet with a lawyer during the week following LAP.

**10. DATA PROTECTION**

**10.1 Record retention**

Input paper LAP16-10.1 was slightly amended and the Secretariat was requested to apply it as part of the Secretariat procedures.

*Action item 8*

*The Secretariat (Francis Zachariae) to apply the IALA Record Retention Policy and Procedure as part of the Secretariat procedures.*

**10.2 Data protection**

Input paper LAP16-10.2 was slightly amended and the Secretariat was requested to apply it as part of the Secretariat procedures.



**Action item:**

*The Council invited LAP and the ENAV Committee to work together with the aim of developing guidance on AIS data when they are to be used as evidence at court cases.*

### **12.1.3. One China Policy – Draft GA Resolution text**

Input paper C62-12.4 refers.

Secretary-General Francis Zachariae recalled that the draft General Assembly Resolution was intended for IALA as an IGO and the present Council was not requested to approve it for the current IALA.

The Council was originally requested to develop a MoU but after many discussions at LAP this was found difficult to achieve and the decision was to turn to a General Assembly Resolution based on the format used by almost all other IGOs. A draft was produced by LAP that will need to be considered by China.

The Councillor for Japan was of the opinion that it is not appropriate to consider or discuss this issue at the present IALA Council. The status of the membership of the new IALA as Inter-Governmental Organization should be based on the relevant provisions of the Convention as international agreement and the interpretation of the Contracting Parties. The draft Resolution discussed at the present IALA Council meeting would not be able to bind the intention or determination of the States at the future diplomatic meeting.

The Council **agreed, with an abstention of Japan that a GA Resolution is the best way to proceed** and noted the draft resolution text and the comment by Japan.

## **12.2. Risk Management Tool**

Secretary-General Francis Zachariae updated the Council with the latest developments regarding the IALA Risk Management Tool, which is now within the ARM Committee (see section 11.1 above).

The Council **noted** the information provided.

## **12.3. IALA-NET**

Secretary-General Francis Zachariae reported that the future of IALA-NET was discussed at the Strategy Group (refer to Annex C). Its value for providing historical data for risk analysis should not be lost. There were possibilities that IWRAP would become open-source in the medium term with the opportunity for academia and others to improve it further.

The Council **noted** the information provided.

## **12.4. Heritage Forum**

Technical Operations Manager Marie-Hélène Grillet reported that the purpose of the Forum was to attract interest and participation from specialized experts external to IALA, most technical activities related to historic lighthouses being already dealt with by the ENG Committee. However, it had proved difficult to maintain such specialized interest at the level required to ensure regular participation. Another difficulty experienced was the lack of valuable candidate to chair the Forum after the retirement of Bob McIntosh.

Another aspect that made difficult regular meetings of the Forum was the lack of future aims. The Forum, through its preceding group PHL had done a tremendous work towards the preservation of historic lighthouses and maritime history with the development of guidance that is now recognized world-wide and integrated in the Model Courses of the Academy.

Under these circumstances it had been agreed to reintegrate the technical works on historic lighthouses into a devoted Working Group within the ENG Committee but keep the Forum alive to host Seminars for which specialist expertise is needed, the subjects for such Seminar being identified by the ENG Committee.

Many comments followed this presentation, recognizing that preservation is mostly a national issue involving authorities other than aids to navigation. However, further initiatives from IALA would still be welcome with a

JUNE 2016



## **Draft General Assembly (new IALA) Resolution Text**

**Resolution A. ....**  
**Adopted on ...**

### **Representation of China**

THE GENERAL ASSEMBLY,

CONSIDERING that the United Nations General Assembly by Resolution No. 2758 (XXVI) recognized the representation of the Government of the People's Republic of China as the only legitimate representatives of China to the United Nations,

CONVINCED that participation of the Government of the People's Republic of China would be beneficial for the successful work of the International Organization for Marine Aids to Navigation (IALA),

1. DECIDES to recognize the representatives of the Government of the People's Republic of China as the only lawful representatives of China to IALA ;
2. Requests the Council to communicate the foregoing decision to the People's Republic of China and to all Contracting States and members of IALA.