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Explanatory note on the draft IALA Convention

This note briefly explains the background to the decision of the International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA) to change its status from a non-governmental organization to an intergovernmental organization (IGO) and provides an update on the work in progress to prepare for the adoption of a new international treaty instrument on IALA as an IGO.

About IALA

IALA was established in 1957 as a consultative technical organization. It is recognized worldwide as the peak organization responsible for coordinating the continuous improvement and harmonization of marine aids to navigation and related services to the benefit of safety of navigation, efficiency of shipping traffic and protection of the environment. It aims to fulfil its responsibilities by encouraging and facilitating the adoption of the highest practicable standards in matters concerning marine aids to navigation and through international cooperation and the exchange of information among governments and intergovernmental organizations. Since 1961, IALA has enjoyed consultative status at the International Maritime Organization (IMO), the United Nations specialized agency with global responsibility for the safety and security of international shipping and the prevention of pollution by ships.

IALA is a not-for-profit international association established under French law and governed by a General Assembly, while its Council is the executive body. The IALA Council consists of 24 National Members among which three are non-elected, one of them being, by virtue of the IALA Constitution, the authority legally responsible for aids to marine navigation in France. Currently, IALA has National Members (government agencies and competent authorities) from 83 countries, 59 Associate Members (other concerned government agencies and organizations), 130 Industrial Members (mainly equipment manufacturers and service providers), and Honorary Members.

IALA conducts its technical work through a number of expert committees, which principally cover four broad areas. In no particular order of priority, they are: Aids to navigation engineering and sustainability, Requirements for aids to navigation and their management, Vessel Traffic Service (VTS) and e-Navigation. The results of this work are widely disseminated for the benefit of the maritime community through IALA publications such as recommendations, guidelines, manuals and model courses.

It has become increasingly important, in the context of expanding maritime development in different parts of the world, to raise awareness among lesser developed countries of their coastal State obligations under international law. In particular, the IMO's International Convention for the Safety of Life At Sea (SOLAS) requires SOLAS Contracting Governments, under regulation V/13, to undertake to provide marine aids to navigation, and where appropriate VTS, "as the volume of traffic or the degree of risk justifies". It further requires them, when establishing such aids, and "in order to obtain the greatest possible uniformity in aids to navigation", to undertake "to take into account the international recommendations and guidelines", namely, "the appropriate recommendations and guidelines of IALA" and also its Maritime Buoyage System



(IMO Safety of Navigation Circular SN/Circ.107 refers). It is in this context that IALA assists countries, on their request, with training and capacity-building, including the recruitment and training of a cadre of competent personnel in the appropriate disciplines. To support these efforts, a decision was taken to establish the IALA World-Wide Academy, which was created in 2012 as an integral part of the parent organization but with independent funding.

The Academy's capacity development work is growing rapidly and is carried out jointly by IALA, the IMO and the International Hydrographic Organization (IHO) in the spirit of United Nations (UN) initiatives such as the 2030 Sustainable Development Agenda and "Delivering as One", aimed at enhancing cooperation between different UN agencies and other organizations.

IALA General Assembly resolution: achieving IGO status through a new IALA Convention

At its XIIth session held in La Coruna, Spain in May 2014, the IALA General Assembly adopted a resolution stating its firm belief that IGO status will best facilitate IALA's aims in the 21st century and determining that the new status should be achieved, as soon as possible, through the development of an international treaty instrument (GA Resolution A.01 of 27 May 2014).

The envisaged new "Convention on the International Organization for Marine Aids to Navigation" ("IALA Convention") will meet the requirements of the Vienna Convention for International Treaties and supersede, upon fulfilment of agreed entry-into-force requirements, the present IALA Constitution. It will be presented for adoption at a future diplomatic conference to be convened under the auspices of IALA. Upon adoption, it will be open for signature by all member States of the UN.

Smooth transition

The draft IALA Convention foresees in robust arrangements for a smooth transition. These will ensure that the activities of IALA's organs and its technical work in the area of marine aids to navigation will continue uninterrupted and that its responsibilities towards the maritime community will be undiminished and maintained with the customary high level of commitment and expertise.

The change of status will mark a major milestone in the life of IALA. However, it will not, in any way, change IALA's principal aim, which is, as stated in its present Constitution, "to foster the safe, economic and efficient movement of vessels". Under the new Convention, IALA will also remain a consultative technical organization.

Strengthening international cooperation

IALA has worked in close partnership with other international organizations for decades and wishes this collaboration to continue and grow. Elevating IALA's status to that of an IGO will make it a peer to organizations like the IMO, the International Telecommunication Union (ITU), the World Meteorological Organization (WMO) and the IHO, thereby strengthening existing cooperation. Furthermore, it will allow for a broader participation in IALA by States, at government level. This will assist IALA's aim to promote the greatest possible uniformity in aids to navigation, in the spirit of the SOLAS Convention.

Further in this regard, IALA is mindful of the United Nations Convention on the Law of the Sea (UNCLOS), which, under Article 266, requires States that are Parties to UNCLOS to cooperate "through competent international organizations" to promote the development and transfer of marine technology. IALA is already fully engaged with, and will continue to be dedicated to promoting technical cooperation on all



matters related to the development and transfer of expertise and technology in relation to marine aids to navigation. In this context, it is committed to keeping pace with emerging technologies, as appropriate, and working closely together with its Industrial Members around the world, as well as with national government agencies and marine aids to navigation authorities and other international and intergovernmental organizations.

IALA's objectives and activities as an IGO will continue to be complementary to those of its peer IGOs. By working together as partner IGOs – with the respective mandate, role, and responsibilities of each transparent, mutually supportive, and commonly accepted – they will work more effectively through better coordination and greater integration of standards. Any overlap or duplication would also be easier to avoid and the resulting creation of synergies would optimize available resources in the interests of the efficient movement of vessels, expeditious shipping traffic, maritime safety and protection of the environment.

The draft IALA Convention

The draft IALA Convention (attached in Annex) has been developed drawing on the principles and provisions of the present IALA Constitution and those of the conventions of sister organizations such as ITU, WMO and IHO. As regards the position of Industrial Members, the draft IALA Convention follows the approach of the Convention of the World Tourism Organization (UNTWO), which designates companies involved in the business of promoting tourism as Affiliate Members to ensure their inclusion as an important category of its membership. IALA's Industrial Members will thus be Affiliate Members of IALA as an IGO and this will ensure the continued, strong cohesion between aids to navigation authorities and providers that has always been important for the work of IALA.

The draft IALA Convention was finalized by the IALA Council at its 61st session held in Dakar, Senegal in December 2015. It is the result of two years of work involving consultations with National Members, input from a Working Group established by the IALA Council, as well as detailed advice from IALA's Legal Advisory Panel supported by independent legal expertise from outside IALA, as appropriate. The development of a set of new General Regulations, including financial regulations, is well advanced and their approval by the Council is envisaged during 2016. Meanwhile, the draft Headquarters Agreement needs to be finalized in cooperation with France's Ministry of Foreign Affairs.

The Government of the Republic of Korea has kindly offered to host, if appropriate, a Diplomatic Conference for formal adoption of the draft IALA Convention, which would be convened in conjunction with the next scheduled IALA Conference, to be held in Incheon in May 2018.

Conclusion

IALA firmly believes that IGO status will best support IALA's aims and activities into the future. It will benefit the Contracting Parties and Members, other International Organizations and their Member States, as well as the shipping industry by continuous improvement and enhanced harmonization of marine aids to navigation and related services to the benefit of safety of navigation, efficiency of shipping traffic and protection of the environment. The envisaged new IALA Convention will provide a fit-for-purpose international legal framework that ensures transparency and good governance, strengthens IALA's positions to work in close collaboration with Governments and other IGOs, and fosters its technical and consultative work as the leading international expert body concerned with marine aids to navigation and related services.



Annex - Draft Convention on the International Organization for Marine Aids to Navigation (IALA)

Preamble

The States party to this Convention, hereafter referred to as the Contracting Parties:

RECALLING that the International Association of Lighthouse Authorities was established on 1st July 1957 following a conference of national lighthouse authorities held in Scheveningen, Netherlands;

NOTING that the International Association of Lighthouse Authorities was renamed the International Association of Marine Aids to Navigation and Lighthouse Authorities by its General Assembly in Hamburg, Germany in 1998;

RECOGNISING the role of the International Association of Marine Aids to Navigation and Lighthouse Authorities in the improvement and continued harmonisation of marine aids to navigation for the safe, economic and efficient movement of vessels;

IN FURTHERANCE of the provisions of the United Nations Convention on the Law of the Sea, 1982 and the International Convention for the Safety of Life at Sea, 1974, as amended;

CONSIDERING that the International Association of Marine Aids to Navigation and Lighthouse Authorities is formed as an association under French law; and

CONSIDERING FURTHER that the Contracting Parties agree that the will of Governments to develop, improve and harmonise marine aids to navigation for the benefit of the maritime community and the protection of the environment is best coordinated by one responsible international organisation;

HAVE AGREED as follows:

Article 1

Establishment of the International Organization

1. The International Organization for Marine Aids to Navigation is hereby established as an international organization and shall be known as IALA (hereinafter 'the Organization').
2. The Organization shall have its seat in France unless otherwise decided by the General Assembly.
3. The official languages of the Organization shall be English, French and Spanish. The working language of the Organization shall be English and French.
4. The operation of the Organization shall be as set out in the General Regulations.ⁱ

Article 2

Aims

1. The Organization shall have a consultative and technical nature.
2. The aims of the Organization are to:



- (a) foster the safe and efficient movement of vessels through the improvement and harmonisation of marine aids to navigation worldwide and by other appropriate means;
 - (b) bring together governments, services and organisations concerned with the regulation, provision, maintenance or operation of marine aids to navigation and allied activities;
 - (c) promote access to technical cooperation on all matters related to development and transfer of expertise, science and technology in relation to marine aids to navigation;
 - (d) encourage and facilitate the general adoption of the highest practicable standards in matters concerning marine aids to navigation; and
 - (e) provide for the exchange of information among governments and intergovernmental organizations on matters under consideration by the Organization.
3. For the purposes of this Convention the term 'marine aids to navigation' means a device, system or service, external to a vessel, designed and operated to enhance safe and efficient navigation of all vessels and/or vessel traffic.

Article 3

Functions of the Organization

The functions of the Organization, to achieve the aims referred to in Article 2, are to:

- (a) provide standards, recommendations, guidelines and manuals or other suitable instruments and to commend these to governments, intergovernmental organizations and members as appropriate;
- (b) consider and make recommendations on standards, recommendations, guidelines and other documents that may be remitted to it by members, by any organ or specialised agency of the United Nations or by any other intergovernmental organization;
- (c) provide mechanisms for consultation and exchange of information including about the activities of Contracting Parties, members and recent developments;
- (d) develop international cooperation by promoting close working relationships and assistance between its Contracting Parties and members;
- (e) facilitate assistance to governments, services and other organizations requesting help with marine aids to navigation, whether technical, organisational or training;
- (f) organise conferences, symposia, seminars, workshops and other events relevant to its work; and
- (g) liaise and cooperate with relevant intergovernmental, international and other organisations, offering specialised advice where appropriate.

Article 4

Membership

1. The Organization shall be comprised of Contracting Parties and members as described in Article 4.2.
2. Members shall include, and the General Regulation may make provision for all matters related to, associateⁱⁱ and affiliateⁱⁱⁱ members.
3. Any Contracting Party may claim Associate membership for a territory or group of territories for which it has responsibility and which is legally responsible for the regulation, provision, maintenance and/or operation of marine aids to navigation, by notification in writing to the Secretary-General of the Organization.
4. Each Contracting Party shall pay a contribution^{iv} to the Organization on an annual basis in the amount determined in accordance with in Article 7.6 (e) and Article 10.
5. Contracting Party contributions and member fees shall be due and payable in accordance with the General Regulations.



6. Failure to make a contribution when such payment becomes due may result in the Contracting Party being charged interest, the rate of which will be determined by the Council.
7. Any Contracting Party which is two years in arrears in making contributions shall, after notification, be denied the rights and benefits conferred on Contracting Parties by this Convention until such time as the outstanding contributions have been paid.
8. No Contracting Party or member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.

Article 5

Structure of the Organization

1. The Organization shall have as its organs:
 - (a) the General Assembly;
 - (b) the Council;
 - (c) Committees and other subsidiary bodies necessary to support the Organization's activities; and
 - (d) the Secretariat.
2. There shall be a President and a Vice President of the Organization elected in accordance with Article 7.
3. Where decisions of the General Assembly or the Council cannot be reached by consensus, the following provisions shall apply:
 - (a) Only Contracting Parties have voting rights, which will be executed by the representative designated by each Contracting Party;
 - (b) Except where otherwise specified, decisions are taken on a simple majority of the votes cast.
4. The General Regulations shall detail the Rules of Procedure that will apply for each organ.

Article 6

The General Assembly

1. The General Assembly is the principal decision-making organ of the Organization and attendance shall be open to all Contracting Parties and members.
2. Each Contracting Party shall designate one of its delegates, preferably the head of a national authority legally responsible for the regulation, provision, maintenance or operation of marine aids to navigation, or his or her representative, as its principal delegate at the General Assembly.
3. Regular sessions of the General Assembly shall take place at least once every four years.
4. Extraordinary sessions shall be convened whenever one third of the Contracting Parties give notice to the Secretary-General that they desire a session to be arranged, or at any time if deemed necessary by the Council, after a notice of ninety days.
5. A majority of the Contracting Parties excluding any Contracting Party denied by Article 4.7 the rights and benefits conferred on Contracting Parties, shall constitute a quorum for the sessions of the General Assembly.
6. The General Assembly shall be chaired by the President or the Vice President and operate in accordance with this Convention and the General Regulations.
7. The General Assembly shall:
 - (a) Decide the overall policy and the strategic vision of the Organization;
 - (b) Determine the General Regulations of the Organization and the rules of procedure of the General Assembly, Council, Committees and other subsidiary bodies of the Organization;
 - (c) Elect the Council in accordance with Article 7;
 - (d) Determine and review the financial arrangements of the Organization;



- (e) Consider the reports and proposals put to it by any Contracting Party, the Council or the Secretary-General;
- (f) Adopt standards;
- (g) Make recommendations to Contracting Parties and members on matters within the scope of the Organization;
- (h) Decide on any other matters within the scope of the Organization; and
- (i) Delegate, where appropriate and necessary, responsibilities to the Council.

Article 7

The Council

1. The Council is the executive organ of the Organization and shall be responsible for directing the activities of the Organization.
2. The Council shall consist of up to twenty three (23) Councillors elected from amongst the Contracting Parties and one (1) non-elected Councillor.
3. Elected Councillors shall be elected by ballot by the General Assembly in accordance with the General Regulations.
4. The Contracting Party of the State in which the seat of the Organization is located ("Host Nation") shall be the non-elected Councillor.
5. At the Council Contracting Parties shall preferably be represented by the head of a national authority legally responsible for the regulation, provision, maintenance or operation of marine aids to navigation of that Contracting Party, or his or her representative.
6. The Council shall:
 - (a) Elect the President and the Vice President from amongst its members;
 - (b) Exercise such responsibilities as may be delegated to it by the General Assembly;
 - (c) Coordinate the activities of the Organization within the framework of the overall policy, the strategic vision and the budget estimates, as decided by the General Assembly;
 - (d) Approve the annual budget and accounts and the annual report;
 - (e) Determine the rate of contributions for Contracting Parties and members;
 - (f) Convene the General Assembly;
 - (g) Report to the General Assembly on the work of the Organization;
 - (h) Appoint a Secretary-General in accordance with the General Regulations;
 - (i) Review proposals submitted to it in accordance with the General Regulations;
 - (j) Refer to the General Assembly all matters requiring decision by the General Assembly;
 - (k) Approve recommendations, guidelines, manuals and other appropriate papers;
 - (l) Approve submissions to other organizations;
 - (m) Determine the terms of reference for committees and other subsidiary bodies;
 - (n) Approve and review the work programmes of the Committees; and
 - (o) Decide the venue and the year of the Organization's Conferences and symposia as described in the General Regulations.

Article 8

Committees and Other Subsidiary Bodies

Committees and other subsidiary bodies may be established by the General Assembly or the Council to support the endeavours of the Organization and shall operate in accordance with this Convention and the General Regulations.



Article 9 Secretariat

1. The permanent Secretariat of the Organization shall be comprised of the Secretary-General and such technical and administrative staff as may be required for the work of the Organization.
 - (a) The Secretary-General shall be appointed for a term of four years and may be reappointed for one additional term not exceeding four years;
 - (b) The Secretary-General shall be responsible for the day to day management of the Organization, subject to any guidance issued by the Council or the General Assembly;
2. The staff of the Secretariat shall be appointed by the Secretary-General on such terms and to perform such duties as the Secretary-General may determine.
3. The Secretariat shall:
 - (a) Maintain all such records as may be necessary for the efficient discharge of the work of the Organization and shall prepare, collect, and circulate any documentation that may be required;
 - (b) Manage the Organization's finances under the direction of the Council, in accordance with the General Regulations;
 - (c) Prepare the annual budget and accounts for submission to the Council;
 - (d) Keep Contracting Parties and members informed with respect to the activities of the Organization;
 - (e) Organize and support meetings of the General Assembly, the Council and Committees and other subsidiary bodies;
 - (f) Organize conferences and symposia, seminars, workshops and other events; and
 - (g) Perform such other tasks as may be assigned by the Convention, the General Regulations, the General Assembly or the Council.

Article 10 Funding and Expenditure

1. The expenditure available for the functioning of the Organization shall meet the amount of financial resources provided by:
 - (a) Contracting Party contributions;
 - (b) member annual fees;
 - (c) donations, bequests, grants, gifts; and
 - (d) other sources approved by the Secretary-General.
2. The budget estimates and the financial statements on the accounts of the Organization shall be approved by the Council.
3. Following the Council's approval of the Organization's audited financial statements those statements shall be distributed to all Contracting Parties and members by the Secretariat.

Article 11 Legal Personality, Privileges and Immunities

1. The Organization has international legal personality and has the capacity to:
 - (a) contract;
 - (b) acquire and dispose of immovable and movable property; and
 - (c) institute legal proceedings.
2. Subject to the agreement of each Contracting Party, the Organization shall enjoy in the territory of the Contracting Party such privileges and immunities as may be necessary for the fulfilment of its aim and for the exercise of its functions. In the territory of any state which is party to the



Convention on the Privileges and Immunities of the Specialized Agencies adopted by the General Assembly of the United Nations on 21 November 1947, such legal capacity, privileges and immunities shall be those defined in the said Convention.

3. The Organization may cooperate with governments, organisations and other bodies, and conclude agreements with them.

Article 12

Amendments

1. Any Contracting Party may propose an amendment to this Convention, in writing, to [the Government of France, in its role as] the Depositary.
2. The Depositary [Government of France] shall circulate the amendment proposal to all Contracting Parties and the Secretary-General at least six months in advance of its consideration by the General Assembly.
3. The proposed amendment shall be accepted by vote of the General Assembly upon approval by a two-thirds majority of Contracting Parties present and voting, excluding Contracting Parties denied by Article 4.7.
4. Any amendment adopted in accordance with Article 12.3 shall be notified by the Depositary [Government of France] to all Contracting Parties and the Secretary General. The amendment shall be deemed to have been accepted at the end of a period of twelve months after the date of notification, unless within that period not less than one-fourth of the States that were Contracting Parties at the time of the adoption of the amendment have communicated to the Depositary that they do not accept the amendment, in which case the amendment is rejected and shall have no effect.
5. An amendment deemed to have been accepted in accordance with Article 12.4 shall enter into force six months after its acceptance.

Article 13

Interpretation and Disputes

Any question or dispute concerning the interpretation or application of the present Convention arising between or amongst Contracting Parties which is not settled through consultation or negotiation or by the good offices of the Council may be referred to a panel of three independent arbitrators appointed by the Secretary-General of the Permanent Court of Arbitration, unless the parties to the dispute agree upon another mode of settlement.

Article 14

Signature, Ratification and Accession

1. This Convention shall open for signature by Members of the United Nations at [xxx] and remain open until [xxx].
2. This Convention is subject to ratification, acceptance or approval by the signatory States.
3. This Convention shall be open for accession by any Member of the United Nations which has not signed the Convention from the day after the date on which the Convention closes for signature.
4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary [Government of France], who shall then notify each Contracting Party and the Secretary-General thereof.
5. Ratification, acceptance, or approval of, or accession to, this Convention shall be without reservation.



Article 15

Entry into Force

1. The present Convention shall enter into force on the thirtieth day after the date of deposit of the 30th^v instrument of ratification, acceptance, approval or accession.
2. For each State ratifying, accepting, approving or acceding to the Convention after its entry into force the Convention shall enter into force on the thirtieth day after the deposit of its instrument of ratification, acceptance, approval or accession.

Article 16

Withdrawal

1. Any Contracting Party may withdraw from this Convention by giving at least twelve month written notice to the Depositary [Government of France], who will immediately inform all Contracting Parties of such notification.
2. Notification of withdrawal may be given at any time after the expiration of twelve months from the date on which the Convention has come into force.
3. The withdrawal shall take effect on 31 December following the expiration of the notice.

Article 17

Termination

1. This Convention may be terminated by decision of the General Assembly upon a two-thirds majority of Contracting Parties present and voting, excluding any Contracting Party denied by Article 4.7 the rights and benefits conferred on Contracting Parties.
2. The date of termination will be twelve months after the date of the above decision and in the intervening period the Council shall be responsible for the winding up of the Organization in accordance with the General Regulations.

Article 18

Transitional Arrangements

1. Upon the entry into force of this Convention all National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities, who are not Contracting Parties, shall, with the approval of the Council and subject to their agreement, become Associate members of the Organization.
2. Upon the entry into force of this Convention all parties holding financial, non-suspended status as an associate member or industrial member of the International Association of Marine Aids to Navigation and Lighthouse Authorities, shall, with the approval of the Council and subject to their agreement become Affiliate members of the Organization, in accordance with the General Regulations.
3. Upon the entry into force of this Convention the Council of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional Council of the Organization and will operate as such until the first General Assembly convened under this Convention, which must be within a period not exceeding six (6) months.
4. For the duration of the transitional Council Associate members will be permitted to engage in the work of the Council for the benefit of the Organization.
5. The Committees of the International Association of the Marine Aids to Navigation and Lighthouse Authorities shall become the transitional Committees of the Organization and will operate until the equivalent Committees are established under this Convention.



6. In the event that a State which has Associate membership becomes a Contracting Party the Associate membership will cease on the date on which the Convention enters into force for that State. In the case of a Contracting Party having more than one Associate membership that Contracting Party may decide to retain Associate memberships.
7. After the entry into force of this Convention the transitional Council shall initiate negotiations with the International Association of Marine Aids to Navigation and Lighthouse Authorities on the transfer of the latter's activities, records, documents, publications, archives, rights, interests, funds, assets and liabilities to the Organization.
8. Until such time as the Secretariat of the Organization has been established the secretariat of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall serve as, and perform the functions of, the Secretariat. The Secretary-General of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall serve as the Secretary-General of the Organization until the Council appoints the Secretary-General in accordance with Article 7.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed the present Convention.

DONE at [xxx] on [xxx] in the English, French and Spanish languages, each text being equally authentic, the original of which shall be deposited in the archives of the [Government of France] Depositary. The Depositary [Government of France] shall transmit certified copies thereof to all the [signatory and acceding] Governments and to the Secretary-General of the Organization.

ⁱ General Regulations will include Financial Regulations.

ⁱⁱ Associate members are territories or groups of territories and current IALA national members transferred in accordance with Article 18.

ⁱⁱⁱ Affiliate members are associate and industrial members of the current IALA.

^{iv} Contributions to be according to the principle of equal sharing, which will be specified in the General Regulations.

^v 30 signatures have been proposed in order to have enough members to elect and form a Council of up to 24 (23 + 1) members in accordance with article 7.2.