



## **8– Strategy and Policy**

### ***8.3– Change of Status***

#### 8.3.2 – Status on the transition arrangements

#### **8.3.2 – STATUS ON THE TRANSITION ARRANGEMENTS**

##### **Transitional Arrangements as foreseen in the Convention**

The Convention will enter into force 90 days after the 30th instrument of ratification, acceptance, approval or accession. Upon the entry into force, the first General Assembly of the IGO will need to take place within the first six months. This period is called the transition period.

The Secretariat has started the detailed preparation for the transition period between the start of the new organization, the termination of the present association and the first General Assembly of the new IGO. For this purpose and after advice from the LAP, the Secretariat has appointed a French law firm to provide legal assistance throughout the transition period and until the winding up of the Association is complete. The law firm will help with respect to the administrative formalities required by French law for the transfer of the rights, interests, assets and liabilities in favour of the new IGO.

Of special interest is the Annex to the Convention (Transitional Arrangements) and Article 13 to the Constitution of the present IALA describing the automatic termination of IALA as an association.

It is important to note, that upon entry into force of the Convention and until the first General Assembly of the IGO (maximum six month), the President, Vice President, the Council, the Secretary General, the Secretariat and the organs of the present IALA will execute the same roles in the IGO in accordance with the relevant articles of the Convention. This provision ensures that IALA will be able to continue its tasks during the transition period until the first General Assembly of the IGO will elect the first President, Vice President, the Council, the Secretary-General and all other relevant positions according to the Convention.

##### **USE OF THE GENERAL REGULATIONS MUTATIS MUTANTIS**

As part of the Basic Documents, IALA has developed the General Regulations including Financial Regulations. In the present IALA the General Regulations and the Financial Regulations shall be agreed and changed by the Council, but in accordance with the Convention the General Assembly will have to agree the General Regulations and Financial Regulations in the IGO.

As part of the Transitional Arrangements, it has been decided that the present General Regulations will be used mutatis mutandis in the period from the entry into force of the Convention and until new General Regulations have been agreed at the first General Assembly of the IGO.

Mutatis mutandis translates in legal terms to “with the necessary changes.” In the present situation this means mainly that the IGO will be governed according to the General Regulations of the



association until the IGO decides upon its General Regulations during the first General Assembly. Therefore, the technical work and every-day-business of IALA will continue as before.

In case there will be any specific legal problems coming up during this period about the interpretation of the General Regulations *mutatis mutandis*, the Secretariat will liaise with the LAP on a case-by-case basis to find solutions in a most pragmatic way to ensure a smooth transition.

#### DEVELOP THE DRAFT GENERAL REGULATIONS

In the beginning of the Change of Status project, the draft General Regulations were managed in the same way as the draft Convention. They were issued before each meeting and after comments by States they were negotiated at the meetings. This was given up as they were much too complicated to agree on and took too much time from the more important negotiation on the draft Convention. The last version of the draft General Regulations was issued as an input paper to the Diplomatic Conference in Kuala Lumpur in 2020.

By the generous invitation of Japan Coast Guard a Conference was convened 7 to 10 November 2023 with the purpose to develop the draft General Regulations and Financial Regulations ready to be presented to the first General Assembly of the IGO by the transition Council.

The Conference was very successful with almost 100 participants from 40 Countries. A draft text was agreed with only a few points left in square brackets for the General Assembly to decide on.

The draft General regulations is input paper 8.3.2.1 for information.

#### DEVELOPMENT OF NEW STAFF RULES

The transfer of staff members remains a priority and essential for the future of the Organization.

The transition of staff is subject to the provisions of the Convention, especially with regard to the entry into force and the transitional arrangements.

It is however important both to IALA and its staff members to guarantee a smooth transition process striving for continuity as far as possible under the existing circumstances.

For the transition of staff from the association to the IGO and before the closing of the old contracts and the signing of the contracts the Headquarters' Agreement (HQ Agreement) with the French Republic must be signed or approved.

Several rights of the staff members in the IGO are described in the HQ Agreement such as Immunities and privileges and Exemption from income tax for the salary.

For technical legal reasons the HQ Agreement between the Organization and the French Republic can only be signed when the IGO formally exists. This will be 90 days after the deposit of the 30th instrument.

The Staff Rules set out the fundamental conditions of service, namely the duties and obligations as well as the basic rights of the staff members and where applicable the non-permanent staff members of the Organization. They are subject to approval by the Council in conformity with Article 8.8 (m) of the Convention.

The Staff Rules are also integral parts of the new contracts for the staff members and are linked to the privileges granted by the French Government in the HQ. As a consequence, they can only be approved by the transitional Council after the signing of the HQ.

For the successful transition of the association to the IGO it is necessary to employ the staff members of the association as staff members of the IGO. The decision to sign a contract with the IGO lies solely with the staff member of the association.



It is in the interest of the Organization to conclude contracts based on templates which as much as possible have the same content for all staff members.

The basic salary will be based on the range indicated for each category and grade in the Annex to the Staff Rules and the individual qualifications and experiences of each staff member.

However for the staff transitioning from an the association to the IGO as they are technically new staff member of the IGO, but in fact have been working for the association before, some chapters of the staff contract template does not apply or will be waived.

As a consequence, an additional agreement will be agreed with each staff member and the Organization detailing where certain chapters of the template for the staff contract will be waived and at the same time assuring that the winding-up of the association will be completed as part of the new contracts and out of technical legal necessity.

The draft Staff Rules have been developed by the Secretariat with the assistance of the Chair of the Legal Advisory Panel and has been discussed by the Finance and Audit Committee (FAC) in two meetings and again during the ordinary FAC meeting on 11 December 2023.

In order to start the preparation of the transfer of the Staff and taking into account that the draft Staff Rules can only be agreed by the transition Council after the signature of the HQ agreement, the Council is requested to approve in principle the draft Staff rules.

The draft Staff Rules are included as input paper 8.3.2.2.

## THE COUNCIL IS INVITED TO

**Note** the information provided and approve in principle the Staff Rules for the new IGO.