

DRAFT JUNE 2022 - Draft General Regulations for the International Organization for Marine Aids to Navigation, G.R.-3.2

Comments of the Canadian Coast Guard Council member Antonella Ferro

Ottawa, October 16, 2023

General Comment:

1- General comment on choice of language “will” and “shall”:

The text changes between using “will” and “shall”. “Shall” is usually considered legally binding, while “will” is not. Unless there is a deliberate intention to introduce a different meaning, we would recommend that the wording used is consistent.

Our preference is to use the term “will”, which entails less bureaucracy for approval processes and allows the IALA to obtain equally strong governance language. The use of “shall” is legally binding and entails higher processes of approvals for several governmental entities representing their countries at IALA.

Comments on individual paragraphs:

2- Article 2 – Membership

a. Article 2.2 (a): Application for Associate or Affiliate Membership

Application to become an Associate Member or Affiliate Member must be made in writing to the Secretariat and should be accompanied by a completed membership application form.

Comment: The meaning of “associate membership” has changed from what it was under the IALA. Associate membership now refers specifically to membership for a “territory or group of territories for which a Member State has responsibility for its international relations” (art. 2(3)). Art. 5 (2) makes it clear that associate membership for a territory needs to be requested by the Member State. The draft regulations, however, do not reiterate or address the requirement that the Member State make the application. The current text could imply allowing the territory to submit an application on its own.

From a Canadian perspective, ensuring clarity with respect to the procedures for obtaining associate membership, including emphasizing the fact that the application must come from the member state seems important. If a province or territory were to ask to become an associate member, the Government of Canada, as a Member State and as an entity with legal personality under international law, would want to ensure its prerogatives are respected.

b. Article 2.3: Industrial Members

Industrial Members are represented by the Industrial Members Group, in accordance with its Terms of Reference as approved by the General Assembly of Industrial Members. The Industrial Members Group is not considered to be a subsidiary body of the Organization.

Comment: This is the only reference to this body. What is its relationship with the Organization?

c. Article 2.6: Termination of Associate and Affiliate Membership

Associate or Affiliate membership may be terminated: by the Associate Member or Affiliate Member by notice in writing to the Secretariat at any time. Such termination will take effect: on the date specified in the notice of termination; or if no date is specified, thirty calendar days after the notice is received by the Secretariat;

Comment: Can an associate or affiliate member self-terminate their membership while they are suspended? If their suspension was due to the non-payment of fees, are they off the hook for previous non-payment once they terminate their membership?

3- Article 3 – The General Assembly

a. Article 3.1 (a): Convening

The General Assembly shall ordinarily be convened once every three years by the Council.

Comment: Suggest revising to remove the expression “by order of”, which doesn’t seem appropriate if the General Assembly is the superior body. The Convention doesn’t refer to the word “order” in relation to the Council.

b. Article 3.1 (b):

The General Assembly shall, where possible, be convened during the same period and at the same location as the Organization’s conference, but in any case, must be held no earlier than June of the General Assembly year. For reasons of necessity, the Council may determine an alternate time, in which case the General Assembly will be convened at a location determined by the Council. Under exceptional circumstances the Council may decide to convene the General Assembly virtually.

Comment: We suggest modifying the wording to stay closer to the formulation in the Convention (art. 8(8)(e)). The power granted to the Council is to “convene”, not “decide to convene”.

Suggested revision: “...the Council may convene the General Assembly to hold a session in virtual format.”

c. Article 3.1 (c):

It shall be a condition for convening the General Assembly at a location other than the seat of the Organization that the Member State in whose territory it is proposed to hold the General Assembly gives assurances that, at the time of the offer that, no Member State, Associate Member or Affiliate Member of the Organization will be prevented from entering the host country for the purpose of the General Assembly.

Comment: The draft text implies that the State that will be hosting the meeting is only promising that no entry restrictions exist at the time when it is making the offer to host. Suggest rephrasing to reinforce that the host state is being required to make a promise that there will be no entry restrictions when the meeting itself is held.

d. Article 3.1 (e):

The Secretary-General shall, after a notice of ninety calendar days, convene an extraordinary session of the General Assembly within one hundred twenty calendar days of receipt by the Secretary-General of requests to do so from one-third of the Member States, the time and place of which session will be determined by the Secretary-General.

Comment: When does the SG determine to start counting the 120 days given that multiple requests will be received over a period of time? Suggest this be clarified.

e. Article 3.2 (b): Attendance

The Secretary-General is authorised to invite, on behalf of the Council and subject to consent of the General Assembly, observers from:...

Comment: We would recommend clarifying how consent is expressed by the GA?

f. Article 3.2 (c):

Each Member State shall communicate in writing, in accordance with its own practice, to the Secretary-General the names of the persons composing its delegation to the General Assembly, designating its principal delegate, as well as its alternate.

Comment: We would recommend standardizing the method of notification to avoid ambiguity.

g. Article 3.3 (b):

One hundred eighty calendar days before the opening of the General Assembly...

Comment: We would recommend clarifying if this timeline also applies to extraordinary general assemblies. Sub-paras. (e) and (f) state that the meeting agenda should differ depending on whether it is an ordinary or an extraordinary general assembly. This strongly suggests that the whole of para. 3 applies to both categories of meetings. Consequently, the issue of making proposals at extraordinary sessions should be addressed.

h. Article 3.2 (c):

After this date no proposals shall be accepted unless: (i) there are exceptional circumstances, in which case the proposal should be approved by the General Assembly for inclusion; or

Comment: How is the proposal submitted to the General Assembly for consideration, by the chair or by the SG?

i. Article 3.2 (d):

All final papers, including the provisional agenda but excluding any amending or alternative proposals, shall be circulated to Member States, Associate Members and Affiliate Members at least sixty calendar days before the opening of the General Assembly.

Comment: What is meant by “final papers”? This expression isn’t used earlier in the text (although it appears a few times below). Does it apply to proposals? (The exclusion of “amending or alternative proposals” suggests that is the case.) If so, we recommend using consistent terminology.

Article 3.4 – Conduct of meetings

j. Article 3.4.2 (c):

During the discussion of any matter, a delegate may rise to a point of order. Two delegates may speak in favour of, and two against, the point of order, after which the point of order shall immediately be decided by the Chair. A delegate may appeal against the ruling of the Chair. The appeal shall immediately be put to a vote and the Chair’s ruling shall stand unless overruled by the majority of those present and voting. A delegate rising to a point of order may not speak on the substance of the matter under discussion.

Comment: The voting rules in art. 11 do not include an exception to the 2/3rd majority rule for the purpose of dealing with points of order. The only exceptions concern the election of the President, VP, and SG. This suggests na inconsistency between the Convention and the regulations.

k. Article 3.4.2 (d):

The General Assembly may, on the proposal of the Chair, limit the time to be allowed to each speaker on any particular subject under discussion. When the debate is limited and a delegate has spoken for the allotted time, the Chair shall call such delegate to order without delay.

Comment: Is it possible to clarify how the General Assembly would do this, by vote in accordance with art. 11 (i.e. with a two-thirds majority)?

l. Article 3.4.2 (e):

During the course of a debate, the Chair may announce the list of speakers and, with the consent of the General Assembly, declare the list closed. The Chair may, however, accord the right of reply to any delegate if a speech delivered after the closure of the list makes this desirable.

Comment: How would the General Assembly express its consent? Would there be criteria to determine that the right of reply is “desirable”?

m. Article 3.4.2 (f):

...the motion shall immediately be put to a vote. The Chair may limit the time to be allowed to speakers under this rule.

Comment: Is this vote subject to the 2/3rd’s requirement in art.11 of the Convention, unlike the rule on points of order which allows a majority vote? This question also applies to every mention of a vote or a decision by the General Assembly.

n. Article 3.5 (a):

The Secretary-General will invite Member States to declare their candidacy for the Presidency or Vice Presidency one hundred eighty calendar days before the opening of the General Assembly. Nominations

will be received by the Secretariat for the following hundred and twenty calendar days. Nominations should include:

Comment: If only States can make self-nominations, suggest replacing the term “nominations” with “candidacies” to be more consistent with the term “candidacy” used at the beginning of the paragraph. “Nominations” suggests the possibility of one Member State nominating another.

o. Article 3.5 (f):

The Chair shall appoint two scrutineers from amongst the Member States who have not been nominated for either of the positions, who shall proceed to scrutinise the votes cast and the counting of votes by the Secretariat.

Comment: According to para. 6(2) of the Convention, the president is the Chair. Since this vote is for the purpose of selecting the president/chair, does this mean that this sub-para is referring to the outgoing president/chair selected at a previous General Assembly? It would be helpful to specify.

Article 3.6 - Election of the Council

p. Article 3.6 (b):

Sixty calendar days before the opening of the General Assembly all nominations shall be collated and circulated to all Member States by the Secretariat. After this date no nominations shall be accepted unless there are exceptional circumstances, in which case the nomination should be approved by the General Assembly for inclusion in the election.

Comment: See previous comments about clarifying how the GA reaches these procedural decisions (minimum threshold as in art. 11 of Convention? secret ballot?).

q. Article 3.6 (f):


If two or more candidates obtain the same number of votes for the last seat or seats to be filled, there shall be a further ballot from among these candidates only. Should the votes again be divided equally, the Chair shall draw by lot the name of the candidate to be eliminated in any subsequent ballots.

Comment: This tiebreaker method is different from the one for the SG in 7(e) below. For the SG, in the case of a tie, lots are drawn to select the winner, not to eliminate a candidate. Do we mean the name of the Member State or the name of an individual? Suggest eliminating the reference to a “name” if we are talking about Member States.

4- Article 4 – The Council

a. Article 4.2 - Convening

The Council will be convened, ordinarily twice a year by notice in writing, by any of the following: the President or the Vice President; the Secretary-General; or at the request of two Council members.



Comment: We would recommend clarifying that the VP can convene the Council as a substitute if the President is unable to act. Can the same individuals convene an extraordinary meeting? Sub-para (c) refers to extraordinary meetings, but doesn't specify how they are convened.

b. Article 4.4.2 (b) - Conduct of meetings

During the discussion of any matter, a Council member may rise to a point of order. Two delegates may speak in favour of, and two against, the point of order, after which the point of order shall immediately be decided by the Chair. A Council member may appeal against the ruling of the Chair. The appeal shall immediately be put to a vote and the Chair's ruling shall stand unless overruled by the majority of the Council present and voting. A Council member rising to a point of order may not speak on the substance of the matter under discussion.

Comment: Provisions below regarding interventions by Council members indicate that "The Chair may limit the time to be allowed to speakers under this rule". Is there a reason not to include the same wording in this provision? There are other provisions below where this phrase is also not used. Is the intention not to grant authority to the chair to limit the time allowed to speakers in these situations?

c. Article 4.4.3 – Voting

Comment: Many of the procedural decisions in 4.2 above, require voting. It is not clear how this voting takes place. Do Council Members vote publicly? Is a simple majority enough to carry a vote? Similarly, what are the voting requirements for the resolutions referenced in 4.4 below?

d. Article 4.4.4 - Decision Making and Reporting

Comment: This provision does not include any details with regard to timelines for reporting on the work of the council, submitting corrections, etc... Is the intention to leave these deadlines to be decided by the Council itself? If so, it may be helpful to state so clearly in the text.

5- Article 5 - Finance and Audit Group


a. Article 5.2 – Election

Comment: Should there be a timeline to select the members of the Finance and Audit Group?

b. Article 5.2 (c):

All elected Council members will be eligible for election upon indication of their willingness to stand for election.

Comment: The method for designating candidates seems unclear. Sub-para (c) suggests that a candidate must at some point indicate their "willingness to stand for election". Does this only mean that they are declaring their willingness to run if nominated or does it refer to actually self-declaring their candidacy? If the latter, a more explicit wording would be clearer: All elected Council members will be eligible for election upon declaring their candidacy.



The reference in sub-para. (b) to being “nominated” suggests the possibility of some form of nomination by a third party. Is this the case? If not, it would perhaps be clearer to say: Should the number of candidates running be the same as the number of positions to be filled...

In the event that the intention is to allow members to be nominated by others, then the wording should reflect this more clearly.

c. Article 5.2 (g):

Election of the Chair will be by simple majority of votes cast, the counting of which will be done by the Secretary-General in view of the Council.

Comment: Does this mean “in the presence of”?

d. Article 5.3 (c):

The date of an extraordinary meeting of the Finance and Audit Group will be not less than seven calendar days from the date of notification, and the location will be...

Comment: As noted with respect to sub-para. (a), it is not clear what are the conditions for convening an extraordinary meeting of the Finance and Audit Group. Can it only meet when the Council holds an extraordinary meeting? If the group can convene its own extraordinary meetings, then the means for doing so and the applicable requirements should be specified.

6- Article 6 - Committees and Subsidiary Bodies

- a. Comment:** Just as an observation, while the difference between a committee and a subsidiary body is perhaps obvious to Member States, it doesn’t seem clear in the Convention or the Regulations.

b. Article 6.3.1 (c):

The Secretariat shall inform all Member States, Associate Members and Affiliate Members of the date of each Committee meeting. Notices shall be sent ninety calendar days in advance and again thirty calendar days in advance.

Comment: Does it mean that no meeting of a committee can ever meet without 90 days’ notice? Would there ever be a need to provide for the possibility of meeting on shorter notice?

c. Article 6.3.1 (e):

Member States, Associate Members and Affiliate Members intending to send representatives to a meeting should advise the Secretariat by the means of online registration through the website.

Comment: This the first reference to “the website”, with no other details provided. Would suggest a more generic reference to “registration by the means designated by the Secretariat” so as to avoid needing to clarify this reference and to maintain flexibility to use other means as required. Similar considerations apply to other references to the website below.

d. Article 6.3.1 (c):

When it would be beneficial to the work of a committee, individuals from academic, scientific, research or other relevant organizations may be invited by the Secretary-General to attend a committee meeting for a specific purpose.

Comment: Who makes this decision? The SG issues the invitation, but does not appear to be the decision maker.

e. Article 6.3.4 (b): Agenda and Documents

Input documents for a Committee meeting should be sent to the Secretariat not later than thirty calendar days before the meeting and will be published on the relevant section of the Organization's website. Documents should conform to the standard template.

Comment: Is this template set by the Secretariat?

f. Article 6.3.4.(i.iii)

Before approval by the Council or the General Assembly in the case of standards, an output document must be watermarked "Draft" on each page.

Comment: According to this provision, only "standards" require GA approval, but art. 7(7)(l) of the Convention also refers to "recommendations" made by the GA. Do they not need to be mentioned here? Is the reference to "recommendations" in (i) above only applicable to "recommendations" approved at the level of the Council in accordance with art. 8(8)(i)? The terminology for designating documents should be consistent with the Convention.

g. Article 6.4 (b) - Rules of Procedure for Subsidiary Bodies

The Secretariat shall inform of the date of each subsidiary body meeting. Notices shall be sent ninety calendar days in advance and again thirty calendar days in advance.

Comment: 1) We would recommend clarifying who would be informed of the date, only Member States or a broader audience? Recipients should be specified. 2) As with Committees, this raises the question of whether there are any circumstances where a subsidiary body can meet with less than 90 days' notice.

h. Article 6.4 (h)

The agenda and documents for a subsidiary body meeting should generally be prepared following the Rules of Procedure for the committees as set out in Article 6.3.4.

Comment: If there is a desire to maintain flexibility, we would recommend indicating exactly how variances to the rule for committees can be decided upon. For example, the agenda and documents should be prepared following the Rules of Procedure for the committees as set out in Article 6.3.4, except if other procedures are detailed in the Terms of Reference of a subsidiary body.

7- Article 7 – The Secretariat



a. Article 7.3 (e):

receive, print, file, circulate or publish documents, and in so doing, ensure that all standards, recommendations, guidelines and manuals upon their publication are made available in the working language and, with the help of the Member States, the official languages of the Organization over time;

Comment: Does this mean that there is no specific timeline for producing translations of documents approved by the Organization?