LAPE1 Information

Agenda item 8

Author Secretariat

Background to the development of the draft

International Agreement

# Summary

This paper outlines the development of the draft International Agreement, and introduces the reference sources used for that purpose.

## Purpose of the paper

Participants are invited to review this paper and to take account of matters raised within when preparing comments on the draft texts.

## Related documents

Annex A attaches the draft International Agreement for consideration. The version of the Agreement at Annex A, dated 30 August 2013, is that presented to Council 55, with changes which resulted from comments received at that meeting (and some other minor edits) shown in mark-up.

In addition the document at Annex A includes two columns – References and Notes. The Reference column provides references to various instruments used in the development of articles in the draft. Links to these instruments are provided below. The Notes column provides additional information taken into account in the drafting of the Article.

Annex B is the draft General Regulations dated 30 August 2013, and is provided for context purposes. This document is still under development.

Annex C is the Comment Form, to be used by participants to document issues related to both the draft International Agreement and the draft General Regulations.

**References links**

EFI (European Forest Institute)

<http://www.efi.int/portal/about_efi/organisation/convention___hca/>

GGGI (Global Green Growth Institute)

<http://www.austlii.edu.au/cgi-bin/sinodisp/au/other/dfat/treaties/ATNIF/2012/12.html?stem=0&synonyms=0&query=global%20green%20growth> )

IALA Constitution (current):

<http://www.iala-aism.org/iala/aboutiala/constitution.php>

IHO (international Hydrographic Organization)

<http://www.iho.int/mtg_docs/com_wg/ISPWG/Documents/R11_iho_convention.pdf>

IOM (International Organization for Migration)

<http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/about_iom/iom_constitution_eng_booklet.pdf>

United Nations Convention on the Law of the Sea (UNCLOS)

<http://www.un.org/depts/los/convention_agreements/texts/unclos/UNCLOS-TOC.htm>

Vienna Convention

<http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf>

WMO (World Meteorological Organization)

<ftp://ftp.wmo.int/Documents/MediaPublic/Publications/Policy_docs/WMO15/15_en.pdf>

# Background

In order to enhance the international standing of IALA and to access the benefits that flow from that, IALA Council has been considering a change of status for the association. In the view of Council, IALA’s aim to assist in the development and harmonisation of aids to navigation worldwide can best be achieved if IALA has a strong, international legal framework that ensures transparency and good governance, that positions IALA to work in close collaboration with governments and other intergovernmental organisations, and that fosters the work of IALA as the peak international technical body in its field.

A multilateral treaty to create IALA as an Intergovernmental organisation has been determined to be the path to achieve this outcome. IALA’s Legal Advisory Panel (LAP) has, over the past 12 months, been assisting Council in the development of a suitable instrument for this purpose.

# Discussion

## Basic premise for development of the International Agreement

### The direction provided to LAP was that the International Agreement should replicate the structure and operations of the current Association, as recorded in its Constitution, to the maximum extent possible. This is because the current Association is flexible and lacking in unnecessary bureaucracy – traits to be retained in the future. To achieve this, all articles from the current Constitution have been incorporated into either the draft International Agreement or General Regulations.

### The General Regulations are not to form part of the text of the International Agreement. This is to facilitate the good governance of the Organisation by allowing required changes to be managed within the organs of the Organisation, rather than through a lengthy treaty amendment process. Under the current Constitution, decisions of this nature are delegated to Council, and as per 3.1.1 above, this has been retained in the current draft. (The draft General Regulations are subject to further work and have been provided so that the draft International Agreement can be read in this context).

### As IALA is a technical association it values highly the input that is provided by its current Industrial and Associate members. To achieve its goal of being recognised as the peak international technical body in its field, the Council strongly favours the retention of these members as integral elements of the International Organisation of the future. Accordingly, nongovernmental membership has been retained, and as is currently the case, these members will not be able to be elected or appointed to Council.

### As an International Organisation, IALA should be positioned in a way that will ensure that its goal of harmonisation can be better achieved. To assist in this regard, the International Organisation should be empowered to develop and circulate Standards for adoption by its members, and by the maritime community more broadly.

### IALA must be able to transition its operations seamlessly when the International Agreement enters into force. The transition rules endeavour to maintain the existing administrative and decision making structure so as to create a smooth transition to the new legal structure. A new category of ‘Affiliate’ membership will enable those existing National members who have not yet completed treaty processes to remain engaged in the governance and committee work of the Organisation.

### A the host country of IALA the Government of the French Republic has been working closely with LAP in regard to the development of the International Agreement, and has indicated its willingness to act as the Depositary for the treaty, should that be the decision of other governments. Governments that may also be prepared to undertake this long-term role are requested to raise this possibility with the LAP Chairman or the IALA Secretary General so that necessary discussions can commence.

### As there will be a large gathering of IALA members in A Coruna, Spain in May 2014 for the next IALA General Assembly, this event and location has been consider suitable for the purposes of agreeing the final text for the International Agreement. It is understood that as this is a non-binding action full diplomatic authorisation may not be required by those attending a meeting for this purpose. The International Agreement itself will then be open for signature and subsequent ratification or accession by credentialed government representatives.

# References

UN Treaty Handbook

<http://treaties.un.org/doc/source/publications/THB/English.pdf>

# Action requested of LAP

LAP is requested to:

1. Consider the information contained in this paper when reviewing the draft International Agreement and the draft General Regulations.
2. Raise matters for the attention of the LAP by completing the Comment Form provided for this purpose at Annex C.
3. Note that comments on the draft International Agreement will be addressed at LAPE1, whilst those in regard to the draft General Regulations will be considered as part of the on-going work to develop the General Regulations.
4. Submit comments by 27 September 2013 to [status@iala-aism.org](mailto:STATUS@iala-aism.org) using the Subject ‘[Country] LAPE1 Comment Form’