

**Comments of the Argentine Republic to the draft Convention text and the draft General Regulation of IALA**

With regard to the draft Convention, the Argentine Republic makes the following considerations:

1. Name of the Organization

IALA has a French name "Association Internationale de Signalisation Maritime", (which can be translated as "International Association of Maritime Navigation") and an English name ("International Association of Marine Aids to Navigation and Lighthouse Authorities").

In 1998 the General Assembly of the organization adopted the aforementioned English name, deciding that this change does not affect the French denomination which is maintained.

As can be seen, the name of the organization in English and French differs. As a result, the name of IALA in Spanish varies depending on the language from which the translation takes place. In this sense, it would be possible to homogenize the Spanish name of the organism.

To this end, the Argentine Republic supports the English denomination, that is to say, "International Association of Aids to Maritime Navigation and Lighthouse Authorities", as it considers it to be broader and more comprehensive in terms of aid to navigation.

Accordingly, Argentina proposes that such a name be adopted for the case of the Spanish language. It is noted that these considerations apply both to the title and to the articles of the project.

2. On the other hand, it is noted that the Spanish version of the draft convention contains errors in some articles and its translation should be revised.

For instance, the fifth paragraph of the preamble refers to UNCLOS and the International Convention for the Safety of Life at Sea (SOLAS) "as amended". It is worth highlighting that the reference to amendments is only applicable to the SOLAS Convention. That is, if it is correctly reflected in the English translation which expresses "as amended".

3. The fourth paragraph of the preamble recognizes the role of IALA. In this sense, and taking into account that such paragraph is based on article 2.1 of the IALA Convention, Argentina suggests that the phrase "for the benefit of the maritime community and the protection of the environment" be added at the end of the paragraph.

4. It is noted that in several articles of the project the term "government" is used as a generic term. In this sense, the use of the expression "States" is suggested.

5. Article 1.3 refers to the languages of the Organization. It establishes that French,

English and Spanish will be official languages, while the working languages comprise only English and French. In this respect, Argentina asks for further details on the basis of which Spanish is excluded as working language. Notwithstanding this, the Argentine Republic proposes the inclusion of Spanish as a working language.

6. Article 4 establishes who can become Members of the Organization. In this sense, it provides that the Organization is composed of States (“Contracting Parties”) and associated members and affiliated members. According to the proposal, the associated members will be: A) territories and groups of territories under the responsibility of a Contracting Party, with responsibility for the regulation, provision, maintenance and operation of aid to maritime navigation; and B) the national members of the current IALA. For its part, the affiliated members would be the current associated and industrial members of IALA.

In this respect, and notwithstanding the question of the territories that are developed in section IV.7, it is understood that the categories proposed are not practical. Indeed, the draft presented proposes a focus upon which the current IALA members will be incorporated along with the States to the International Organization to be created. According to this scenario that arises, within the Organization could be represented the State on the one hand and a government division of that country on the other hand.

In this context, given the nature of the Organization, is understood that only States can be members of it. Nevertheless, different alternatives for the participation of Industrial or Associated Members linked to the work of the organization could be analyzed, as in the case of IMO.

7. Article 4.3 of the draft Convention stipulates that any Contracting Party may request, in writing from the Secretary-General of the Organization, the admission as an Associate Member of a country, of a territory or group of territories that depend on its responsibility, and is legally responsible for the regulation, supply, maintenance and / or operation of aids to maritime navigation. A similar provision is found in Articles 2.1 and 3.2.b of the Regulation.

In this regard, the Argentine Republic rejects these clauses aimed to have Overseas Territories participate in the Organization as an Associate Member. It should also be mentioned that this possibility is not provided in the current structure of IALA or in any of the organizations on which the draft Convention (IMO and IHO) is based.

In this context, it is understood that due to the intergovernmental nature of the Organization, participation in it is the responsibility of States. It is also noted that according to practice within international organizations, the incorporation of territories is not conducive.

8. With regard to the provisions related to quotas and contributions, established in the Constitution (Art. 10), Regulations (Art. 2.5 and 2.6) and Financial Regulations (Art. 9 and 10) and Report on Financial Issues, Argentina would need to have precise information regarding the financial contribution that it should make to the Organization to be created, since this information does not appear clearly from the mentioned documents.

9. Article 6.2 and 7.5 refer to the designation of delegates for the General Assembly, and the Council respectively. In this sense, and notwithstanding the predominantly technical nature of the Organization and its debates, it is understood that the instrument constituting an International Organization should not enter to regulate the composition of the delegation of each State.

On the other hand, and based on the provisions contained in other technical Conventions, during the next discussions it could be analyzed the best way to reflect the technical representation that would be required by the Organization, such as a specific technical focal point or the establishment of a particular representation for these aspects.

10. Article 7 provides for the establishment of a Council as the executive organ of the Organization, which shall be composed of a maximum of 23 elected members and 1 non-elected member (France as the host country). In this regard, Argentina believes that ways to ensure a balance (such as a regional balance) in the composition of the Council should be explored.

11. Article 11 contains provisions relating to legal personality, privileges and immunities.

a). With respect to paragraph 1 of article 11, it is understood that these provisions refer primarily to questions of internal operations of the Organization within the host country. It should be noted that Article 1 of the draft Convention establishes an international organization, which by virtue of its legal nature has legal personality. It is understood that this question can be specified. However, the wording used is not the most conducive insofar as, as emphasized, it is linked to questions of internal operation.

b). With regard to Article 11, paragraph 2, it is stated that it anticipates that an Agreement be concluded with each Contracting Party in order to regulate the privileges and immunities of the Organization in its territory. In this regard, it should be emphasized that the most convenient approach in line with international practice is to develop a generic agreement which will then be adopted by Member States. For its part, paragraph 3 provides that the Organization may cooperate with governments, organizations and other structures in order to conclude agreements.

In this context, it is understood that the most conducive would be to use a general wording referring to the legal personality of the Organization as well as to the fact that it will have in the territory of its Contracting Parties the privileges and immunities that were necessary for the exercise of its functions and the fulfillment of its objectives in conformity with the agreement that is celebrated with its Contracting Parties. In this sense, a wording that would follow the line of Article XIII of the IHO Constituent Convention could be explored, which might read: "The Organization shall have legal personality. In the territory of each Contracting Party it shall enjoy, subject to a separate agreement with its Contracting Parties, such privileges and immunities as may be necessary for the exercise of its functions and the fulfillment of its object "

c). The second part of paragraph 2 provides that in the territory of a State Party to the Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations of 1947 legal personality, privileges and immunities are those defined in that Convention. It is understood that it could be analyzed in more detail if it would be

conducive to grant to the Organization the privileges and immunities provided there for Specialized Organizations. On the other hand, it should be kept in mind that different privileges and immunities would be granted depending on whether or not the State is a party to the aforementioned Convention. In this regard, efforts should be made to establish common rules for all Contracting Parties.

12. As regards the Custodian of the Convention, it is noted that several articles mention the French government as a possible Depositary. In this regard, it is worth noting that in the international sphere there are treaties in which the Depositary is a State such as Monaco in the IHO. In turn, a large number of Conventions establish the Secretary-General of the United Nations as Depositary. In practice, the appointment of the Secretary-General as Depositary is most beneficial, as this ensures that a homogeneous and effective system for recording and distributing information is adopted. Likewise, such designation allows avoiding inconveniences when presenting notifications of entities not recognized as State by the Depositary country. In this context, and in light of the above, it is understood that participating delegations should discuss who will assume the role of Depositary.

On the other hand, and without prejudice to who is involved, it is understood that it would be advisable to include a clause designating the Depositary.

13. Article 18 contains "Transitional Provisions" which are expected to operate as a result of the change in status of the Organization. It is understood that it is positive to have clarity about some issues that make the transition period and the necessary activities to be developed accordingly. However, the transition arrangements can not imply a mere transfer of the previous structure and members of IALA to a new Organization. Indeed, because of the change in the legal nature of the Organization, changes in the structure, such as the membership of an Intergovernmental Organization, will be needed (note in section IV.6). In this context, it is understood that a balance must be reached between the objectives and functions of the current IALA and the necessary changes that must be made due to the change in the legal nature of IALA.