

Fundamental propositions regarding the Draft Convention of IALA **(version of March 2018)**

ARTICLE 1 – ESTABLISHMENT

Please modify article 1.3, as following:

The Organization shall have its seat in France unless ***“the Member States decide on a change of seat. The decision on a change of seat requires a two-thirds quorum and a two-thirds majority of the votes cast. The final decision on the location of the new seat, shall be subject to the next regular session of the General Assembly and requires a two-thirds quorum and a two-thirds majority of the votes cast.”***

ARTICLE 2 – DEFINITIONS

It is crucial that the definition of “Member State” is extended to include:

“The Organization hereby respects the internal division of competences within a Member State.”

ARTICLE 7 – THE GENERAL ASSEMBLY

Article 7.7 (c) must be complemented with the following clause:

[The General Assembly shall] review and approve the General Regulations of the Organization ***“with a two-thirds quorum and a two-thirds majority of the votes cast.”***

ARTICLE 11 – LANGUAGES

It is recommended to consider English as the sole official language.

ARTICLE 15 - AMENDMENTS

Article 15.3 must be modified as following:

The proposed amendment ***“requires a two-thirds quorum and a two-thirds majority of the votes cast”*** of the General Assembly.

The provision set out in article 15.5 leaves a certain margin of appreciation and is likely to be ambiguous. The wording of article 15.5 must be clarified.

Draft IALA Convention - Comments from Canada
Prepared in advance of the November 21 to 23, 2018 Legal Advisory Panel meeting

March 2018 version

Draft Convention on the International Organization for Marine Aids to Navigation

After the Preparatory Diplomatic Conference in Marrakech 7th to 8th February 2018

Preamble

The States party to this Convention:

RECALLING that the International Association of Lighthouse Authorities was established on 1st July 1957 and was renamed the International Association of Marine Aids to Navigation and Lighthouse Authorities in 1998;

RECOGNISING the role of the International Association of Marine Aids to Navigation and Lighthouse Authorities in the improvement and continued harmonization of Marine Aids to Navigation for the safe, economic and efficient movement of vessels for the benefit of the maritime community and the protection of the environment;

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;

Comment [RS - 1]: Add italics.

Comment [RS - 2]: Add italics.

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

CONSIDERING FURTHER that developing, improving and harmonizing Marine Aids to Navigation for the benefit of the maritime community and the protection of the environment is best coordinated by international organizations;

HAVE AGREED as follows:

Article 1

Establishment

1. The International Organization for Marine Aids to Navigation (IALA) is hereby established under international law as an intergovernmental organization (hereinafter 'the Organization').
2. The Organization shall have a consultative and technical nature.
3. The Organization shall have its seat in France unless otherwise decided by the Member States present and voting at the General Assembly.

Article 2

Draft IALA Convention - Comments from Canada

Prepared in advance of the November 21 to 23, 2018 Legal Advisory Panel meeting

Definitions

For the purposes of this Convention:

Member State means a State, which has consented to be bound by this Convention and for which this Convention is in force.

Associate Member means a territory or groups of territories for which a Member State has **HAS RESPONSIBILITY AND HAS** requested membership which has been accepted by the General Assembly.

Affiliate Member means a manufacturer or distributor of Marine Aids to Navigation equipment for sale, or an organization providing Marine Aids to Navigation services or technical advice under contract, and any other service, organization, or scientific agency concerned with Marine Aids to Navigation which has applied for membership which has been accepted by the Council.

Marine Aid to Navigation means a device, system or service, external to a vessel, designed and operated to enhance safe and efficient navigation of individual vessels and vessel traffic.

Article 3

Aim and Objectives

The aim of the Organization is to bring together governments, services and organizations concerned with the regulation, provision, maintenance or operation of Marine Aids to Navigation with the objectives of **IN ORDER TO FURTHER THE OBJECTIVES OF:**

- (a) Fostering the safe and efficient movement of vessels through the improvement and harmonization of Marine Aids to Navigation worldwide;
- (b) Promoting access to technical cooperation and capacity building on all matters related to development and transfer of expertise, science and technology in relation to Marine Aids to Navigation;
- (c) Encouraging and facilitating the **general WIDEST** adoption of the highest practicable standards in matters concerning Marine Aids to Navigation; and
- (d) Providing for the exchange of information ~~among governments and intergovernmental organizations~~ on matters under consideration by the Organization.

Article 4

Functions

In order to achieve the aim and objectives set out in Article 3, the functions of the Organization shall be:

- (a) To provide non mandatory standards, recommendations, guidelines, manuals or other suitable means **OUTPUTS** and to commend these to governments, intergovernmental organizations, Associate Members and Affiliate Members as appropriate;

Comment [RS - 3]:

Member State could be changed to Party throughout the Convention. This would be appropriate given this definition is the definition of a Party to a treaty as found in Art 2(g) of the Vienna Convention on the Law of Treaties.

Also suggest deleting the term and definition from Article 2. Party is not generally a defined term in a treaty, and definitions should be included only on an as needed basis. Even though the term appears in the definition of Associate Member, it is not necessary to include it in the definitions section.

Comment [RS - 4]: "Groups" here but "group" in s. 5(2). Suggest using "group" singular.

Comment [RS - 5]: Suggest this insertion because without it, the definition would allow a Member State to request membership for any territory or group of territories, even those with which it has no connection.

Comment [RS - 6]: Insert a comma.

Comment [RS - 7]: "With the objectives of" means objectives (a) to (d) are the objectives of each of those individual governments, services and organizations. Instead say "In order to further the objectives of" because that means those individual governments, services and organizations are coming together to do the objectives in (a) to (d).

Comment [RS - 8]: Using "general" begs the question of by whom, but using "widest" better communicates that the objective is encouraging the farthest reaching adoption.

Comment [RS - 9]: This should be deleted because (i) it is a repetition of what is written immediately under Aims and Objectives; and (ii) it is possible that IALA will want to provide for the exchange of information beyond only governments and intergovernmental organizations.

Comment [RS - 10]: Suggest using "outputs" instead because the list is a list of tangible outputs or products, and "means," which are methods or ways of doing something, have to be produced in the form of an output or product.

Draft IALA Convention - Comments from Canada

Prepared in advance of the November 21 to 23, 2018 Legal Advisory Panel meeting

- (b) To consider and make recommendations on standards, recommendations, guidelines, manuals and other documents that may be remitted to it by Member States, Associate Members and Affiliate Members, by any organ or specialized agency of the United Nations or by any other intergovernmental organization;
- (c) To provide mechanisms for consultation and exchange of information covering inter alia recent developments and the activities of Member States, Associate Members and Affiliate Members;
- (d) To develop international cooperation by promoting close working relationships and assistance between Member States, Associate Members and Affiliate Members;
- (e) To facilitate assistance, whether technical, organizational or training to governments, services and other organizations requesting help with Marine Aids to Navigation;
- (f) To organize conferences, symposia, seminars, workshops and other events relevant to its work; and
- (g) To liaise and cooperate with relevant international and other organizations, offering specialized advice where appropriate.

Comment [RS - 11]: Could we please clarify the meaning of "facilitate assistance"? We wish to clarify that this is not intended to compel any individual Member State to provide resources and financial contributions to support specific situations where assistance is either sought from, or offered by, IALA.

Article 5

Membership

1. The Organization shall be comprised of Member States, Associate Members and Affiliate Members.

2. Any Member State having responsibility for the international relations of a territory or group of territories may request Associate membership for such a territory or group of territories **FOR WHICH IT IS RESPONSIBLE** **(UNDER ITS JURISDICTION)** **[FOR WHICH IT IS RESPONSIBLE FOR THE REGULATION, PROVISION, MAINTENANCE, OR OPERATION OF MARINE AIDS TO NAVIGATION]**; by notification in writing to the Secretary-General, **FOR A DECISION BY THE GENERAL ASSEMBLY.**

Comment [RS - 12]: We are not clear on the intended meaning of "international relations," and how this is to correspond to membership. Pending discussion, the reference to "responsibility for the international relations of a territory or group of territories" is a formulation that we would like to remove. We have proposed alternative wording that would be more appropriate. We have also inserted "for a decision by the General Assembly" as this should be specified.

3. **REQUESTS FOR AFFILIATE MEMBERSHIP SHALL BE SUBMITTED TO COUNCIL. COUNCIL SHALL NOTIFY THE MEMBER STATE WHERE THE APPLICANT CARRIES OUT ITS ACTIVITIES OR HAS ITS PRINCIPAL PLACE OF BUSINESS OR REGISTERED OFFICE OF THE APPLICATION. THE MEMBER STATE MAY REVIEW THE APPLICATION. COUNCIL SHALL PROCEED WITH ITS DETERMINATION ON AFFILIATE MEMBERSHIP AFTER HAVING CONSIDERED ANY VIEWS PROVIDED BY THE MEMBER STATE.** The Council may require or a Member State may request that aspects of an application for Affiliate Membership be reviewed by the Member State (or Member States) where the applicant carries out its activities or has its principal place of business or registered office. If supported by the Member State (or Member States), who requested the review, the Council shall decide accordingly.

Comment [RS - 13]: The roles and responsibilities for member states and Council in making decisions on Affiliate membership should be clarified. Also, as has been previously discussed, given that preferences for roles and responsibilities vary by member state, we propose a flexible approach. Proposed alternative text has been inserted.

Article 6

Structure

1. The Organization shall have as its organs:

Draft IALA Convention - Comments from Canada
Prepared in advance of the November 21 to 23, 2018 Legal Advisory Panel meeting

- (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. The President or in his or her absence the Vice President shall chair the General Assembly and the Council.

3. All efforts shall be made for the General Assembly and the Council to make decisions by consensus among Member States. Where decisions of the General Assembly or Council cannot be reached by consensus, the following provisions shall apply:

(a) Only Member States have voting rights, ~~which will be executed by the representative designated by each Member State.~~ Each Member State will have HAS one vote.

(b) Except where otherwise specified, decisions shall be taken by two-thirds of the votes cast.

4. The General Regulations shall detail the Rules of Procedure that will apply for each organ.

Comment [RS - 14]: This should be removed. Generally all members of a delegation are qualified to vote. As written, if there is one representative designated, then if she/he must be unanticipatedly absent, the Member State will not be able to vote.

Comment [RS - 15]: "Has" rather than "will have" is the appropriate wording.

Article 7

The General Assembly

1. The General Assembly of the Member States is the principal decision-making organ of the Organization and shall have all the powers of the Organization unless otherwise ~~regulated~~ PROVIDED by this Convention.

2. Attendance shall be open to all Member States, Associate Members and Affiliate Members.

3. Each Member State shall designate one of its delegates, preferably a representative from the national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation as its ~~principal~~ delegate at the General Assembly.

4. Regular sessions of the General Assembly shall take place once every three (3) years.

5. Extraordinary sessions shall be convened whenever one-third (1/3) of Member States 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.

6. ~~A majority of Member States,~~ EXCLUDING ANY MEMBER STATE DENIED RIGHTS AND BENEFITS DUE TO NON-PAYMENT OF CONTRIBUTIONS, shall constitute a quorum for the sessions of the General Assembly.

7. The General Assembly shall:

Comment [RS - 16]: "Provided" is the appropriate terminology when referring to the Convention. "Regulated" is confusing in that it could be seen as introducing the General Regulations.

Comment [RS - 17]: What is the effect of being named the principal delegate?

Comment [RS - 18]: Where numbers are spelled out in words, add the corresponding numeric in round brackets.

Comment [RS - 19]: Are Member States that have had membership rights and benefits suspended in accordance with Article 8 of the Financial Regulations still eligible to be included in quorum? Consider inserting "excluding any Member State denied rights and benefits due to non-payment of contributions."

CANADA

Draft IALA Convention - Comments from Canada
Prepared in advance of the November 21 to 23, 2018 Legal Advisory Panel meeting

- (a) Elect the President and the Vice President from amongst the Member States in accordance with the General Regulations;
- (b) Decide the overall policy and the strategic vision of the Organization;
- (c) Review and approve the General Regulations of the Organization;
- (d) Elect the Council from amongst the Member States other than the Member State holding the Presidency or Vice Presidency in accordance with Article 8;
- (e) Elect the Secretary-General from amongst the Member States in accordance with the General Regulations;
- (f) Review and approve the financial arrangements of the Organization, including the outline budget for the following three (3) years and the rate of contributions for Member States and fees for Associate Members and Affiliate Members;
- (g) Consider the reports and proposals put to it by any Member State, the Council or the Secretary-General;
- (h) Approve standards;
- (i) Decide on Associate membership;
- (j) Make recommendations to Member States, Associate Members and Affiliate Members on matters within the scope of the Organization;
- (k) ~~Approve formal agreements with other organizations~~ **REVIEW AND APPROVE THE TEXT OF AGREEMENTS BETWEEN THE ORGANIZATION AND STATES OR OTHER INTERGOVERNMENTAL ORGANIZATIONS;** and
- (l) Decide on any other matters within the aim and objectives of the Organization.

Article 8

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 the President and the Vice President and up to ~~twenty three (23)~~ Council members, each representing a different Member State.
3. Council members shall be elected by ballot at each regular session of the General Assembly in accordance with the General Regulations.

Comment [RS - 20]: Consider this language to cover a review and approval function of agreements anticipated by Art 13(1)(a), and potentially others. Art 13(1)(a) says "Contract and conclude agreements with governments, organizations and other bodies." The intention would not be to have any and all more minor contracts reviewed and approved by the General Assembly, but rather to have agreements between IALA and states or other IGOs reviewed and approved.

Comment [RS - 21]: Is there a minimum?

Draft IALA Convention - Comments from Canada
Prepared in advance of the November 21 to 23, 2018 Legal Advisory Panel meeting

4. At the Council Member States shall preferably be represented by a delegate from a national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation of that Member State.

New Article: ATTENDANCE SHALL BE OPEN TO

5. The Council shall:

- (a) Exercise such responsibilities as may be delegated to it by the General Assembly;
- (b) Coordinate the activities of the Organization within the framework of the overall policy, the strategic vision and the outline budget, as decided by the General Assembly;
- (c) Review and approve the financial statements, including the annual budget;
- (d) Decide on Affiliate membership;
- (e) Convene the General Assembly;
- (f) Report to the General Assembly on the work of the Organization;
- (g) Review papers submitted to it in accordance with the General Regulations;
- (h) Refer to the General Assembly all matters requiring decision by the General Assembly;
- (i) Approve recommendations, guidelines, manuals and other appropriate documents;
- (j) Approve submissions to other organizations;
- (k) Establish AND TERMINATE Committees and other subsidiary bodies, and review and approve their respective terms of reference AND WORK PROGRAMS;
- ~~(l) Terminate Committees and other subsidiary bodies;~~
- ~~(m) Review and approve the work programmes of the Committees; and~~
- (n) Decide the venue and the year of the Organization's conferences and symposia as described in the General Regulations.

Article 9

Committees and Other Subsidiary Bodies of the Council

1. Committees and other subsidiary bodies shall support the aim and objectives of the Organization.
2. PERSUANT TO THEIR RESPECTIVE MANDATES, COMMITTEES SHALL: ~~The Committees shall:~~
 - (a) Prepare and review standards, DRAFT recommendations, guidelines, manuals and other documents identified in the work programmes APPROVED BY COUNCIL, FOR APPROVAL BY COUNCIL;

Comment [RS - 22]: Who can attend Council meetings? Art 4(2)(e) of the General Regulations says any Member State can, and that Council may determine that a representative of any Committee or other subsidiary body established by it or of another organization may be present at a Council meeting. What about Associate and Affiliate members? And what role can all the above play?

Comment [RS - 23]: Suggested consolidation of (l) and (m) into (k).

Comment [RS - 24]: We wish to clarify whether Committees and Other Subsidiary Bodies are creatures of Council, or whether Committees and Other Subsidiary Bodies are intended to be of IALA more generally. If of Council, then we have suggested this addition for clarity.

Also, there appears to be no elaboration in the Convention on what the term "subsidiary bodies" means. This term should be clarified in the Convention, and we should discuss to determine what level of specificity about specific "other subsidiary bodies" to include in the Convention.

Comment [RS - 25]: This is appropriate to add to specify the work of the Committees.

Comment [RS - 26]: Add "draft" because these are in draft form until approved.

Comment [RS - 27]: Include these insertions so we are clear on what work programmes these are, which level approved the work programs, and which level will be approving the recommendations, guidelines, manuals, and other documents.

Draft IALA Convention - Comments from Canada
Prepared in advance of the November 21 to 23, 2018 Legal Advisory Panel meeting

New Article: **PREPARE AND REVIEW THE STANDARDS IDENTIFIED IN THE WORK PROGRAMMES
APPROVED BY COUNCIL, FOR APPROVAL BY THE GENERAL ASSEMBLY.**

Comment [RS - 28]: Suggest that "standards" gets its own article because while standards would be identified in the Council-approved work programmes, it is the General Assembly who approves standards.

- (b) Monitor developments in the area of Marine Aids to Navigation;
- (c) Facilitate the sharing of expertise and experience among Member States, Associate Members and Affiliate Members; and
- (d) Conduct any other tasks as decided by the Council.

Article 10

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 within the approved budgetary framework.

(a) The term of Secretary-General shall be three (3) years. The Secretary-General may be re-elected for up to two (2) additional consecutive terms of three (3) years each.

(b) The Secretary-General shall be responsible for the day to day management of the Organization, subject to any guidance issued by the General Assembly or the Council.

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) Administer the Organization's finances under the direction of the Council, in accordance with the General Regulations;

(c) Prepare the financial statements, including the annual budget PROPOSAL, for submission to the Council;

Comment [RS - 29]: The annual budget only becomes the annual budget once adopted. The reference here should be to annual budget proposal.

(d) Keep Member States, Associate Members and Affiliate Members and other organizations informed with respect to the activities of the Organization;

(e) Organize and support meetings of the General Assembly, the Council, Committees and other subsidiary bodies;

(f) Organize and support conferences and symposia as approved by the Council;

(g) Organize and support seminars, workshops and other events; and

Draft IALA Convention - Comments from Canada

Prepared in advance of the November 21 to 23, 2018 Legal Advisory Panel meeting

(h) Perform such other tasks as may be assigned by this Convention, the General Regulations, the General Assembly or the Council.

Article 11

Languages

The official languages of the Organization shall be English, French and Spanish.

Comment [RS - 30]: We see the references to working languages have been removed. We note the intention is to include working languages in the General Regulations, and look forward to discussing in the context of the General Regulations.

Article 12

Finance

1. The expenditure for the functioning of the Organization shall be met by the financial resources provided by:

(a) Member State contributions;

(b) Associate Member and Affiliate Member fees;

(c) Donations, bequests, grants, gifts, AND OTHER SOURCES APPROVED BY THE COUNCIL UPON RECOMMENDATION BY THE SECRETARY-GENERAL.

Comment [RS - 31]: Suggest combining (c) and (d).

~~(d) Other sources approved by the Council upon recommendation by the Secretary-General.~~

2. Each Member State shall pay a contribution and each Associate Member and Affiliate Member shall pay a fee to the Organization on an annual basis in the amounts determined in accordance with ~~in~~ Article 7.7 (f). The contribution shall be set at the same rate for each Member State.

Comment [RS - 32]: "s" should be added to make "amounts" plural. If not, this article can be read to mean that the rates of contribution, and the Associate Member and Affiliate Member fees, will all be the same.

3. Member State contributions and Associate Member and Affiliate Member fees shall be due and payable in accordance with the General Regulations.

Comment [RS - 33]: Typo to delete.

4. Any Member State which is two years in arrears in making contributions shall, after written notification by the Secretary-General, be denied voting rights and the right to be elected to the Council AND TO REMAIN ON COUNCIL until such time as the outstanding contributions have been paid, in accordance with the General Regulations.

Comment [RS - 34]: Why would one year not be appropriate? Can we have a sense of the significance of arrears at present?

5. Following the Council's approval of the Organization's audited financial statements, these statements shall be distributed to all Member States, Associate Members and Affiliate Members in the Annual Report.

Comment [RS - 35]: We would like to discuss potentially adding "and to remain on Council" and the associated functional impact on IALA as a consequence, and discuss whether this should also extend to leadership roles on Committees and Other Subsidiary Bodies.

Article 13

Legal personality, privileges and immunities

1. The Organization has international legal personality and has the capacity to:

(a) Contract and conclude agreements with governments, organizations and other bodies;

Draft IALA Convention - Comments from Canada

Prepared in advance of the November 21 to 23, 2018 Legal Advisory Panel meeting

(b) Acquire and dispose of immovable and movable property; and

(c) Institute legal proceedings.

2. In the territory of each of its Member States the Organization shall enjoy, ~~subject to~~ **TO THE EXTENT PROVIDED FOR IN AN** agreement with the Member State concerned, such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its aim and objectives.

Comment [RS - 36]: The purpose of this change to better communicate that there must be an agreement for there to be privileges and immunities.

3. No Member State or Member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.

Article 14**Depositary**

The Republic of France shall serve as the Depositary for this Convention.

Article 15**Amendments**

1. Any Member State may propose an amendment to this Convention, in writing, to the Secretary-General.

2. The Secretary-General shall circulate the proposed amendment to all Member States at least six **(6)** months in advance of its consideration by the General Assembly.

3. The proposed amendment shall be adopted by vote of the General Assembly.

4. Any amendment adopted in accordance with Article 15.3 shall be sent by the Secretary-General to the Depositary of this Convention. The latter shall notify all Member States and the Secretary-General of the adoption of the amendment.

5. An amendment to this Convention shall come into force for Member States having accepted the amendment six **(6)** months after written notification of the acceptance to the Depositary by two-thirds **(2/3)** of Member States and thereafter for each remaining Member State upon acceptance by it.

Article 16**Interpretation and Disputes**

Member States shall make every effort to prevent disputes, and shall use their best efforts to resolve any disputes by amicable means which may include consultation and negotiation with each other.

Disputes that remain unresolved ~~[after a period of three months]~~ may, with the agreement of all parties to the dispute, be referred to a panel of three **(3)** independent arbitrators appointed by the Secretary-General of the Permanent Court of Arbitration for a non-binding resolution, unless the parties to the dispute agree upon another mode of dispute settlement.

Comment [RS - 37]: Is there a justification for treating this with what seems like an urgent timeline? Six months may be more appropriate.

Draft IALA Convention - Comments from Canada
Prepared in advance of the November 21 to 23, 2018 Legal Advisory Panel meeting

Article 17

Signature, Ratification and Accession

1. This Convention shall be open for signature by any State that is a member 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 this Convention from the day after the date on which this Convention closes for signature.
4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary, who shall then notify each Member State and the Secretary-General thereof.
5. No reservation can be made to this Convention.

Comment [RS - 38]: Insert "be"

Comment [RS - 39]: Should this say "any state that is a member of the United Nations" to match the wording in Art 17(1)?

Article 18

Entry into force

1. The present Convention shall enter into force on the thirtieth (30th) day after the date of deposit of the [thirtieth] (30th) instrument of ratification, acceptance, approval or accession.
2. For each State ratifying, accepting, approving or acceding to this Convention after its entry into force the Convention shall enter into force on the thirtieth (30th) day after the deposit of its instrument of ratification, acceptance, approval or accession.
3. The transitional arrangements that shall apply upon entry into force of this Convention are set out in Annex A.

Article 19

Withdrawal

1. Any Member State may withdraw from this Convention by giving at least twelve (12) months written notice to the Depositary, who will immediately inform all Member States and the Secretary-General of such notification.
2. Notification of withdrawal may be given at any time after the expiration of six (6) months from the date on which this Convention has come into force.
3. The withdrawal shall take effect on 31st December following the expiration of the notice.

Comment [RS - 40]: Typo here. The "s" is missing and should be added.

Article 20

Termination

Draft IALA Convention - Comments from Canada

Prepared in advance of the November 21 to 23, 2018 Legal Advisory Panel meeting

1. This Convention may be terminated by a vote of the General Assembly AT A REGULAR SESSION OF THE GENERAL ASSEMBLY, FOLLOWING SIX MONTHS NOTICE THAT SUCH A VOTE WILL BE TAKING PLACE.

Comment [RS - 41]: These changes are necessary to ensure a termination vote would only happen at a regular session, and to allow time for domestic processes to take place prior to being able to participate in such a vote.

2. The date of termination will be twelve (12) 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.

Comment [RS - 42]: The difficulty with the transitional arrangements is that at times they are imposing obligations on those that are not parties to the treaty. The Convention is between Member States and does not have any authority to bind the old IALA, individuals, etc.

Our proposed solution is the following:

(1) Add a chapeau under Transitional Arrangements that would say something like "We invite the International Association of Marine Aids to Navigation and Lighthouse Authorities to [adopt/approve/endorse/signal agreement with] the following transitional arrangements." Or "The following transitional arrangements shall be submitted to the International Association of Marine Aids to Navigation and Lighthouse Authorities for their approval." The transitional arrangements would then be listed as written, subject to changes made.

(2) At the last meeting of the International Association of Marine Aids to Navigation and Lighthouse Authorities, the old IALA approves Annex A through their appropriate mechanism, perhaps a General Assembly Resolution as was done to signal support for the change of status to an international organization.

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 Depositary. The Depositary shall transmit certified copies thereof to all the [signatory and acceding] Governments and to the Secretary-General of the Organization.

Annex A

Transitional Arrangements

1. All National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities from States that are not Member States shall, with the approval of the Council and subject to their request, become Associate Members of the Organization.

2. All Associate and Industrial Members of the International Association of Marine Aids to Navigation and Lighthouse Authorities holding financial, non-suspended status shall, with the approval of Council and subject to their request become Affiliate Members of the Organization.

Comment [RS - 43]: This transitional provision essentially allows non-Member States to be members of IALA in some capacity. This provision allows the national marine aids to navigation authorities or organizations (and does not seem to exclude private organizations) of non-Member State to join IALA as Associate Members.

3. Upon the entry into force of this Convention the President, Vice President and the Council of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional President, Vice President and Council of the Organization and will operate as such until the first General Assembly convened under this Convention has elected a President, Vice President and Council, which must be within a period not exceeding six (6) months FROM THE DATE OF THE ENTRY INTO FORCE OF THE CONVENTION. Until such time as the Organization has adopted General Regulations, it shall function in accordance with the General Regulations of the International Association of Marine Aids to Navigation and Lighthouse Authorities mutatis mutandis.

This is inconsistent with the definition of Associate Member at Article 2, which is defined as "a territory or groups of territories for which a Member State has requested membership which has been accepted by the General Assembly." Thi...

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.

Comment [RS - 44]: Is this intended to allow Affiliate membership without following the process for Affiliate membership set out in Article 5(3)? We would like to discuss this point further to fully understand the implications.

5. The Committees of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional Committees of the Organization and will operate until Committees are established under this Convention.

Comment [RS - 45]: Add for precision.

CANADA

Draft IALA Convention - Comments from Canada

Prepared in advance of the November 21 to 23, 2018 Legal Advisory Panel meeting

6. In the event that a State which has Associate membership under this Convention becomes a Member State the Associate membership shall cease on the date on which this Convention enters into force for that State. In the case of a Member State having more than one Associate membership under this Convention that State may decide to retain Associate memberships.

7. After the entry into force of this Convention the International Association of Marine Aids to Navigation and Lighthouse Authorities, facilitated by the transitional Council will work in cooperation with the Organization to transfer its 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 General Assembly elects the Secretary-General in accordance with Article 7(e).

Comment [RS - 46]: This transitional arrangement is not clear. Suggest discussing, and redrafting once the intention is clear.

"... a State which has Associate membership under this Convention" is not possible because states cannot have Associate membership according to the definition at Art 2.

Is Annex A Article 6 meant to get at the situation where an Associate member, meaning from Article 2 of the Convention, "a territory or groups of territories for which a Member State has requested membership which has been accepted by the General Assembly," somehow undergoes changes and becomes eligible for Member State status? If so, this can be deleted because the Convention definition of Associate Member could not apply to a country that was eligible for Member State status.

Comment [RS - 47]: Suggest discussing and redrafting as appropriate.

No matter how the first part of Annex A Article 6 is intended, this seems to be suggesting that the situation is different if there are two or more Associate Members.

Is this suggesting that if there were two or more National Members from the same country under the old IALA that through Annex A Article 1 both became Associate Members, with the country then becoming a Member State, that the Associate Members can stay on? We would appreciate discussing.

Comment [RS - 48]: What are the practical implications to members, and to IALA, of taking on the current liabilities? We would like to discuss this further, especially in the context of the early period when IALA is likely to run with fewer members and fees/contributions paid.

Comment [RS - 49]: Add (e) to make it clear that the reference is to Article 7(e).

Draft Convention on the International Organization for Marine Aids to Navigation.

| Article | Draft Text post 2 nd Pre-Dip | Comments from China MSA |
|------------------------|---|---|
| <p>Preamble</p> | <p>The States party to this Convention:</p> <p>RECALLING that the International Association of Lighthouse Authorities was established on 1st July 1957 and was renamed the International Association of Marine Aids to Navigation and Lighthouse Authorities in 1998;</p> <p>RECOGNISING the role of the International Association of Marine Aids to Navigation and Lighthouse Authorities in the improvement and continued harmonization of Marine Aids to Navigation for the safe, economic and efficient movement of vessels for the benefit of the maritime community and the protection of the environment;</p> <p>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;</p> <p>CONSIDERING that the International Association of Marine Aids to Navigation and Lighthouse Authorities was formed as an association under French law; and</p> <p>CONSIDERING FURTHER that developing, improving and harmonizing Marine Aids to Navigation for the benefit of the maritime community and the protection of the environment is best coordinated by international organizations;</p> <p>HAVE AGREED as follows:</p> | <p>It is likely to cause some confusion in the usage of “state parties”, “states party” and “states parties”. One might wonder whether the singular form of “party to the convention” is an intended conventional wisdom.</p> |

| | | |
|----------------------------|---|--|
| Article 1 Establishment | <p>1. The International Organization for Marine Aids to Navigation (IALA) is hereby established under international law as an intergovernmental organization (hereinafter 'the Organization').</p> <p>2. The Organization shall have a consultative and technical nature.</p> <p>3. The Organization shall have its seat in France unless otherwise decided by the Member States present and voting at the General Assembly.</p> | |
| Article 2 Definitions | <p>For the purposes of this Convention:</p> <p>Member State means a State, which has consented to be bound by this Convention and for which this Convention is in force.</p> <p>Associate Member means a territory or groups of territories for which a Member State has requested membership which has been accepted by the General Assembly.</p> <p>Affiliate Member means a manufacturer or distributor of Marine Aids to</p> | <p>According to Art.7.7(i), General Assembly has the function of deciding on associate membership. We agree with this arrangement. But in this sense, a decision shall be made upon a democratic voting procedure rather than "a formalistic acceptance". Approved is preferred.</p> |

| | | |
|------------------------------------|---|--|
| | <p>Navigation equipment for sale, or an organization providing Marine Aids to Navigation services or technical advice under contract and any other service, organization or scientific agency concerned with Marine Aids to Navigation which has applied for membership which has been accepted by the Council.</p> <p>Marine Aid to Navigation means a device, system or service, external to a vessel, designed and operated to enhance safe and efficient navigation of individual vessels and vessel traffic.</p> | <p>The term “any other service” here might imply multiple possibilities which could be unintended by the negotiating parties. Therefore, we suggest the deletion of this phrase here to nail down the certainty.</p> |
| Article 3 Aim and Objectives | <p>The aim of the Organization is to bring together governments, services and organizations concerned with the regulation, provision, maintenance or operation of Marine Aids to Navigation with the objectives of:</p> <ul style="list-style-type: none"> (a) Fostering the safe and efficient movement of vessels through the improvement and harmonization of Marine Aids to Navigation worldwide; (b) Promoting access to technical cooperation and capacity building on all matters related to development and transfer of expertise, science and technology in relation to Marine Aids to Navigation; (c) Encouraging and facilitating the general adoption of the | |

| | | |
|------------------------|---|---|
| | <p>highest practicable standards in matters concerning Marine Aids to Navigation; and</p> <p>(d) Providing for the exchange of information among governments and intergovernmental organizations on matters under consideration by the Organization.</p> | |
| Article 4 Functions | <p>In order to achieve the aim and objectives set out in Article 3, the functions of the Organization shall be:</p> <p>(a) To provide non mandatory standards, recommendations, guidelines, manuals or other suitable means and to commend these to governments, intergovernmental organizations, Associate Members and Affiliate Members as appropriate;</p> <p>(b) To consider and make recommendations on standards, recommendations, guidelines, manuals and other documents that may be remitted to it by Member States, Associate Members and Affiliate Members, by any organ or specialized agency of the United Nations or by any other intergovernmental organization;</p> <p>(c) To provide mechanisms for consultation and exchange of information covering inter alia recent developments and</p> | <p>We agree here that non-mandatory nature of standards by IALA shall be mentioned and clarified.</p> |

| | | |
|-------------------------|---|--|
| | <p>the activities of Member States, Associate Members and Affiliate Members;</p> <p>(d) To develop international cooperation by promoting close working relationships and assistance between Member States, Associate Members and Affiliate Members;</p> <p>(e) To facilitate assistance, whether technical, organizational or training to governments, services and other organizations requesting help with MarineAidstoNavigation;</p> <p>(f) To organize conferences, symposia, seminars, workshops and other events relevant to its work; and</p> <p>(g) To liaise and cooperate with relevant international and other organizations, offering specialized advice where appropriate.</p> | |
| Article 5 Membership | | |
| | <p>1. The Organization shall be comprised of Member States, Associate Members and Affiliate Members.</p> <p>2. Any Member State having responsibility for the international relations of a territory or group of territories may request Associate membership for such territory or group of territories, by notification in writing to the Secretary-General.</p> | <p>The usage of "international relations" is very obscure and not recommended in terms of sensitive issues relating to the statehood or sovereignty.</p> <p>We suggest this article back as "Any Contracting Party may request</p> |

| | | |
|------------------------|--|---|
| | | Associate membership for a territory or group of territories for which it has responsibility and which is legally responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation by notification in writing to the Secretary-General. " |
| | 3. The Council may require or a Member State may request that aspects of an application for Affiliate Membership be reviewed by the Member State (or Member States) where the applicant carries out its activities or has its principal place of business or registered office. If supported by the Member State (or Member States), who requested the review, the Council shall decide accordingly. | We suggest use agreed instead of supported. |
| Article 6 Structure | | |
| | <ol style="list-style-type: none"> 1. The Organization shall have as its organs: <ol style="list-style-type: none"> (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. The President or in his or her absence the Vice President shall chair the General Assembly and the Council. 3. All efforts shall be made for the General Assembly and the Council to make decisions by consensus among Member States. Where | |

| | | |
|-----------------------------------|---|---|
| | <p>decisions of the General Assembly or Council cannot be reached by consensus, the following provisions shall apply:</p> <p>(a) Only Member States have voting rights, which will be executed by the representative designated by each Member State. Each Member State will have one vote.</p> <p>(b) Except where otherwise specified, decisions shall be taken by two-thirds of the votes cast.</p> <p>4. The General Regulations shall detail the Rules of Procedure that will apply for each organ.</p> | <p>Art.6: We agree that a two-thirds majority is a general rule for adoption of a decision, while other situation would be exceptions in need of being specified.</p> |
| Article 7 The General Assembly | <p>1. The General Assembly of the Member States is the principal decision-making organ of the Organization and shall have all the powers of the Organization unless otherwise regulated by this Convention.</p> <p>2. Attendance shall be open to all Member States, Associate Members and Affiliate Members.</p> <p>3. Each Member State shall designate one of its delegates, preferably a representative from the national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation as its principal delegate at the General Assembly.</p> | |

| | | |
|--|--|--|
| | <p>4. Regular sessions of the General Assembly shall take place once every three years.</p> <p>5. Extraordinary sessions shall be convened whenever one-third of Member States 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.</p> <p>6. A majority of Member States shall constitute a quorum for the sessions of the General Assembly.</p> <p>7. The General Assembly shall:</p> <p>(a) Elect the President and the Vice President from amongst the Member States in accordance with the General Regulations;</p> <p>(b) Decide the overall policy and the strategic vision of the Organization;</p> <p>(c) Review and approve the General Regulations of the Organization;</p> <p>(d) Elect the Council from amongst the Member States other than the Member State holding the Presidency or Vice Presidency in accordance with Article 8;</p> <p>(e) Elect the Secretary-General from amongst the Member States in accordance with the General Regulations;</p> <p>(f) Review and approve the financial arrangements of the Organization, including the outline budget for the following three years and the rate of</p> | |
|--|--|--|

| | | |
|-----------------------|--|---|
| | <p>contributions for Member States and fees for Associate Members and Affiliate Members;</p> <p>(g) Consider the reports and proposals put to it by any Member State, the Council or the Secretary-General;</p> <p>(h) Approve standards;</p> <p>(i) Decide on Associate membership;</p> <p>(j) Make recommendations to Member States, Associate Members and Affiliate Members on matters within the scope of the Organization;</p> <p>(k) Approve formal agreements with other organizations; and</p> <p>(l) Decide on any other matters within the aim and objectives of the Organization.</p> | <p>7.7 (i) We agree with the adding of this provision here.</p> <p>7.7(k) We agree with the adding of this provision here, which transfers this power to the General Assembly from the Council.</p> |
| Article 8 The Council | <p>1. The Council is the executive organ of the Organization and shall be responsible for directing the activities of the Organization.</p> <p>2. The Council shall consist of the President and the Vice President and up to twenty three (23) Council members, each representing a different Member State.</p> <p>3. Council members shall be elected by ballot at each regular session of the General Assembly in accordance with the General Regulations.</p> | |

| | |
|--|---|
| | <p>4. At the Council Member States shall preferably be represented by a delegate from a national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation of that Member State.</p> <p>5. The Council shall:</p> <ul style="list-style-type: none"> (a) Exercise such responsibilities as may be delegated to it by the General Assembly; (b) Coordinate the activities of the Organization within the framework of the overall policy, the strategic vision and the outline budget, as decided by the General Assembly; (c) Review and approve the financial statements, including the annual budget; (d) Decide on Affiliate membership; (e) Convene the General Assembly; (f) Report to the General Assembly on the work of the Organization; (g) Review papers submitted to it in accordance with the General Regulations; (h) Refer to the General Assembly all matters requiring decision by the General Assembly; (i) Approve recommendations, guidelines, manuals and other appropriated documents; (j) Approve submissions to other organizations; (k) Establish Committees and other subsidiary bodies and |
|--|---|

| | | |
|--|---|--|
| | <p>review and approve their respective terms of reference;</p> <p>(l) Terminate Committees and other subsidiary bodies;</p> <p>(m) Review and approve the work programmes of the Committees; and</p> <p>(n) Decide the venue and the year of the Organization's conferences and symposia as described in the General Regulations.</p> | |
| Article 9 Committees and Other Subsidiary Bodies | | |
| | <p>1. Committees and other subsidiary bodies shall support the aim and objectives of the Organization.</p> <p>2. The Committees shall:</p> <p>(a) Prepare and review standards, recommendations, guidelines, manuals and other documents identified in the work programmes;</p> <p>(b) Monitor developments in the area of Marine Aids to Navigation;</p> <p>(c) Facilitate the sharing of expertise and experience among Member States, Associate Members and Affiliate Members; and</p> | |

| | | |
|---------------------------|---|---|
| | Conduct any other tasks as decided by the Council. | |
| Article 10 Secretariat | <p>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 within the approved budgetary framework.</p> <p>(a) The term of Secretary-General shall be three years. The Secretary-General may be re-elected for up to two additional consecutive terms of three years each.</p> <p>(b) The Secretary-General shall be responsible for the day-to-day management of the Organization, subject to any guidance issued by the General Assembly or the Council.</p> <p>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.</p> <p>3. The Secretariat shall:</p> <p>(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;</p> <p>(b) Administer the Organization's finances under the</p> | <p>10.1(a) A possibility for two additional consecutive terms suggests a Secretary-General might be in the position for 9 years, and also, no provision is provided for whether a non-consecutive term of the same Secretary-General is possible.</p> |

| | | |
|-------------------------|--|---|
| | <p>direction of the Council, in accordance with the General Regulations;</p> <p>(c) Prepare the financial statements, including the annual budget, for submission to the Council;</p> <p>(d) Keep Member States, Associate Members and Affiliate Members and other organizations informed with respect to the activities of the Organization;</p> <p>(e) Organize and support meetings of the General Assembly, the Council, Committees and other subsidiary bodies;</p> <p>(f) Organize and support conferences and symposia as approved by the Council;</p> <p>(g) Organize and support seminars, workshops and other events; and</p> <p>Perform such other tasks as may be assigned by this Convention, the General Regulations, the General Assembly or the Council.</p> | |
| Article 11 Languages | | |
| | The official languages of the Organization shall be English, French and Spanish. | The official languages of the Organization shall include Chinese language since Chinese language is an official UN language; or otherwise, in consideration of financial burden, only English shall be considered as the official language. |
| Article 12 Finance | | |

| | | |
|--|--|--|
| | <p>1. The expenditure for the functioning of the Organization shall be met by the financial resources provided by:</p> <ul style="list-style-type: none"> (a) Member State contributions; (b) Associate Member and Affiliate Member fees; (c) Donations, bequests, grants, gifts; and (d) Other sources approved by the Council upon recommendation by the Secretary-General. <p>2. Each Member State shall pay a contribution and each Associate Member and Affiliate Member shall pay a fee to the Organization on an annual basis in the amount determined in accordance with in Article 7.7 (f). The contribution shall be set at the same rate for each Member State.</p> <p>3. Member State contributions and Associate Member and Affiliate Member fees shall be due and payable in accordance with the General Regulations.</p> <p>4. Any Member State which is two years in arrears in making contributions shall, after written notification by the Secretary-General, be denied voting rights and the right to be elected to the Council until such time as the outstanding contributions have been paid, in accordance with the General Regulations.</p> <p>5. Following the Council's approval of the Organization's audited financial statements, these statements shall be distributed to all Member States, Associate Members and Affiliate Members in the</p> | |
|--|--|--|

| | | |
|---|--|--|
| | Annual Report. | |
| Article 13 Legal personality, privileges and immunities | <p>1. The Organization has international legal personality and has the capacity to:</p> <ul style="list-style-type: none"> (a) Contract and conclude agreements with governments, organizations and other bodies; (b) Acquire and dispose of immovable and movable property; and (c) Institute legal proceedings. <p>2. In the territory of each of its Member States the Organization shall enjoy, subject to agreement with the Member State concerned, such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its aim and objectives.</p> <p>3. No Member State or Member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.</p> | |
| Article 14 Depositary | | |

| | | |
|------------------------------|---|---|
| | The Republic of France shall serve as the Depositary for this Convention. | |
| Article 15 Amendments | <p>1. Any Member State may propose an amendment to this Convention, in writing, to the Secretary-General.</p> <p>2. The Secretary-General shall circulate the proposed amendment to all Member States at least six months in advance of its consideration by the General Assembly.</p> <p>3. The proposed amendment shall be adopted by vote of the General Assembly.</p> <p>4. Any amendment adopted in accordance with Article 15.3 shall be sent by the Secretary-General to the Depositary of this Convention. The latter shall notify all Member States and the Secretary-General of the adoption of the amendment.</p> <p>5. An amendment to this Convention shall come into force for Member States having accepted the amendment six months after written notification of the acceptance to the Depositary by two-thirds of Member States and thereafter for each remaining Member State upon acceptance by it.</p> | 15.5 We agree with this arrangement, because the opt-in approach of amendment allows more autonomy of the sovereignty states. |
| Article 16 Interpretation | | |

| | |
|--------------|--|
| and Disputes | <p>Member States shall make every effort to prevent disputes, and shall use their best efforts to resolve any disputes by amicable means which may include consultation and negotiation with each other. Disputes that remain unresolved [after a period of three months] may, with the agreement of all parties to the dispute, be referred to a panel of three independent arbitrators appointed by the Secretary-General of the Permanent Court of Arbitration for a non-binding resolution, unless the parties to the dispute agree upon another mode of dispute settlement.</p> |
| | <p>(1) no arbitral rules are provided in spite of the dispute is referred to the PCA. PCA's arbitration rules are not applied automatically upon the choosing the arbitral institution. This should be discussed among negotiating states to reach a consensus on the choice of arbitration rules.</p> <p>(2) If all arbitrators are appointed by the Secretary-General of PCA, it would deprive the sovereign states of the right to appoint a satisfied arbitrator. This is also inconsistent with PCA's arbitral practice. Even though PCA provides arbitral rules, they are all optional upon the choice of the disputing parties. Moreover, those optional arbitration rules of PCA and the arbitral practice of PCA provide that each disputing state can appoint its own arbitrator while the presiding arbitrator is decided upon agreement by the two appointed arbitrators; or if no agreement could be made, the SG of PCA can thereafter appoint one presiding arbitrator.</p> <p>(3) "for a non-binding resolutions" is a confusing phrase, because it could suggest that the resolution of PCA's SG appointing arbitrators, or it could suggest that the resolution of an arbitral tribunal of PCA. But usually the decision of an arbitral tribunal is not provided in the form</p> |

| | | |
|---|---|---|
| | | of “resolution”, but rather in the form of “award” or “decision”. While “resolution” seems to be a more political usage which implies the possibility of political power behind the resolution. Therefore, we suggest that “for a non-binding resolution” was separated as an independent sentence, and “resolution” is replaced by “decision” (which is a more neutral term). Namely, it could be re-written as follows: the decision of the arbitral tribunal/panel is non-binding. |
| Article 17 Signature, Ratification and Accession | <p>1. This Convention shall open for signature by any State that is a member of the United Nations at [xxx] and remain open until [xxx].</p> <p>2. This Convention is subject to ratification, acceptance or approval by the signatory States.</p> <p>3. This Convention shall be open for accession by any member of the United Nations which has not signed this Convention from the day after the date on which this Convention closes for signature.</p> <p>4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary, who shall then notify each Member State and the</p> | |

| | | |
|-----------------------------------|--|---|
| | <p>Secretary-General thereof.</p> <p>5. No reservation can be made to this Convention.</p> | <p>17.5 This clause was disputed among delegates, and we suggest that "No reservation may be made if such reservation is incompatible with the object and purpose of the Convention."</p> |
| Article 18 Entry into force | | |
| | <ol style="list-style-type: none"> 1. The present Convention shall enter into force on the thirtieth day after the date of deposit of the [thirtieth] instrument of ratification, acceptance, approval or accession. 2. For each State ratifying, accepting, approving or acceding to this 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. 3. The transitional arrangements that shall apply upon entry into force of this Convention are set out in Annex A. | |
| Article 19 Withdrawal | | |
| | <ol style="list-style-type: none"> 1. Any Member State may withdraw from this Convention by giving at least twelve months written notice to the Depositary, who will immediately inform all Member States and the Secretary-General of such notification. | |

| | | |
|---------------------------|---|--|
| | <p>2. Notification of withdrawal may be given at any time after the expiration of six months from the date on which this Convention has come into force.</p> <p>3. The withdrawal shall take effect on 31st December following the expiration of the notice.</p> | |
| Article 20 Termination | | |
| | <p>1. This Convention may be terminated by a vote of the General Assembly.</p> <p>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.</p> | |
| | <p>IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed the present Convention.</p> <p>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 Depositary. The Depositary shall transmit certified copies thereof to all the [signatory and acceding] Governments and to the Secretary-General of the Organization.</p> | <p>We suggest to add Chinese and Russian here.</p> |

| | | | |
|---|----|---|--|
| | | | |
| Annex A Transitional Arrangements | | | |
| | 1. | All National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities from States that are not Member States shall, with the approval of the Council and subject to their request, become Associate Members of the Organization. | |
| | 2. | All Associate and Industrial Members of the International Association of Marine Aids to Navigation and Lighthouse Authorities holding financial, non-suspended status shall, with the approval of Council and subject to their request become Affiliate Members of the Organization. | |
| | 3. | Upon the entry into force of this Convention the President, Vice President and the Council of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional President, Vice President and Council of the Organization and will operate as such until the first General Assembly convened under this Convention has elected a President, Vice President and Council, which must be within a period not exceeding six (6) months. Until such time as the Organization has adopted General | |

| | | |
|--|---|--|
| | Regulations, it shall function in accordance with the General Regulations of the International Association of Marine Aids to Navigation and Lighthouse Authorities mutatis mutandis. | |
| | 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 Marine Aids to Navigation and Lighthouse Authorities shall become the transitional Committees of the Organization and will operate until Committees are established under this Convention. | |
| | 6. In the event that a State which has Associate membership under this Convention becomes a Member State the Associate membership shall cease on the date on which this Convention enters into force for that State. In the case of a Member State having more than one Associate membership under this Convention that State may decide to retain Associate memberships. | |
| | 7. After the entry into force of this Convention the International Association of Marine Aids to Navigation and Lighthouse Authorities, facilitated by the transitional | |

| | | |
|--|---|--|
| | <p>Council will work in cooperation with the Organization to transfer its activities, records, documents, publications, archives, rights, interests, funds, assets and liabilities to the Organization.</p> | |
| | <p>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 General Assembly elects the Secretary-General in accordance with Article 7.</p> | |

marie-helene grillet

De: secgen IALA
Envoyé: jeudi 27 septembre 2018 09:39
À: Francis Zachariae; 'Marie-Hélène Grillet'; 'Henning Osnes Teigene - LAP Vice Chair (NCA)'; Schneider, Christina
Objet: TR: DMA DK reply with no remarks on IGO Action Project : Request to submit comments on the draft IALA Convention etc.

Dear all

Good morning.

Below e-mail is for your information/attention.

Kind regards
Virginia

Virginia BUTLER

Executive Assistant / Assistante de Direction

Tel +33 (0)1 34 51 70 01 – Fax +33 (0)1 34 51 82 05 – E-mail : virginia.butler@iala-aism.org



10, rue des Gaudines • 78100 Saint Germain en Laye, France
www.iala-aism.org
International Association of Marine Aids to Navigation and Lighthouse Authorities
Association Internationale de Signalisation Maritime

De : secgen IALA
Envoyé : jeudi 27 septembre 2018 09:37
À : Peter Dam <PED@dma.dk>; virginia butler <virginia.butler@iala-aism.org>
Cc : Jakob Ejlers <jer@dma.dk>; Jan Thorn <JAT@dma.dk>
Objet : RE: DMA DK reply with no remarks on IGO Action Project : Request to submit comments on the draft IALA Convention etc.

Dear Mr Peter Dam

We thank you very much for your e-mail . We have well noted that the Danish Maritime Authority have no further comments.

Yours sincerely

Virginia BUTLER

Executive Assistant / Assistante de Direction

Tel +33 (0)1 34 51 70 01 – Fax +33 (0)1 34 51 82 05 – E-mail : virginia.butler@iala-aism.org



10, rue des Gaudines • 78100 Saint Germain en Laye, France
www.iala-aism.org
International Association of Marine Aids to Navigation and Lighthouse Authorities
Association Internationale de Signalisation Maritime

De : Peter Dam <PED@dma.dk>
Envoyé : jeudi 27 septembre 2018 08:53

Comments from Finland on the draft IALA Convention (version received by e-mail 6th April, 2018)

| Article | Comment/Proposed action |
|---|-------------------------|
| <p>Draft Convention on the International Organization for Marine Aids to Navigation</p> <p>The States party to this Convention:</p> <p>RECALLING that the International Association of Lighthouse Authorities was established on 1st July 1957 and was renamed the International Association of Marine Aids to Navigation and Lighthouse Authorities in 1998;</p> <p>RECOGNISING the role of the International Association of Marine Aids to Navigation and Lighthouse Authorities in the improvement and continued harmonization of Marine Aids to Navigation for the safe, economic and efficient movement of vessels for the benefit of the maritime community and the protection of the environment;</p> <p>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;</p> <p>CONSIDERING that the International Association of Marine Aids to Navigation and Lighthouse Authorities was formed as an association under French law; and</p> <p>CONSIDERING FURTHER that developing, improving and harmonizing Marine Aids to Navigation for the benefit of the maritime community and the protection of the environment is best coordinated by international organizations;</p> | |

| | |
|---|---|
| <p>HAVE AGREED as follows:</p> | |
| <p style="text-align: center;">Article 1 Establishment</p> <ol style="list-style-type: none"> 1. The International Organization for Marine Aids to Navigation (IALA) is hereby established under international law as an intergovernmental organization (hereinafter 'the Organization'). 2. The Organization shall have a consultative and technical nature. 3. The Organization shall have its seat in France unless otherwise decided by the Member States present and voting at the General Assembly. | <p>Earlier versions had an article 1.5 which has now been removed.</p> <p>Consider restoring deleted article 1.5 as modified article 1.4 (text below)</p> <p><i>"1.4 The functioning of the Organization shall be as set out in the General and Financial Regulations."</i></p> |
| <p style="text-align: center;">Article 2 Definitions</p> <p>For the purposes of this Convention:</p> <p>Member State means a State, which has consented to be bound by this Convention and for which this Convention is in force.</p> <p>Associate Member means a territory or groups of territories for which a Member State has requested membership which has been accepted by the General Assembly.</p> <p>Affiliate Member means a manufacturer or distributor of Marine Aids to Navigation equipment for sale, or an organization providing Marine Aids to Navigation services or technical advice under contract and any other service, organization or scientific agency concerned with Marine Aids to Navigation which has applied for membership which has been accepted by the Council.</p> | |

| | | |
|--|---|---|
| <p>Marine Aid to Navigation means a device, system or service, external to a vessel, designed and operated to enhance safe and efficient navigation of individual vessels and vessel traffic.</p> | <p style="text-align: center;">Article 3 Aim and Objectives</p> <p>The aim of the Organization is to bring together governments, services and organizations concerned with the regulation, provision, maintenance or operation of Marine Aids to Navigation with the objectives of:</p> <ul style="list-style-type: none"> (a) Fostering the safe and efficient movement of vessels through the improvement and harmonization of Marine Aids to Navigation worldwide; (b) Promoting access to technical cooperation and capacity building on all matters related to development and transfer of expertise, science and technology in relation to Marine Aids to Navigation; (c) Encouraging and facilitating the general adoption of the highest practicable standards in matters concerning Marine Aids to Navigation; and (d) Providing for the exchange of information among governments and intergovernmental organizations on matters under consideration by the Organization. | <p style="text-align: center;">Article 4 Functions</p> <p>In order to achieve the aim and objectives set out in Article 3, the functions of the Organization shall be:</p> <ul style="list-style-type: none"> (a) To provide non mandatory standards, recommendations, guidelines, manuals or other suitable means and to commend <p>Consider replacing word “government” with word “state” on articles 4 (a) and 4 (e).</p> |
|--|---|---|

| | |
|---|---|
| <p>these to governments, intergovernmental organizations, Associate Members and Affiliate Members as appropriate;</p> <p>(b) To consider and make recommendations on standards, recommendations, guidelines, manuals and other documents that may be remitted to it by Member States, Associate Members and Affiliate Members, by any organ or specialized agency of the United Nations or by any other intergovernmental organization;</p> <p>(c) To provide mechanisms for consultation and exchange of information covering inter alia recent developments and the activities of Member States, Associate Members and Affiliate Members;</p> <p>(d) To develop international cooperation by promoting close working relationships and assistance between Member States, Associate Members and Affiliate Members;</p> <p>(e) To facilitate assistance, whether technical, organizational or training to governments, services and other organizations requesting help with Marine Aids to Navigation;</p> <p>(f) To organize conferences, symposia, seminars, workshops and other events relevant to its work; and</p> <p>(g) To liaise and cooperate with relevant international and other organizations, offering specialized advice where appropriate.</p> | |
| <p style="text-align: center;">Article 5 Membership</p> <p>1. The Organization shall be comprised of Member States, Associate Members and Affiliate Members.</p> <p>2. Any Member State having responsibility for the international relations of a territory or group of territories may request Associate membership for such territory or group of territories, by notification in writing to the Secretary-General.</p> | <p>For consistency, the same information should be stated related to all Membership classes and preferably in the same Article (either here or in Article 2):</p> <ul style="list-style-type: none"> - Definition - How to apply (to whom the application is addressed) - Who approves the application |

| | |
|--|--|
| <p>3. The Council may require or a Member State may request that aspects of an application for Affiliate Membership be reviewed by the Member State (or Member States) where the applicant carries out its activities or has its principal place of business or registered office. If supported by the Member State (or Member States), who requested the review, the Council shall decide accordingly.</p> | |
| <p style="text-align: center;">Article 6 Structure</p> <p>1. The Organization shall have as its organs:</p> <ul style="list-style-type: none"> (a) The General Assembly; (b) The Council; (c) Committees and other subsidiary bodies necessary to support the Organization's activities; and (d) The Secretariat. <p>2. There shall be a President and a Vice President of the Organization. The President or in his or her absence the Vice President shall chair the General Assembly and the Council.</p> <p>3. All efforts shall be made for the General Assembly and the Council to make decisions by consensus among Member States. Where decisions of the General Assembly or Council cannot be reached by consensus, the following provisions shall apply:</p> <ul style="list-style-type: none"> (a) Only Member States have voting rights, which will be executed by the representative designated by each Member State. Each Member State will have one vote. (b) Except where otherwise specified, decisions shall be taken by two-thirds of the votes cast. <p>4. The General Regulations shall detail the Rules of Procedure that will apply for each organ.</p> | |
| | |

Article 7

The General Assembly

1. The General Assembly of the Member States is the principal decision-making organ of the Organization and shall have all the powers of the Organization unless otherwise regulated by this Convention.
2. Attendance shall be open to all Member States, Associate Members and Affiliate Members.
3. Each Member State shall designate one of its delegates, preferably a representative from the national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation as its principal delegate at the General Assembly.
4. Regular sessions of the General Assembly shall take place once every three years.
5. Extraordinary sessions shall be convened whenever one-third of Member States 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.
6. A majority of Member States shall constitute a quorum for the sessions of the General Assembly.
7. The General Assembly shall:
 - (a) Elect the President and the Vice President from amongst the Member States in accordance with the General Regulations;
 - (b) Decide the overall policy and the strategic vision of the Organization;
 - (c) Review and approve the General Regulations of the Organization;
 - (d) Elect the Council from amongst the Member States other than the Member State holding the Presidency or Vice Presidency in accordance with Article 8;
 - (e) Elect the Secretary-General from amongst the Member States in accordance with the General Regulations;
 - (f) Review and approve the financial arrangements of the Organization, including the outline budget for the following three

| | |
|--|---|
| <p>years and the rate of contributions for Member States and fees for Associate Members and Affiliate Members;</p> <p>(g) Consider the reports and proposals put to it by any Member State, the Council or the Secretary-General;</p> <p>(h) Approve standards;</p> <p>(i) Decide on Associate membership;</p> <p>(j) Make recommendations to Member States, Associate Members and Affiliate Members on matters within the scope of the Organization;</p> <p>(k) Approve formal agreements with other organizations; and</p> <p>(l) Decide on any other matters within the aim and objectives of the Organization.</p> | |
| <p style="text-align: center;">Article 8 The Council</p> <p>1. The Council is the executive organ of the Organization and shall be responsible for directing the activities of the Organization.</p> <p>2. The Council shall consist of the President and the Vice President and up to twenty three (23) Council members, each representing a different Member State.</p> <p>3. Council members shall be elected by ballot at each regular session of the General Assembly in accordance with the General Regulations.</p> <p>4. At the Council Member States shall preferably be represented by a delegate from a national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation of that Member State.</p> <p>5. The Council shall:</p> <p>(a) Exercise such responsibilities as may be delegated to it by the General Assembly;</p> | <p>Consider the need to define also the minimum number of council members (Article 8.2).</p> <p>Consider adding the quorum of Council meetings.</p> <p>Consider adding a new Council task to nominate Committee Chairs (Article 8.5 and maybe integrate into the task (k)). However establishment and termination of committees and nomination of Committee Chairs could also be a GA task.</p> |

| | |
|--|--|
| <p>(b) Coordinate the activities of the Organization within the framework of the overall policy, the strategic vision and the outline budget, as decided by the General Assembly;</p> <p>(c) Review and approve the financial statements, including the annual budget;</p> <p>(d) Decide on Affiliate membership;</p> <p>(e) Convene the General Assembly;</p> <p>(f) Report to the General Assembly on the work of the Organization;</p> <p>(g) Review papers submitted to it in accordance with the General Regulations;</p> <p>(h) Refer to the General Assembly all matters requiring decision by the General Assembly;</p> <p>(i) Approve recommendations, guidelines, manuals and other appropriate documents;</p> <p>(j) Approve submissions to other organizations;</p> <p>(k) Establish Committees and other subsidiary bodies and review and approve their respective terms of reference;</p> <p>(l) Terminate Committees and other subsidiary bodies;</p> <p>(m) Review and approve the work programmes of the Committees; and</p> <p>(n) Decide the venue and the year of the Organization's conferences and symposia as described in the General Regulations.</p> | |
| <p style="text-align: center;">Article 9 Committees and Other Subsidiary Bodies</p> <p>1. Committees and other subsidiary bodies shall support the aim and objectives of the Organization.</p> <p>2. The Committees shall:</p> <p>(a) Prepare and review standards, recommendations, guidelines, manuals and other documents identified in the work programmes;</p> <p>(b) Monitor developments in the area of Marine Aids to Navigation;</p> | <p>Consider defining here what body establishes Committees and other Subsidiary Bodies.</p> <p>Consider the need to define the term of Committee Chairs, Committees and Other Subsidiary Bodies.</p> |

| | |
|--|--|
| <p>(c) Facilitate the sharing of expertise and experience among Member States, Associate Members and Affiliate Members; and</p> <p>(d) Conduct any other tasks as decided by the Council.</p> | |
| <p style="text-align: center;">Article 10 Secretariat</p> <p>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 within the approved budgetary framework.</p> <p>(a) The term of Secretary-General shall be three years. The Secretary-General may be re-elected for up to two additional consecutive terms of three years each.</p> <p>(b) The Secretary-General shall be responsible for the day to day management of the Organization, subject to any guidance issued by the General Assembly or the Council.</p> <p>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.</p> <p>3. The Secretariat shall:</p> <p>(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;</p> <p>(b) Administer the Organization's finances under the direction of the Council, in accordance with the General Regulations;</p> <p>(c) Prepare the financial statements, including the annual budget, for submission to the Council;</p> <p>(d) Keep Member States, Associate Members and Affiliate Members and other organizations informed with respect to the activities of the Organization;</p> | <p>The appointment of staff of the Secretariat should be approved by the Council (article 10.2).</p> <p>WWA forms an important part of the secretariat. Consider the need to mention WWA and its tasks more clearly in this article.</p> |

| | |
|--|---|
| <p>(e) Organize and support meetings of the General Assembly, the Council, Committees and other subsidiary bodies;</p> <p>(f) Organize and support conferences and symposia as approved by the Council;</p> <p>(g) Organize and support seminars, workshops and other events; and</p> <p>(h) Perform such other tasks as may be assigned by this Convention, the General Regulations, the General Assembly or the Council.</p> | |
| <p style="text-align: center;">Article 11 Languages</p> <p>The official languages of the Organization shall be English, French and Spanish.</p> | <p>Finland would prefer English only, both as the official language and working language. However, because also French and Spanish are mentioned in the current General Regulations as languages used in General Assembly meetings, Finland can accept French and Spanish as official languages.</p> <p>However, it would be important to have a common understanding what is the content of the term “official language” in practical level.</p> |
| <p style="text-align: center;">Article 12 Finance</p> <p>1. The expenditure for the functioning of the Organization shall be met by the financial resources provided by:</p> <ul style="list-style-type: none"> (a) Member State contributions; (b) Associate Member and Affiliate Member fees; (c) Donations, bequests, grants, gifts; and (d) Other sources approved by the Council upon recommendation by the Secretary-General. <p>2. Each Member State shall pay a contribution and each Associate Member and Affiliate Member shall pay a fee to the Organization on an annual basis in the amount determined in accordance with in Article 7.7 (f). The contribution shall be set at the same rate for each Member State.</p> | |

| | |
|--|--|
| <p>3. Member State contributions and Associate Member and Affiliate Member fees shall be due and payable in accordance with the General Regulations.</p> <p>4. Any Member State which is two years in arrears in making contributions shall, after written notification by the Secretary-General, be denied voting rights and the right to be elected to the Council until such time as the outstanding contributions have been paid, in accordance with the General Regulations.</p> <p>5. Following the Council's approval of the Organization's audited financial statements, these statements shall be distributed to all Member States, Associate Members and Affiliate Members in the Annual Report.</p> | |
| <p style="text-align: center;">Article 13</p> <p style="text-align: center;">Legal personality, privileges and immunities</p> <p>1. The Organization has international legal personality and has the capacity to:</p> <ul style="list-style-type: none"> (a) Contract and conclude agreements with governments, organizations and other bodies; (b) Acquire and dispose of immovable and movable property; and (c) Institute legal proceedings. <p>2. In the territory of each of its Member States the Organization shall enjoy, subject to agreement with the Member State concerned, such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its aim and objectives.</p> <p>3. No Member State or Member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.</p> | <p>Consider adding a new Article 13.3 and renaming current 13.3 to 13.4.</p> <p><i>"3. Representatives of Member States, officers and officials of the Organization, as well as members of the Council, shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.</i></p> <p><i>4. No Member State or Member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization."</i></p> <p>The Article 13.3 should be added to make sure that representatives of Contracting Parties can attend for example General Assembly meetings.</p> |
| <p style="text-align: center;">Article 14</p> | |

| | |
|---|--|
| <p style="text-align: center;">Depositary</p> <p>The Republic of France shall serve as the Depositary for this Convention.</p> | |
| <p style="text-align: center;">Article 15 Amendments</p> <ol style="list-style-type: none"> 1. Any Member State may propose an amendment to this Convention, in writing, to the Secretary-General. 2. The Secretary-General shall circulate the proposed amendment to all Member States at least six months in advance of its consideration by the General Assembly. 3. The proposed amendment shall be adopted by vote of the General Assembly. 4. Any amendment adopted in accordance with Article 15.3 shall be sent by the Secretary-General to the Depositary of this Convention. The latter shall notify all Member States and the Secretary-General of the adoption of the amendment. 5. An amendment to this Convention shall come into force for Member States having accepted the amendment six months after written notification of the acceptance to the Depositary by two-thirds of Member States and thereafter for each remaining Member State upon acceptance by it. | |
| <p style="text-align: center;">Article 16 Interpretation and Disputes</p> <p>Member States shall make every effort to prevent disputes, and shall use their best efforts to resolve any disputes by amicable means which may include consultation and negotiation with each other. Disputes that remain unresolved [after a period of three months] may, with the agreement of all</p> | |

| | |
|--|--|
| | <p>parties to the dispute, be referred to a panel of three independent arbitrators appointed by the Secretary-General of the Permanent Court of Arbitration for a non-binding resolution, unless the parties to the dispute agree upon another mode of dispute settlement.</p> |
| | <p style="text-align: center;">Article 17 Signature, Ratification and Accession</p> <ol style="list-style-type: none">1. This Convention shall open for signature by any State that is a member 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 this Convention from the day after the date on which this Convention closes for signature.4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary, who shall then notify each Member State and the Secretary-General thereof.5. No reservation can be made to this Convention. |
| | <p style="text-align: center;">Article 18 Entry into force</p> <ol style="list-style-type: none">1. The present Convention shall enter into force on the thirtieth day after the date of deposit of the [thirtieth] instrument of ratification, acceptance, approval or accession.2. For each State ratifying, accepting, approving or acceding to this 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. |

| | |
|--|--|
| 3. The transitional arrangements that shall apply upon entry into force of this Convention are set out in Annex A. | |
| <p style="text-align: center;">Article 19 Withdrawal</p> <p>1. Any Member State may withdraw from this Convention by giving at least twelve month written notice to the Depositary, who will immediately inform all Member States and the Secretary-General of such notification.</p> <p>2. Notification of withdrawal may be given at any time after the expiration of six months from the date on which this Convention has come into force.</p> <p>3. The withdrawal shall take effect on 31st December following the expiration of the notice.</p> | |
| <p style="text-align: center;">Article 20 Termination</p> <p>1. This Convention may be terminated by a vote of the General Assembly.</p> <p>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.</p> | |
| <p>IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed the present Convention.</p> <p>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</p> | |

| | |
|---|---|
| <p>archives of the Depositary. The Depositary shall transmit certified copies thereof to all the [signatory and acceding] Governments and to the Secretary-General of the Organization.</p> | |
| <p>Annex A</p> <p>Transitional Arrangements</p> <ol style="list-style-type: none"> 1. All National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities from States that are not Member States shall, with the approval of the Council and subject to their request, become Associate Members of the Organization. 2. All Associate and Industrial Members of the International Association of Marine Aids to Navigation and Lighthouse Authorities holding financial, non-suspended status shall, with the approval of Council and subject to their request become Affiliate Members of the Organization. 3. Upon the entry into force of this Convention the President, Vice President and the Council of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional President, Vice President and Council of the Organization and will operate as such until the first General Assembly convened under this Convention has elected a President, Vice President and Council, which must be within a period not exceeding six (6) months. Until such time as the Organization has adopted General Regulations, it shall function in accordance with the General Regulations of the International Association of Marine Aids to Navigation and Lighthouse Authorities <i>mutatis mutandis</i>. 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 Marine Aids to Navigation and Lighthouse Authorities shall become the transitional | <p>Consider if there is need for provisional application for some of the Convention provisions, e.g. Article 13 on legal personality and privileges and immunities.</p> |

Committees of the Organization and will operate until Committees are established under this Convention.

6. In the event that a State which has Associate membership under this Convention becomes a Member State the Associate membership shall cease on the date on which this Convention enters into force for that State. In the case of a Member State having more than one Associate membership under this Convention that State may decide to retain Associate memberships.

7. After the entry into force of this Convention the International Association of Marine Aids to Navigation and Lighthouse Authorities, facilitated by the transitional Council will work in cooperation with the Organization to transfer its 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 General Assembly elects the Secretary-General in accordance with Article 7.

MINISTÈRE DE L'EUROPE ET DES
AFFAIRES ÉTRANGÈRES



**Direction générale des affaires politiques et
de sécurité**

Paris, le 15/10/2018

*Direction des Nations unies, des
Organisations internationales, des Droits de
l'Homme et de la Francophonie*

*Sous-direction des Affaires économiques et
budgétaires*

(Traduit de l'anglais)

Mars 2018

**Projet de convention relative à l'Organisation internationale pour les aides à la
navigation maritime.**

**À la suite de la conférence diplomatique préparatoire organisée à Marrakech les 7
et 8 février 2018.**

Préambule

Les États parties à la présente Convention :

RAPPELANT que l'Association internationale de signalisation maritime a été créée le 1^{er} juillet 1957 et rappelant la XII^{ème} session de l'Assemblée générale de l'AIMS tenue à La Corogne en Espagne du 25 au 31 mai 2014 qui a adopté une résolution affirmant sa conviction que le statut d'organisation internationale servirait au mieux ses objectifs et déterminant que ce nouveau statut devrait être établi le plus rapidement possible, par l'adoption d'une convention internationale (Résolution d'Assemblée générale A.01 du 27 mai 2014) ;

RECONNAISSANT le rôle joué par l'Association internationale de signalisation maritime dans l'amélioration et l'harmonisation constante des aides à la navigation maritime afin d'assurer une circulation sûre, économique et efficace des navires, au service de la communauté maritime et de la protection de l'environnement ;

CONFORMÉMENT aux dispositions de la Convention des Nations Unies sur le droit de la mer de 1982 et de la Convention internationale pour la sauvegarde de la vie humaine en mer de 1974, telles qu'amendées ;

CONSIDÉRANT que l'Association internationale de signalisation maritime a été constituée en tant qu'association en vertu du droit français ; et

CONSIDÉRANT ÉGALEMENT que l'élaboration, l'amélioration et l'harmonisation des aides à la navigation maritime au service de la communauté maritime et de la protection de l'environnement sont coordonnées plus efficacement par les organisations internationales ;

SONT CONVENUS de ce qui suit :

Article 1^{er} **Constitution**

1. L'Organisation internationale de signalisation maritime « OISM » (ci-après dénommée « l'Organisation ») est constituée par le présent accord en tant qu'organisation internationale.
2. L'Organisation a un caractère consultatif et technique.
3. L'Organisation a son siège en France, sauf si les États membres présents et votant lors de l'Assemblée générale en décident autrement conformément aux dispositions de l'article 11 du présent accord.
4. L'Organisation est dotée de la personnalité juridique internationale et a la capacité :
 - (a) de signer et de conclure des accords avec des gouvernements, des organisations et d'autres entités ;
 - (b) d'acquérir et de vendre des biens immobiliers et mobiliers ; et
 - (c) d'ester en justice.

Article 2 **Définitions**

Aux fins de la présente Convention :

L'expression « **signalisation maritime** » désigne un dispositif, un système ou un service externe à un navire, conçu et utilisé pour accroître la sécurité et l'efficacité de la navigation des navires individuels ainsi que du trafic maritime.

Article 3 **But et objectifs**

L'Organisation a pour objectif de rassembler les gouvernements, les organisations et les services concernés par la réglementation, la fourniture, l'entretien ou l'exploitation des aides à la navigation maritime pour :

- (a) promouvoir une circulation des navires sûre et efficace en améliorant et en harmonisant les aides à la navigation maritime dans le monde entier ;
- (b) promouvoir l'accès à la coopération technique et au renforcement des capacités pour toutes les questions relatives au développement et au transfert de savoir-faire, de données scientifiques et de technologie en lien avec les aides à la navigation maritime ;
- (c) encourager et faciliter l'adoption généralisée de normes aussi rigoureuses que possible en matière d'aides à la navigation maritime ; et
- (d) prévoir un échange d'informations entre les gouvernements et les organisations intergouvernementales sur les questions étudiées par l'Organisation.

Article 4

Fonctions

Afin d'atteindre le but et les objectifs mentionnés à l'article 3, les fonctions de l'Organisation sont les suivantes :

- (a) élaborer des normes non contraignantes, des recommandations, des lignes directrices, des manuels ou d'autres instruments adéquats et les faire connaître aux gouvernements, aux organisations intergouvernementales et aux membres associés et affiliés en tant que de besoin ;
- (b) étudier et rendre un avis concernant les normes, les recommandations, les lignes directrices, les manuels ou les autres documents qui peuvent lui être transmis par les États membres, les membres associés et affiliés, tout organe ou toute institution spécialisée des Nations Unies ou toute autre organisation intergouvernementale ;
- (c) mettre en place des mécanismes de consultation et d'échange d'informations concernant, notamment, les évolutions récentes et les activités des États membres et des membres associés et affiliés ;
- (d) renforcer la coopération internationale en encourageant les États membres, les membres associés et les membres affiliés à entretenir d'étroites relations professionnelles et à se prêter mutuellement assistance ;
- (e) faciliter l'octroi d'une assistance, qu'elle soit technique, organisationnelle ou en matière de formation, aux gouvernements, aux services et aux autres organisations qui en ont besoin dans le domaine des aides à la navigation maritime ;
- (f) organiser des conférences, des symposiums, des séminaires, des ateliers et d'autres événements concernant ses travaux ; et
- (g) se mettre en relation et coopérer avec les organisations internationales pertinentes et d'autres organisations, en proposant des conseils spécialisés en tant que de besoin.

Article 5

Membres

- 1. L'Organisation se compose d'États membres, de membres associés et de membres affiliés ;
- 2. La qualité d'Etat membre de l'Organisation est accessible à tous les Etats parties à la présente Convention ;
- 3. La qualité de membre associé est accessible à tout territoire ou groupe de territoires responsable de la réglementation, la fourniture, l'entretien et/ou le fonctionnement des aides à la navigation maritime et dont les relations extérieures sont assurées par un Etat membre. Dans ce cas, l'adhésion en qualité de membre associé doit être sollicitée par l'Etat membre par écrit auprès du Secrétaire général de l'Organisation, qui soumet cette demande à l'approbation de l'Assemblée générale ;
- 4. La qualité de membre affilié est accessible à :
 - (a) des fabricants et distributeurs de matériel d'aides à la navigation maritime, ou des organismes fournissant sous contrat des services de signalisation maritime ou des conseils techniques. Ces membres affiliés sont dénommés membres industriels.
 - (b) n'importe quel autre service, organisation ou organisme scientifique ayant trait aux aides à la navigation maritime ; et
 - (c) les anciens membres industriels et associés de l'Association Internationale de Signalisation Maritime, conformément à l'article 23.2

5. Le Conseil peut exiger, ou un État membre demander, que les modalités d'une candidature au statut de membre affilié soient examinés par l'État membre (ou les États membres) dans lequel le candidat mène ses activités ou possède son principal établissement ou son siège social. Si l'État membre (ou les États membres) ayant requis cet examen apporte son soutien, le Conseil prend sa décision en conséquence.

Article 6 **Structure**

1. Les organes de l'Organisation sont les suivants :
 - (a) l'Assemblée générale ;
 - (b) le Conseil ;
 - (c) les comités et autres organes subsidiaires nécessaires aux activités de l'Organisation ; et
 - (d) le Secrétariat.
2. L'Organisation possède un Président et un Vice-président. Le Président, ou en son absence le Vice-président, préside l'Assemblée générale et le Conseil.
3. Le Règlement général définit le règlement intérieur s'appliquant pour chaque organe.

Article 7 **Assemblée générale**

1. L'Assemblée générale des États membres est le principal organe de prise de décisions de l'Organisation. Elle est composée de délégués représentant les États Membres .
2. Chaque État membre désigne l'un de ses délégués, de préférence un représentant de l'autorité nationale responsable de la réglementation, de la fourniture, de l'entretien ou de l'exploitation des aides à la navigation maritime, pour être son délégué principal à l'Assemblée générale.
3. Les membres associés et membres affiliés peuvent y assister.
4. Les sessions régulières de l'Assemblée générale ont lieu tous les trois ans.
5. Les sessions extraordinaires ont lieu lorsqu'un tiers des États membres informent le Secrétaire général qu'ils souhaitent qu'une session soit organisée, ou à tout moment si le Conseil l'estime nécessaire, avec un préavis de quatre-vingt-dix jours.
6. Le quorum pour les sessions de l'Assemblée générale est constitué par la majorité des États membres.
7. L'Assemblée générale :
 - (a) élit le Président et le Vice-président parmi les États membres conformément au Règlement général ;
 - (b) décide de la politique globale et de la vision stratégique de l'Organisation ;
 - (c) examine et approuve le Règlement général de l'Organisation ;
 - (d) élit les membres du Conseil parmi les États membres qui n'assurent ni la présidence ni la vice-présidence conformément à l'article 8 ;
 - (e) élit le Secrétaire général parmi les États membres conformément au Règlement général ;
 - (f) examine et approuve les modalités financières de l'Organisation, notamment le projet de budget pour les trois années suivantes, le taux des contributions pour les États membres et les cotisations à payer par les membres associés et affiliés ;
 - (g) examine les rapports et les propositions transmises par tout État membre, par le Conseil ou par le Secrétaire général ;
 - (h) approuve les normes ;
 - (i) décide de l'accès au statut de membre associé ;

- (j) fait des recommandations aux États membres et aux membres associés et affiliés sur les sujets relevant de la compétence de l'Organisation ;
- (k) approuve les accords officiels conclus avec d'autres organisations ; et
- (l) prend des décisions sur toute autre question liée au but et aux objectifs de l'Organisation.

Article 8

Conseil

1. Le Conseil est l'organe exécutif de l'Organisation et est responsable de la direction de ses activités.
2. Le Conseil est composé du Président, du Vice-président et d'un nombre maximum de vingt-trois (23) autres membres, chacun représentant un État membre différent.
3. Les membres du Conseil sont élus lors d'un scrutin organisé lors de chaque session régulière de l'Assemblée générale, conformément au Règlement général.
4. Les États membres sont de préférence représentés au Conseil par un délégué de l'autorité nationale responsable de la réglementation, de la fourniture, de l'entretien ou de l'exploitation des aides à la navigation maritime pour leur État.
5. Le Conseil :
 - (a) exerce les responsabilités qui peuvent lui être déléguées par l'Assemblée générale ;
 - (b) coordonne les activités de l'Organisation dans le cadre de la politique globale, de la vision stratégique et du projet de budget décidés par l'Assemblée générale ;
 - (c) passe en revue et approuve les états financiers, notamment le budget annuel ;
 - (d) décide de l'accès au statut de membre affilié, conformément à l'article 5(5) ;
 - (e) organise l'Assemblée générale ;
 - (f) rend des comptes à l'Assemblée générale à propos des travaux de l'Organisation ;
 - (g) examine les documents qui lui sont transmis conformément au Règlement général ;
 - (h) informe l'Assemblée générale de tous les sujets à propos desquels elle doit prendre une décision ;
 - (i) approuve les recommandations, les lignes directrices, les manuels et les autres documents pertinents ;
 - (j) approuve les contributions destinées à d'autres organisations ;
 - (k) met en place les comités et les autres organes subsidiaires et étudie et approuve leurs mandats respectifs ;
 - (l) dissout les comités et les autres organes subsidiaires ;
 - (m) examine et approuve les programmes de travail des comités ; et
 - (n) décide du lieu et de l'année d'organisation des conférences et des symposiums de l'Organisation, tel que cela est décrit dans le Règlement général.

Article 9

Comités et autres organes subsidiaires

1. Les comités et les autres organes subsidiaires contribuent à la réalisation du but et des objectifs de l'Organisation.
2. Les comités :
 - (a) préparent et examinent les normes, les recommandations, les lignes directrices, les manuels et les autres documents identifiés dans les programmes de travail ;
 - (b) suivent les évolutions ayant lieu dans le domaine des aides à la navigation maritime ;
 - (c) facilitent le partage de savoir-faire et d'expérience parmi les États membres, les membres associés et les membres affiliés ; et
 - (d) réalisent toute autre tâche qui leur est confiée par le Conseil.

Article 10

Secrétariat

1. Le Secrétariat permanent de l'Organisation se compose du Secrétaire général et du personnel nécessaire aux travaux de l'Organisation, dans les limites du cadre budgétaire approuvé.
 - (a) Le Secrétaire général a un mandat de trois ans. Le Secrétaire général peut être réélu, au maximum, pour deux mandats consécutifs supplémentaires de trois ans chacun.
 - (b) Le Secrétaire général est responsable de la gestion quotidienne de l'Organisation, dans le respect des orientations données par l'Assemblée générale ou le Conseil.
2. Le personnel du Secrétariat est nommé par le Secrétaire général selon des conditions et pour réaliser les missions décidées par ce dernier.
3. Le Secrétariat :
 - (a) conserve toutes les archives nécessaires à l'exécution efficace des travaux de l'Organisation et prépare, collecte et diffuse toute la documentation requise ;
 - (b) gère les finances de l'Organisation sous la direction du Conseil, conformément au Règlement général ;
 - (c) prépare les états financiers, notamment le budget annuel, qui doivent être présentés au Conseil ;
 - (d) tient les États membres, les membres associés et les membres affiliés ainsi que les autres organisations informés des activités de l'Organisation ;
 - (e) organise les réunions de l'Assemblée générale, du Conseil, des comités et des autres organes subsidiaires et y apporte son appui ;
 - (f) organise les conférences et les symposiums approuvés par le Conseil et y apporte son appui ;
 - (g) organise les séminaires, les ateliers et d'autres événements et y apporte son appui, et ;
 - (h) réalise d'autres tâches qui peuvent lui être confiées en vertu de la présente Convention ou du Règlement général ou par l'Assemblée générale ou le Conseil.

Article 11

Vote

1. Tous les efforts doivent être mis en œuvre pour que l'Assemblée générale et le Conseil prennent des décisions par consensus entre les États membres. En cas d'absence de consensus au sein de l'Assemblée générale ou du Conseil, les dispositions suivantes s'appliquent :
 - (a) Seuls les États membres possèdent un droit de vote, qui sera utilisé par le représentant désigné par chacun d'entre eux. Chaque État membre disposera d'une seule voix.
 - (b) Sauf indication contraire, les décisions sont prises aux deux tiers des suffrages exprimés.
2. Le Règlement général définit le règlement intérieur s'appliquant aux procédures de vote pour chaque organe.

Article 12

Langues

Les langues officielles de l'Organisation sont l'anglais, l'espagnol et le français.

Article 13

Financement

1. Les dépenses nécessaires au fonctionnement de l'Organisation sont couvertes par les ressources financières constituées par les moyens suivants :
 - (a) contributions des États membres ;
 - (b) cotisations des membres associés et affiliés ;
 - (c) dons, legs, subventions, autres contributions volontaires ; et
 - (d) autres ressources approuvées par le Conseil sur recommandation du Secrétaire général.
2. Chaque État membre paie une contribution à l'Organisation et chaque membre associé ou affilié lui verse une cotisation, sur une base annuelle, le montant étant décidé conformément à l'alinéa (f) du paragraphe 7 de l'article 7. Le taux de la contribution est le même pour chaque État membre.
3. Les contributions des États membres et les cotisations des membres associés et affiliés sont dues et payables conformément au Règlement général.
4. Tout État membre en retard de deux ans sur le paiement de ses contributions se voit retirer ses droits de vote et son droit d'éligibilité au Conseil, après notification écrite par le Secrétaire général, jusqu'au règlement des contributions en souffrance, conformément au Règlement général.
5. Une fois que le Conseil a approuvé les états financiers vérifiés de l'Organisation, ceux-ci sont distribués à tous les États membres, membres associés et membres affiliés dans le rapport annuel.

Article 14

Privilèges et immunités

L'Organisation bénéficie, sur le territoire des États Membres, des privilèges et immunités nécessaires à l'exercice de ses fonctions. Ces privilèges et immunités sont définis par des accords conclus par l'Organisation.

Article 15

Dépositaire

La République française est le dépositaire de la présente Convention.

Article 16

Amendements

1. Tout projet d'amendement aux présents Statuts et à son annexe est transmis au Secrétaire général, qui le communique aux États membres, dans les trois langues officielles de l'Organisation, six mois au moins avant qu'il soit soumis à l'examen de l'Assemblée. Un amendement est adopté par l'Assemblée à la majorité des deux tiers des Membres effectifs présents et votants., à l'exclusion des États Membres privés de leurs droits et prérogatives au titre de l'Article 5.6.
1. Le Secrétaire général communique au Dépositaire de la présente Convention tout amendement adopté selon les termes de l'article 15.2. Le Dépositaire notifie les États Membres et le Secrétaire général de l'adoption de cet amendement.

2. Un amendement entre en vigueur pour tous les Membres lorsque les deux tiers des États Membres ont notifié leur approbation de celui-ci au Gouvernement dépositaire.

Article 17 **Interprétation et différends**

Tout différend concernant l'interprétation ou l'application de la présente Convention qui n'aura pas été réglé par voie de négociation sera soumis, avec l'accord de toutes les parties impliquées, à un tribunal arbitral composé de trois arbitres indépendants nommés par le Secrétaire générale de la Cour permanente d'arbitrage, à moins que les parties en conflit ne conviennent d'un autre mode de règlement.

Article 18 **Signature, ratification et adhésion**

1. La présente Convention est ouverte à la signature de tout État membre des Nations Unies à [xxx] et demeure ouverte jusqu'à [xxx].
2. La présente Convention est soumise à la ratification, à l'acceptation ou à l'approbation des États signataires.
3. La présente Convention est ouverte à l'adhésion de tout État membre des Nations Unies ne l'ayant pas signée à compter du lendemain de la date à laquelle la présente Convention est fermée à la signature.
4. Les instruments de ratification, d'acceptation, d'approbation ou d'adhésion sont déposés auprès du dépositaire, qui en informe ensuite chaque État membre ainsi que le Secrétaire général.
5. La présente Convention n'admet aucune réserve.

Article 19 **Entrée en vigueur**

1. La présente Convention entre en vigueur le trentième jour après la date du dépôt du trentième instrument de ratification, d'acceptation, d'approbation ou d'adhésion.
2. Pour chaque État qui ratifie, accepte ou approuve la présente Convention ou y adhère après son entrée en vigueur, la Convention entre en vigueur le trentième jour après le dépôt de son instrument de ratification, d'acceptation, d'approbation ou d'adhésion.

Article 20 **Retrait**

1. Tout État membre peut se retirer de la présente Convention moyennant un préavis écrit d'au moins douze mois adressé au dépositaire, qui informe immédiatement tous les États membres et le Secrétaire général de cette notification.
2. La notification de retrait peut être donnée à tout moment après l'expiration d'un délai de six mois à compter de la date d'entrée en vigueur de la Convention.
3. Le retrait prend effet le 31 décembre suivant l'expiration du préavis.

EN FOI DE QUOI, les soussignés, dûment autorisés par leur Gouvernement respectif, ont signé la présente Convention.

FAIT à [xxx] le [xxx] en langues anglaise, espagnole et française, chaque texte faisant également foi, dont un original est versé aux archives du dépositaire. Le dépositaire transmet des copies certifiées du texte à tous les gouvernements [signataires et adhérents] ainsi qu'au Secrétaire général de l'Organisation.

Arrangements transitoires

1. Tous les membres nationaux de l'Association internationale de signalisation maritime originaires d'États qui ne sont pas des États membres deviennent, avec l'accord du Conseil et à leur demande, des membres associés de l'Organisation.
2. Tous les membres associés et industriels de l'Association internationale de signalisation maritime dont le statut n'a pas été suspendu pour des raisons financières deviennent, avec l'accord du Conseil et à leur demande, des membres affiliés de l'Organisation.
3. Dès l'entrée en vigueur de la présente Convention, le Président, le Vice-président et le Conseil de l'Association internationale de signalisation maritime deviennent le Président, le Vice-président et le Conseil de transition de l'Organisation et fonctionneront en tant que tels jusqu'à l'élection d'un Président, d'un Vice-président et d'un Conseil par la première Assemblée générale organisée en vertu de la présente Convention, qui doit avoir lieu dans un délai ne dépassant pas six (6) mois. Jusqu'à l'adoption du Règlement général par l'Organisation, celle-ci fonctionne, mutatis mutandis, conformément au Règlement général de l'Association internationale de signalisation maritime.
4. Pendant la durée d'existence du Conseil de transition, les membres associés seront autorisés à participer aux travaux du Conseil au profit de l'Organisation.
5. Les comités de l'Association internationale de signalisation maritime deviennent les comités de transition de l'Organisation et fonctionneront jusqu'à l'établissement des comités en vertu de la présente Convention.
6. Dans l'éventualité où un État possédant le statut de membre associé en vertu de la présente Convention acquiert le statut d'État membre, il cesse d'être un membre associé à la date à laquelle la présente Convention entre en vigueur pour lui. Dans l'éventualité où un État membre possède plus d'un statut de membre associé en vertu de la présente Convention, il peut décider de conserver ces statuts.
7. Après l'entrée en vigueur de la présente Convention, l'Association internationale de signalisation maritime, aidée par le Conseil de transition, travaillera en collaboration avec l'Organisation pour lui transférer ses activités, ses comptes rendus, ses documents, ses publications, ses archives, ses droits, ses intérêts, ses fonds, ses actifs et ses responsabilités.
8. Jusqu'à l'établissement du Secrétariat de l'Organisation, le secrétariat de l'Association internationale de signalisation maritime fait office de Secrétariat et remplit ses fonctions. Le Secrétaire général de l'Association internationale de signalisation maritime fait office de Secrétaire général de l'Organisation jusqu'à l'élection du Secrétaire général par l'Assemblée générale conformément à l'article 7.



MINISTÈRE DE L'EUROPE ET DES
AFFAIRES ÉTRANGÈRES

Direction générale des affaires politiques et de sécurité

*Direction des Nations unies, des Organisations
internationales, des Droits de l'Homme et de la
Francophonie*

Sous-direction des Affaires économiques et budgétaires

Rédacteur : Thibault Desbets
N° 2018-1635928/DGP/NUOI/EB

Paris, le 15/10/2018

NOTE

**A l'attention du Secrétaire général de l'Association internationale de signalisation
maritime M. Francis Zachariae**

**A/S : Commentaires de la partie française relative au projet de Convention portant sur
le changement de statut de l'AIMS**

Le Ministère de l'Europe et des Affaires étrangères et le Ministère de la transition écologique et solidaire remercient le Secrétariat de l'Association internationale de signalisation maritime (AISM) de sa lettre N°IGO/18-075 invitant la partie française à soumettre des commentaires sur le projet de Convention portant création de l'Organisation internationale pour les Aides à la Navigation Maritime.

Il peut être rappelé à titre liminaire que les actes constitutifs des organisations internationales (OI) contiennent normalement des dispositions sur les aspects suivants : 1. L'établissement de l'organisation et ses fonctions, 2. Ses organes, 3. Leurs compétences, 4. Les procédures décisionnelles, 5. Les règles régissant la prise de décision et la votation, 6. Le droit dérivé interne. Certains actes précisent par ailleurs les droits et obligations matériels des membres. A cet égard, il est important de rappeler que l'acte fondateur lie non seulement les membres mais également les organes de l'organisation elle-même.

Plus spécifiquement, le projet de convention appelle les commentaires suivant:

1. Dans le préambule, il serait opportun de supprimer la mention du changement de nom de 1998 et de rappeler le mandat donné par l'Assemblée générale de l'AIMS à La Corogne en 2014 ;
2. Face à une volonté de certaines délégations de conserver l'appellation « IALA » et « AISM », nous considérons qu'il serait préférable qu'un nouveau nom soit trouvé pour marquer le changement de statut. L'article 1^{er} ne peut continuer à parler de « The International Organization for the Marine Aids to Navigation (IALA) » avec comme sigle IALA. La partie française propose le sigle suivant OISM (Organisation internationale de signalisation maritime) en français et IMAO (international marine aids to navigation) en anglais ;
3. Toujours sur l'article 1^{er} du projet de Convention, paragraphe 3, il serait opportun de préciser les modalités du vote concernant la détermination de l'État du siège. Conformément à l'article 6 du projet, les décisions prises à l'Assemblée générale et au Conseil doivent recueillir les 2/3 des votes exprimés. Ainsi serait-il nécessaire d'ajouter « *conformément à l'article 11 / in Accordance with Article 11* » ;
4. Dans un souci de clarté, il est préférable de définir le statut des membres de l'Organisation à l'article 5 et non à l'article 2 ;
5. Concernant les modalités de vote toujours, la partie française propose qu'un article 11 spécifique soit consacré aux modalités de prise de décision au sein de l'Assemblée et du Conseil (exclusive aux membres pléniers). L'idée serait de supprimer la partie sur le vote dans l'article 6 et de créer un article 11 indépendant ;
6. A l'article 13(1)(c), il convient de remplacer la mention de « *cadeaux* » par « *autres contributions volontaires* » ;
7. La partie française note que la version anglaise du projet de Convention mentionne « Republic of France », qui doit être modifié en « French Republic » correspondant la traduction officielle ;
8. Une mention aux trois langues officielles de l'Organisation doit être faite à l'article 16(1) et la mention du vote de l'Assemblée générale concernant l'adoption des amendements à l'article 16(3) doit être remplacé par la nouvelle version proposée ;
9. Concernant l'article 17 du projet, l'on peut s'interroger sur la pertinence et l'intérêt d'avoir recours à un tribunal arbitral rendant une décision non-contraignante. Il convient à tout le moins de supprimer la mention « non-binding », « non-contraignant » de l'article ;

10. La partie française relève que le présent projet d'accord prévoit que « *sous réserve de l'accord de l'Etat membre concerné, l'Organisation jouit sur le territoire de chaque Etat membre des privilèges et immunités qui sont nécessaires à l'exercice de ses fonctions et à la réalisation de son but et de ses objectifs* ». En l'Etat du projet, il appartient donc à chaque Etat de conclure un nouvel accord international afin de conférer à l'organisation des privilèges et immunités. Si cela est tout à fait envisageable, il faut toutefois bien garder à l'esprit qu'un tel accord supposerait un nouveau passage devant le parlement. Il pourrait donc être envisagé de préciser l'étendue des privilèges et immunités dont jouit l'organisation sur le territoire des Etats membres au sein de ce même projet d'accord. Une telle proposition d'amendement est particulièrement pertinente pour la France qui a vocation à accueillir le siège de l'organisation ;
11. A l'article 19(1), la partie française propose que la Convention entre en vigueur au trentième jour après la date du dépôt du trentième instrument de ratification, d'acceptation, d'approbation ou d'adhésion. Il conviendra de convenir d'une date limite pour laquelle la Convention reste ouverte à ratification ;
12. Enfin, concernant les dispositions transitoires, la France est favorable à ce qu'elles soient présentées sous la forme d'une annexe tout en prévoyant un système incitatif à une ratification rapide ainsi que la possibilité pour l'Assemblée générale de procéder à un examen régulier de la situation des membres associés.



Aude de Amorim



March 2018

Draft Convention on the International Organization for Marine Aids to Navigation.

After the Preparatory Diplomatic Conference in Marrakech 7th to 8th February 2018.

Preamble

The ~~States-party Member States to~~ States party to this Convention:

RECALLING that the International Association of Lighthouse Authorities was established on 1st July 1957 and was renamed the International Association of Marine Aids to Navigation and Lighthouse Authorities in 1998;

RECOGNISING the role of the International Association of Marine Aids to Navigation and Lighthouse Authorities in the improvement and continued harmonization of Marine Aids to Navigation for the safe, economic and efficient movement of vessels for the benefit of the maritime community and the protection of the environment;

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 was formed as an association under French law; and

CONSIDERING FURTHER that developing, improving and harmonizing Marine Aids to Navigation for the benefit of the maritime community and the protection of the environment is best coordinated by international organizations;

HAVE AGREED as follows:

Article 1 Establishment

1. The International Organization for Marine Aids to Navigation (IALA) is hereby established under international law as an intergovernmental organization (hereinafter 'the Organization').
2. The Organization shall have a consultative and technical nature.
3. The Organization shall have its seat in France unless otherwise decided by the Member States present and voting at the General Assembly.

Article 2 Definitions

For the purposes of this Convention:

Member State means a State, which has consented to be bound by this Convention and for which this Convention is in force.

Associate Member means a territory or groups of territories for which a Member State has requested membership which has been accepted by the General Assembly.

Affiliate Member means a manufacturer or distributor of Marine Aids to Navigation equipment for sale, or an organization providing Marine Aids to Navigation services or technical advice under contract and any other service, organization or scientific agency concerned with Marine Aids to Navigation which has applied for membership which has been accepted by the Council.

Marine Aid to Navigation means a device, system or service, external to a vessel, designed and operated to enhance safe and efficient navigation of individual vessels and vessel traffic.

Kommentar [A1]: In accordance with this very narrow definition of Associate Member, no state that is not yet party to the Convention can, as such, participate in the Organisation as an Associate Member. Neither is there another type of observer status or similar.

Kommentar [A2]: Here, the logically required element that the Member State has to have control over the territory is missing in the definition; cf. wording in Article 5.2 of the Convention.

Article 3 Aim and Objectives

The aim of the Organization is to bring together governments, services and organizations concerned with the regulation, provision, maintenance or operation of Marine Aids to Navigation with the objectives of:

- (a) Fostering the safe and efficient movement of vessels through the improvement and harmonization of Marine Aids to Navigation worldwide;
- (b) Promoting access to technical cooperation and capacity building on all matters related to development and transfer of expertise, science and technology in relation to Marine Aids to Navigation;
- (c) Encouraging and facilitating the general adoption of the highest practicable standards in matters concerning Marine Aids to Navigation; and
- (d) Providing for the exchange of information among governments and intergovernmental organizations on matters under consideration by the Organization.

Article 4 Functions

In order to achieve the aim and objectives set out in Article 3, the functions of the Organization shall be:

- (a) To provide non mandatory standards, recommendations, guidelines, manuals or other suitable means and to commend these to governments, intergovernmental organizations, Associate Members and Affiliate Members as appropriate;
- (b) To consider and make recommendations on standards, recommendations, guidelines, manuals and other documents that may be remitted to it by Member States, Associate Members and Affiliate Members, by any organ or specialized agency of the United Nations or by any other intergovernmental organization;
- (c) To provide mechanisms for consultation and exchange of information covering inter alia recent developments and the activities of Member States, Associate Members and Affiliate Members;
- (d) To develop international cooperation by promoting close working relationships and assistance between Member States, Associate Members and Affiliate Members;
- (e) To facilitate assistance, whether technical, organizational or training to governments, services and other organizations requesting help with Marine Aids to Navigation;

- (f) To organize conferences, symposia, seminars, workshops and other events relevant to its work; and
- (g) To liaise and cooperate with relevant international and other organizations, offering specialized advice where appropriate.

Article 5 Membership

1. The Organization shall be comprised of Member States, Associate Members and Affiliate Members.
2. Any Member State having responsibility for the international relations of a territory or group of territories may request Associate membership for such territory or group of territories, by notification in writing to the Secretary-General.
3. The Council may require or a Member State may request that aspects of an application for Affiliate Membership be reviewed by the Member State (or Member States) where the applicant carries out its activities or has its principal place of business or registered office. If supported by the Member State (or Member States), who requested the review, the Council shall decide accordingly.

Kommentar [A3]: Here, Associate Membership of dependent territories is provided for in a relatively general manner. Although the General Assembly decides by two-thirds majority, cf. Article 6.3(b) of the Convention, there is a risk of a partial official recognition.

Article 6 Structure

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. The President or in his or her absence the Vice President shall chair the General Assembly and the Council.
3. All efforts shall be made for the General Assembly and the Council to make decisions by consensus among Member States. Where decisions of the General Assembly or Council cannot be reached by consensus, the following provisions shall apply:
 - (a) Only Member States have voting rights, which will be executed by the representative designated by each Member State. Each Member State will have one vote.
 - (b) Except where otherwise specified, decisions shall be taken by two-thirds of the votes cast.
4. The General Regulations shall detail the Rules of Procedure that will apply for each organ.

Kommentar [A4]: Here, the specification should read "where otherwise specified in this Convention" to prevent the possibility of a derogation from the two-thirds majority through a provision in the General Regulations (e.g. Article 3.4.3(c) and 4.4.3(b) of the General Regulations for a postal or electronic vote).

Article 7 The General Assembly

1. The General Assembly of the Member States is the principal decision-making organ of the Organization and shall have all the powers of the Organization unless otherwise regulated by this Convention.
2. Attendance shall be open to all Member States, Associate Members and Affiliate Members.
3. Each Member State shall designate one of its delegates, preferably a representative from the national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation as its principal delegate at the General Assembly.
4. Regular sessions of the General Assembly shall take place once every three years.

Kommentar [A5]: The following sentences could be added, if needed, to establish the relationship between the Convention and the General Regulations in the Convention. "The General Regulations are subject to the provisions of the Convention. Where there is a conflict between the Convention and the General Regulations or any other basic documents covering the governance of the Organization, the Convention shall prevail.", cf. Article 1(2) of the General Regulations.

5. Extraordinary sessions shall be convened whenever one-third of Member States 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.
6. A majority of Member States shall constitute a quorum for the sessions of the General Assembly.
7. The General Assembly shall:
 - (a) Elect the President and the Vice President from amongst the Member States in accordance with the General Regulations;
 - (b) Decide the overall policy and the strategic vision of the Organization;
 - (c) Review and approve the General Regulations of the Organization;
 - (d) Elect the Council from amongst the Member States other than the Member State holding the Presidency or Vice Presidency in accordance with Article 8;
 - (e) Elect the Secretary-General from amongst the Member States in accordance with the General Regulations;
 - (f) Review and approve the financial arrangements of the Organization, including the outline budget for the following three years and the rate of contributions for Member States and fees for Associate Members and Affiliate Members;
 - (g) Consider the reports and proposals put to it by any Member State, the Council or the Secretary-General;
 - (h) Approve standards;
 - (i) Decide on Associate membership;
 - (j) Make recommendations to Member States, Associate Members and Affiliate Members on matters within the scope of the Organization;
 - (k) Approve formal agreements with other organizations; and
 - (l) Decide on any other matters within the aim and objectives of the Organization.

Kommentar [A6]: This seems very little; is a majority of the Member States supposed to be sufficient to constitute a quorum for General Assembly sessions?

Kommentar [A7]: Adopt, review and amend

Article 8 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 the President and the Vice President and up to twenty three (23) Council members, each representing a different Member State.
3. Council members shall be elected by ballot at each regular session of the General Assembly in accordance with the General Regulations.
4. At the Council Member States shall preferably be represented by a delegate from a national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation of that Member State.
5. The Council shall:
 - (a) Exercise such responsibilities as may be delegated to it by the General Assembly;
 - (b) Coordinate the activities of the Organization within the framework of the overall policy, the strategic vision and the outline budget, as decided by the General Assembly;
 - (c) Review and approve the financial statements, including the annual budget;
 - (d) Decide on Affiliate membership;
 - (e) Convene the General Assembly;
 - (f) Report to the General Assembly on the work of the Organization;
 - (g) Review papers submitted to it in accordance with the General Regulations;
 - (h) Refer to the General Assembly all matters requiring decision by the General Assembly;
 - (i) Approve recommendations, guidelines, manuals and other appropriate documents;
 - (j) Approve submissions to other organizations;

Kommentar [A8]: Here - unlike in Article 7.6 of the Convention concerning the General Assembly - no minimum attendance is specified for a Council quorum. Rather, this is established in Article 4(2)(d) of the General Regulations. It should be considered whether this should be transferred to the Convention.

- (k) Establish Committees and other subsidiary bodies and review and approve their respective terms of reference;
- (l) Terminate Committees and other subsidiary bodies;
- (m) Review and approve the work programmes of the Committees; and
- (n) Decide the venue and the year of the Organization's conferences and symposia as described in the General Regulations.

Article 9

Committees and Other Subsidiary Bodies

1. Committees and other subsidiary bodies shall support the aim and objectives of the Organization.
2. The Committees shall:
 - (a) Prepare and review standards, recommendations, guidelines, manuals and other documents identified in the work programmes;
 - (b) Monitor developments in the area of Marine Aids to Navigation;
 - (c) Facilitate the sharing of expertise and experience among Member States, Associate Members and Affiliate Members; and
 - (d) Conduct any other tasks as decided by the Council.

Article 10

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 within the approved budgetary framework.
 - (a) The term of Secretary-General shall be three years. The Secretary-General may be re-elected for up to two additional consecutive terms of three years each.
 - (b) The Secretary-General shall be responsible for the day to day management of the Organization, subject to any guidance issued by the General Assembly or the Council.
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) Administer the Organization's finances under the direction of the Council, in accordance with the General Regulations;
 - (c) Prepare the financial statements, including the annual budget, for submission to the Council;
 - (d) Keep Member States, Associate Members and Affiliate Members and other organizations informed with respect to the activities of the Organization;
 - (e) Organize and support meetings of the General Assembly, the Council, Committees and other subsidiary bodies;
 - (f) Organize and support conferences and symposia as approved by the Council;
 - (g) Organize and support seminars, workshops and other events; and
 - (h) Perform such other tasks as may be assigned by this Convention, the General Regulations, the General Assembly or the Council.

Kommentar [A9]: With the change of status, the references to French law will be dropped and the staff regulations, which are to be newly created in accordance with the standards of the UN Common System, will apply. There is concern that this would result in significant extra costs for the contributors (MS). The increase in staff costs has to be quantified and addressed.

Article 11 Languages

The official languages of the Organization shall be English, French and Spanish.

Kommentar [A10]: Which language version takes precedence in the event of disputes?

Article 12 Finance

1. The expenditure for the functioning of the Organization shall be met by the financial resources provided by:
 - (a) Member State contributions;
 - (b) Associate Member and Affiliate Member fees;
 - (c) Donations, bequests, grants, gifts; and
 - (d) Other sources approved by the Council upon recommendation by the Secretary-General.
2. Each Member State shall pay a contribution and each Associate Member and Affiliate Member shall pay a fee to the Organization on an annual basis in the amount determined in accordance with in Article 7.7 (f). The contribution shall be set at the same rate for each Member State.
3. Member State contributions and Associate Member and Affiliate Member fees shall be due and payable in accordance with the General Regulations.
4. Any Member State which is two years in arrears in making contributions shall, after written notification by the Secretary-General, be denied voting rights and the right to be elected to the Council until such time as the outstanding contributions have been paid, in accordance with the General Regulations.
5. Following the Council's approval of the Organization's audited financial statements, these statements shall be distributed to all Member States, Associate Members and Affiliate Members in the Annual Report.

Kommentar [A11]: Three official languages will result in a great administrative and financial burden for a small organisation that currently has the status of an NGO.

Kommentar [A12]: One criterion is to avoid the monetary and time expenditure caused by too many working languages; at the same time, these are the working languages of the predecessor NGO. Focus on English. Otherwise, German has to be mentioned too.

Kommentar [A13]: Definitely keep the proposed equal split of contributions between the Member States. This position is not negotiable.

Article 13 Legal personality, privileges and immunities

1. The Organization has international legal personality and has the capacity to:
 - (a) Contract and conclude agreements with governments, organizations and other bodies;
 - (b) Acquire and dispose of immovable and movable property; and
 - (c) Institute legal proceedings.
2. In the territory of each of its Member States the Organization shall enjoy, subject to agreement with the Member State concerned, such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its aim and objectives.
3. No Member State or Member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.

Kommentar [A14]: This is expressly necessary; Germany would only be able to grant these privileges and immunities if an additional detailed agreement was concluded; it would not be possible to grant blanket immunities.

Article 14 Depositary

The Republic of France shall serve as the Depositary for this Convention.

Article 15 Amendments

1. Any Member State may propose an amendment to this Convention, in writing, to the Secretary-General.

2. The Secretary-General shall circulate the proposed amendment to all Member States at least six months in advance of its consideration by the General Assembly.
3. The proposed amendment shall be adopted by vote of the General Assembly.
4. Any amendment adopted in accordance with Article 15.3 shall be sent by the Secretary-General to the Depositary of this Convention. The latter shall notify all Member States and the Secretary-General of the adoption of the amendment.
5. An amendment to this Convention shall come into force for Member States having accepted the amendment six months after written notification of the acceptance to the Depositary by two-thirds of Member States and thereafter for each remaining Member State upon acceptance by it.

Article 16 Interpretation and Disputes

Member States shall make every effort to prevent disputes, and shall use their best efforts to resolve any disputes by amicable means which may include consultation and negotiation with each other. Disputes that remain unresolved [after a period of three months] may, with the agreement of all parties to the dispute, be referred to a panel of three independent arbitrators appointed by the Secretary-General of the Permanent Court of Arbitration for a non-binding resolution, unless the parties to the dispute agree upon another mode of dispute settlement.

Kommentar [A15]: Is the time-limit of 3 months for dispute resolution realistic?

Since the referral to the arbitrators depends on the agreement of the parties to the dispute, there is the danger that one of the parties might block this mechanism.

Article 17 Signature, Ratification and Accession

1. This Convention shall open for signature by any State that is a member 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 this Convention from the day after the date on which this Convention closes for signature.
4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary, who shall then notify each Member State and the Secretary-General thereof.
5. No reservation can be made to this Convention.

Article 18 Entry into force

1. The present Convention shall enter into force on the thirtieth day after the date of deposit of the [thirtieth] instrument of ratification, acceptance, approval or accession.
2. For each State ratifying, accepting, approving or acceding to this 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.
3. The transitional arrangements that shall apply upon entry into force of this Convention are set out in Annex A.

Article 19 Duration, Withdrawal

1. This Convention is concluded for an unlimited period.
- 1.2. Any Member State may withdraw from this Convention by giving at least twelve month written notice to the Depositary, who will immediately inform all Member States and the Secretary-General of such notification.

- 2.3. Notification of withdrawal may be given at any time after the expiration of six months from the date on which this Convention has come into force.
- 3.4. The withdrawal shall take effect on 31st December following the expiration of the notice.

Article 20 Termination

1. This Convention may be terminated by a vote of the General Assembly.
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 21 Registration

Kommentar [A16]: added

This Convention shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

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

DONE in triplicate 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 Depositary. The Depositary shall transmit certified true copies thereof to all the [signatory and acceding] Governments and to the Secretary-General of the Organization.

Kommentar [A17]: added

Kommentar [A18]: added

Annex A

Transitional Arrangements

1. All National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities from States that are not Member States shall, with the approval of the Council and subject to their request, become Associate Members of the Organization.
2. All Associate and Industrial Members of the International Association of Marine Aids to Navigation and Lighthouse Authorities holding financial, non-suspended status shall, with the approval of Council and subject to their request become Affiliate Members of the Organization.
3. Upon the entry into force of this Convention the President, Vice President and the Council of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional President, Vice President and Council of the Organization and will operate as such until the first General Assembly convened under this Convention has elected a President, Vice President and Council, which must be within a period not exceeding six (6) months. Until such time as the Organization has adopted General Regulations, it shall function in accordance with the General Regulations of the International Association of Marine Aids to Navigation and Lighthouse Authorities mutatis mutandis.
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 Marine Aids to Navigation and Lighthouse Authorities shall become the transitional Committees of the Organization and will operate until Committees are established under this Convention.
6. In the event that a State which has Associate membership under this Convention becomes a Member State the Associate membership shall cease on the date on which this Convention enters into force for that State. In the case of a Member State having more than one Associate membership under this Convention that State may decide to retain Associate memberships.
7. After the entry into force of this Convention the International Association of Marine Aids to Navigation and Lighthouse Authorities, facilitated by the transitional Council will work in cooperation with the Organization to transfer its 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 General Assembly elects the Secretary-General in accordance with Article 7.

Kommentar [A19]: Unclear: who is to become Associate Member? Individuals or institutions? Sounds like it is at least not the States themselves ("All National members ...from States.... become Associate Members"). This is not in line with the definition of Associate Member in Article 2 of the Convention in accordance with which only territories can become Associate Members. No. 6 below also refers to an Associate membership of states.

Kommentar [A20]: Normally, the General Assembly has to approve the admission of an Associate Member (cf. definition in Article 2 of the Convention and Article 2.2(b) of the General Regulations). Is the establishment of a derogation for this transitional arrangement intended?

Kommentar [A21]: cf. comment on No. 1 above

Kommentar [A22]: How can that be?

ANNEX "A"

Draft Convention

(1) Article 5 (Membership):

In sub-para 2, **delete** "... by notification in writing to the Secretary-General" **add** "This request will be addressed to the Secretary General and transmitted to the General Assembly for decision."

(2) Article 6 (Structure):

In sub-para 1, **delete** "The Organization shall have as its organs:..." **add** "The organs of the Organization shall be:..." in addition we propose the deletion of element (c) "Committees and other subsidiary bodies necessary to support the Organization's activities;" as irrelevant to the core organs of the Organization (i.e The General Assembly, The Council and The Secretariat).

(3) Article 7 (The General Assembly):

(a) Sub-para 3 "Each Member State shall...delegate at the General Assembly" should be moved in the "General Regulations" Document under Article 3 (The general Assembly) sub-para 2 (c) "Each Member State shall communicate in writing,....", as more appropriate.

(b) Sub-para 7 (a) propose adding the text "Elect the President and the Vice President of the Organization ...", furthermore we propose that provisions should be made to preclude the possibility that the President and the Vice President of the Organization are citizens of the same member-state.

(4) Article 10 (Secretariat):

(a) Sub-para 1. Add "Provisions should be made for the Secretariat to include representatives from as many member-states as possible in order to achieve pluralism and polyphony."

(b) Sub-para 1 (a): **delete** "The term of Secretary-General shall be three years." **add** "The Secretary General shall be elected by the General Assembly for a term of three years."

(c) Sub-para 2. **delete** "...by the Secretary-General on such terms and to perform such duties as the Secretary-General may determine.", **add** "...in accordance with the Staff Regulations."

(5) Article 13 (Legal personality, privileges and immunities)

In sub-para 2. Kindly take under consideration that all the International Organizations enjoy the same privileges and immunities as deemed necessary for the

exercise of its functions and the fulfilment of its aim and objectives, within the territory of a member state, with the exception of the host nation. In that case, a separate agreement is required.

(6) Article 15 (Amendments)

In sub-para 3 **delete** "The proposed amendment shall be adopted by vote of the General Assembly", **add**, "Amendment shall be adopted by the General Assembly."

(7) Article 16 (Interpretation and Disputes)

Regarding the supportive text of Article 16 we propose to delete the current one and adopt the following (in line with IMO) "Any question or dispute concerning the interpretation or application of the Convention shall be referred to the Assembly for settlement, or shall be settled in such other manner as the parties to the dispute may agree."

(8) Article 20 (Termination)

In sub-para 1 **delete** "...by a vote of the ..." **add** "...by a decision of the..."

(9) Annex A.

Provision should be made regarding the current IALA member-states that will not have completed all the required national legislation processes until the finalization of the transformation process of the Organization".



भारत सरकार / Government of India
पोत परिवहन मंत्रालय / Ministry of Shipping
दीपस्तंभ और दीपपोत महानिदेशालय
Directorate General of Lighthouses and Lightships

No.1/2/2008-D&P

Date: 27.07.2018

To

Mr. Francis Zachariae
IALA Secretary-General
10, rue-des Gaudines-78100
Saint-Germain-en-Laye, France
Tel: +33134517001
Fax: +33134518205
Email: secgen@iala-aism.org
virginia.butler@iala-aism.org

AIISM - IALA
Recd / Received : 16.08.18
Class / File Ref : F2


Sub: Comments on the draft IALA convention.

Sir,

Kind reference is invited to your letter no. IGO/18-075, dated 04.04.2018 on the above noted subject.

Comments on the draft convention text from Directorate General of Lighthouses and Lightships, India may please be treated at "NIL".

Yours faithfully,


(Kulwant Singh)
Deputy Director
For Director General



In The Name Of God
Ministry of Road & Urban Development
Ports and Maritime Organization

IRAN

No.: 28556/Exp/97

Date: 30/9/2018

Ref.:

IALA Secretariat

Subject: Iranian Comments on Draft IALA Convention

Dear Sir or Madam,

On behalf of the Iranian maritime community, we would like to express our gratitude for your efforts in regard with the Draft IALA Convention. Below, please find our comments on the latest version of the draft text:

1. In Article 1.2, it is recommended that the word "*exclusively*" be added to the text, so that the article reads as "... *have an exclusively consultative and technical nature.*". This issue was also raised during the second Pre-Diplomatic Meeting in Morocco by the Iranian Delegation;
2. Considering the consultative nature of IALA activities, and Articles 3.b and 4.e, the issue of access to technical cooperation and capacity-building on matters related to development and transfer of expertise, science and technology cannot be guaranteed properly for implementation if the required methods and approaches are not designated, leading subsequently to its being lost in the text or interpreted differently for implementation. It is therefore recommended, as also previously proposed through correspondence by this administration, that a separate article (such as the following draft) be dedicated to this matter, following the model customarily used in relevant international conventions to resolve this shortcoming:

"Article X: Technical Assistance and Capacity Building

The Parties shall promote support for those Parties which request technical assistance for the following aspects, in consultation with the Organization and other international bodies, and in cooperation with affiliate members active in technical, operational and industrial fields, preferably within the countries concerned, so furthering the aims and purposes of the present Convention :



In The Name Of God
Ministry of Road & Urban Development
Ports and Maritime Organization

IRAN

No.: 28556/Exp/97

Date: 30/9/2018

Ref.:

- a) *the training of technical and scientific personnel;*
- b) *the supply of necessary equipment and facilities;*
- c) *the encouragement of research; and*
- d) *visits to the related industrial, research and operation centers and complexes."*

3. The election of the president and vice-president for assembly/council meetings and their responsibilities, as mentioned in paragraphs 6.2, 7.a, 7.b and 8.2, is unique and unprecedented in any other organizations. In the majority of international organizations, assembly meetings are chaired by an individual elected at the beginning of the event, as is also mentioned in paragraph 4.1.a of the *General Regulations*. Therefore, the chair and vice-chair of the council/assembly are usually elected by the members of council/assembly from among the candidates nominated by the elected member States. Moreover, it does not seem logical for the council and assembly to have same chairmanship, due to their different ranking and position within the IALA structure;
4. Paragraph 8.2 of the Draft Convention has defined the number and composition of the Council member States. It is proposed that geographical distribution be considered for the election of these members, in accordance with a quota, to be calculated in accordance with a method included in the General Regulation (or any other appropriate section), with due attention to the number of states in each region, continent or the like. This can be an important factor in ensuring highest inclusion of members to meet the requirements and challenges of different areas of the world. In order to highlight the significance of this issue, it is proposed that the model of similar conventions be followed. Furthermore, the provisions of paragraph 4.6.b of the General Regulations does not seem to adequately address this issue, and needs to be revised and transferred to the main body of the Convention;
5. As raised during the second Pre-Diplomatic Meeting in Morocco by the majority of delegations, adopting numerous official languages will inflict additional costs of employing personnel for translation or interpretation purposes, and it is proposed that English be considered as the sole official language of the organization. Moreover, the inclusion of a separate article only for language seems redundant, and it can suitably be addressed within Article 1, as the initial version of the Draft Convention. Furthermore, paragraph 4.3.b of the



In The Name Of God
Ministry of Road & Urban Development
Ports and Maritime Organization

IRAN

No.: 28556/Exp/97

Date: 30/9/2018

Ref.:

General Regulations allows documents and proposals to be submitted in Spanish and French as well (to be translated into English by the Secretariat). This is not customary practice of international organizations, which only accept submissions in English;

6. The title of Article 15 is recommended to be changed into "Settlement of Disputes". It is also proposed that apart from the three arbitrators appointed by the Secretary-General, each party to the dispute also be entitled to appoint one arbitrator on its side;
7. As arrears of the membership fee by the members may arise unwillingly due to some issues out of their will, and hence the members are not able any more to pay their membership fees in due time, it is suggested, if possible, to consider a waiver in this regard, as with the decision of the General Assembly for these members, like other international organizations such as IMO. Therefore, it proposed to add this statement to the end of paragraph 4 of article 12: "Unless the General assembly, at its discretion, waives this provision."; and
8. Governments have different legal systems for accession and ratification of the IALA Convention, and their rights in this regard needs to be respected, taking into account the fact that "one size cannot fit all". The Islamic Republic of Iran thus expresses its concern about the absence of a reservation right at the time of ratification, acceptance, approval or the accession to the IALA Convention. A similar concern was expressed by other delegations, in their comments on the draft text of the Convention.

Best regards,

Hadi Haghshenas
Deputy Managing Director
For Maritime Affairs
Ports and Maritime Organization
Tehran Iran

IRELAND



An Roinn Iompair,
Turasóireachta agus Spóirt
Department of Transport,
Tourism and Sport

AlSM - IALA
Reçu / Received : 03/10/18
Classt / File Ref : FZ

Mr. Francis Zachariae
Sec Gen IALA
10, rue des Gaudines
78100 Saint Germain en Laye
France

Dear Mr Zachariae,

Thank you for your recent visit to Dublin in relation to the proposed change of status of IALA. The presentations made by both yourself and your colleague Mr Ericsson and the discussion that ensued were very interesting and welcome, in the context of the on-going deliberations in relation to IALA's move towards achieving IGO status.

Rest assured that Ireland recognises the important role that IALA has played over the last 60 years in the development, improvement and harmonisation of worldwide marine aids to navigation, your input into IMOs work on safety and efficiency of navigation systems, and its role in the development of the Automatic Identification (AIS).

There are clearly benefits to changing status, particularly in strengthening IALA's role within the IMO framework and the promulgation of guidelines and standards on a global level, particularly amongst developing countries. We also discussed some of the risks involved particularly in terms of IALA's agility and responsiveness.

On balance, we are supportive of IALA's ambitions in principle. Obviously, when the time comes we will need to consider the question of national ratification when we see the final text of the convention and any regulatory / legal implications it may have at a national level. The decision will ultimately be a matter for Government and the Irish Parliament as is normal in terms of any international convention.

Kind regards,

Dr Deirdre O'Keeffe
Assistant Secretary
1st October 2018

| Text of Convention by Article | Comments (30 September 2018) |
|--|--|
| | <p>1. Japan understands that the 2nd Preparatory Diplomatic Conference has not reached a consensus on some important issues regarding the Draft Convention such as language and transitional arrangements, due to the time limitation. The Draft Convention cannot be fixed unless a consensus on those issues is reached. Therefore, the following comments are provisional ones and Japan retains its right to submit further comments during future negotiations.</p> <p>2. The position of LAPEX for the discussion on the Draft Convention should be clarified. Japan understands that LAPEX is not a place for diplomatic negotiations. From Japan's point of view, LAPEX is not authorized to develop a draft text of the Convention to be used as a basis for the next diplomatic negotiation. All comments given through diplomatic channels should be clearly noted (in square brackets if necessary) in the draft, with technical comments made by LAPEX if necessary.</p> |
| <p>Draft Convention on the International Organization for Marine Aids to Navigation.</p> <p>Preamble</p> <p>The States party to this Convention:</p> <p>RECALLING that the International Association of Lighthouse Authorities was established on 1st July 1957 and was renamed the International Association of Marine Aids to Navigation and Lighthouse Authorities in 1998;</p> <p>RECOGNIZING the role of the International Association of Marine Aids to</p> | <p>Replace "RECOGNISING" by "RECOGNIZING" (consistency)</p> |

| | |
|--|---|
| <p>Navigation and Lighthouse Authorities in the improvement and continued harmonization of Marine Aids to Navigation for the safe, economic and efficient movement of vessels for the benefit of the maritime community and the protection of the environment;</p> <p>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;</p> <p>CONSIDERING that the International Association of Marine Aids to Navigation and Lighthouse Authorities was formed as an association under French law; and</p> <p>CONSIDERING FURTHER that developing, improving and harmonizing Marine Aids to Navigation for the benefit of the maritime community and the protection of the environment is best coordinated by international organizations;</p> <p>HAVE AGREED as follows:</p> | |
| <p>Article 1</p> <p>Establishment</p> <p>1. The International Organization for Marine Aids to Navigation (<u>IIALA / IOMAN</u>) (<u>hereinafter "the Organization"</u>) is hereby established under international law as an intergovernmental organization (hereinafter "the Organization").</p> <p>2. The Organization shall have a consultative and technical nature.</p> <p>3. The Organization shall have its seat in France unless otherwise decided by the Member States present and voting at the General Assembly.</p> <p><u>4. The General Regulations are subject to the provisions of this Convention. Where there is a conflict between the Convention and the General Regulations or any other</u></p> | <p>3. 1.1: Put "IALA" in square brackets and add "/IOMAN" as another option. Japan considers that "IOMAN" is better as acronym to keep consistency with the full name of the Organization.</p> <p>4. 1.1: the definition of "the Organization" should be inserted just after the full name and the acronym of the Organization.</p> <p>5. 1.4: Relationship between the Convention and the GR (and any other documents) should be stipulated in the Convention, not in the GR. Therefore, add paragraph 4</p> |

| | |
|--|---|
| <p><u>basic documents covering the governance of the Organization, the Convention shall prevail.</u></p> | <p>with following texts: “The General Regulations are subject to the provisions of this Convention. Where there is a conflict between the Convention and the General Regulations or any other basic documents covering the governance of the Organization, the Convention shall prevail.”</p> |
| <p>Article 2</p> <p>Definitions</p> <p>For the purposes of this Convention:</p> <p><u>“Marine Aid to Navigation” means a device, system or [service / Vessel Traffic Services (VTS)], external to a vessel, designed and operated to enhance safe and efficient navigation of individual vessels and vessel traffic.</u></p> <p><u>“Member State”</u> means a State, which has consented to be bound by this Convention and for which this Convention is in force.</p> <p><u>“Associate Member”</u> means a territory or groups of territories for which a Member State has requested membership which has been accepted by the General Assembly.</p> <p><u>“Affiliate Member”</u> means a manufacturer or distributor of Marine Aids to Navigation equipment for sale, or an organization providing Marine Aids to Navigation services or technical advice under contract and any other service, organization or scientific agency concerned with Marine Aids to Navigation which has applied for membership which has been accepted by the <u>[General Assembly / Council]</u>.</p> <p>Marine Aid to Navigation means a device, system or service, external to a vessel, designed and operated to enhance safe and efficient navigation of individual vessels and vessel traffic.</p> | <p>6. “Marine Aids to Navigation” should be defined before the definition of “Affiliate Member”, since “Marine Aids to Navigation” is used in the definition of “Affiliate Member”. Add also “” to the words to be defined in the subsequent paragraphs.</p> <p>7. The term “service” in the definition of “Marine Aids to Navigation” could have broad range of services beyond the intended scope of the Organization; for example, the term “service” could include “Meteorological services”, “Ice Patrol Service”, “Search and Rescue services”, “Hydrographic services”, “ship reporting system” and/or “ships’ routing”. Therefore, the term “service” should be replaced by a more accurate term. If the term “service” means only Vessel Traffic Services (VTS), the term “service” should be replaced by “Vessel Traffic Services”.</p> <p>8. In the definition of “Affiliate Member”, replace “by the Council” by “by the [General Assembly / Council]”. At the 2nd PREDIPCON, some countries pointed out that the membership application should be approved by the General Assembly because it is not necessary to distinguish Associate Member from Affiliate Member. This point should be discussed at LAPEX4 and to be decided at the 3rd PREDIPCON.</p> |

| | |
|---|---|
| <p>Article 3</p> <p>Aim and Objectives</p> <p>The aim of the Organization is to bring together governments, services and organizations concerned with the regulation, provision, maintenance or operation of Marine Aids to Navigation with the objectives of:</p> <p>(a) Fostering the safe and efficient movement of vessels through the improvement and harmonization of Marine Aids to Navigation worldwide;</p> <p>(b) Promoting access to technical cooperation and capacity building on all matters related to development and transfer of expertise, science and technology in relation to Marine Aids to Navigation;</p> <p>(c) Encouraging and facilitating the general adoption of the highest practicable standards in matters concerning Marine Aids to Navigation; and</p> <p>(d) Providing for the exchange of information among governments and intergovernmental organizations on matters under consideration by the Organization.</p> | |
| <p>Article 4</p> <p>Functions</p> <p>In order to achieve the aim and objectives set out in Article 3, the functions of the Organization shall be:</p> <p>(a) To provide non mandatory standards, recommendations, guidelines, manuals and <u>and other suitable means appropriate documents</u> and to commend these to governments, intergovernmental organizations, Associate Members and Affiliate Members as appropriate;</p> <p>(b) To consider and make recommendations on standards, recommendations,</p> | <p>9. 4(a): Replace “or other suitable means” by “and other appropriate documents” (consistency with Article 8.5(i)).</p> |

| | |
|---|---|
| <p>guidelines, manuals and other documents that may be remitted to it by Member States, Associate Members and Affiliate Members, by any organ or specialized agency of the United Nations or by any other intergovernmental organization;</p> <p>(c) To provide mechanisms for consultation and exchange of information covering inter alia recent developments and the activities of Member States, Associate Members and Affiliate Members;</p> <p>(d) To develop international cooperation by promoting close working relationships and assistance between Member States, Associate Members and Affiliate Members;</p> <p>(e) To facilitate assistance, whether technical, organizational or training to governments, services and other organizations requesting help with Marine Aids to Navigation;</p> <p>(f) To organize conferences, symposia, seminars, workshops and other events relevant to its <u>the work of the Organization</u>; and</p> <p>(g) To liaise and cooperate with relevant international <u>intergovernmental</u> and other organizations, offering specialized advice where appropriate.</p> | <p>10. 4(e): Replace “governments, services and other organizations” by “governments and organizations”, as the expression “facilitate assistance to services” seems no appropriate</p> <p>11. 4(f): Replace “its work” by “the work of the Organization”, as the word “the Organization” is defined in Article 1.</p> <p>12. 4(g): Replace “international” by “intergovernmental” to keep consistency with paragraphs (a) and (b).</p> |
| <p>Article 5</p> <p>Membership</p> <p>1. The Organization shall be comprised of Member States, Associate Members and Affiliate Members.</p> <p>2. Any Member State having responsibility for the international relations of a territory or group of territories may request Associate membership for such territory or group of territories, by notification in writing to the Secretary-General.</p> <p>3. The Council may require of a Member State may request that aspects of an</p> | <p>13. 5.3: Delete paragraph 3. At the 2nd PREDIPCON, some countries pointed out that</p> |

| | |
|--|--|
| <p>application for Affiliate Membership be reviewed by the Member State (or Member States) where the applicant carries out its activities or has its principal place of business or registered office. If supported by the Member State (or Member States), who requested the review, the Council shall decide accordingly.</p> | <p>this paragraph should be deleted in order to ensure the technical nature of the Organization. This comment should be reflected in the draft.</p> |
| <p>Article 6 Structure</p> <p>1. The Organization shall have as its organs:</p> <p>(a) The General Assembly;</p> <p>(b) The Council;</p> <p>(c) Committees and other subsidiary bodies necessary to support the Organization's activities; and</p> <p>(d) <u>The Secretary-General and the The Secretariat.</u></p> <p>2. There shall be a President and a Vice President of the Organization. The President or in his or her absence the Vice President shall chair the General Assembly and the Council.</p> <p>3. All efforts shall be made for the General Assembly and the Council to make decisions by consensus among Member States. Where decisions of the General Assembly or Council cannot be reached by consensus, the following provisions shall apply:--</p> <p>(a) Only Member States have voting rights, which will be executed by the representative designated by each Member State. Each Member State will have one vote.--</p> <p>(b) Except where otherwise specified, decisions shall be taken by two-thirds of the</p> | <p>14. 6.1 (d): Add "The Secretary-General and" before "the Secretariat" (consistency with GR).</p> <p>15. 6.3: Delete paragraph 3, as it concerns the rule of procedure, and not the structure of the Organization. Principle (decision by consensus) should be stipulated in Article 7 and 8, and the details should be given by the General Regulation. Modify the numbering of the subsequent paragraph.</p> |

| | |
|---|---|
| <p>votes-cast.</p> <p>43. The General Regulations shall detail the Rules of Procedure that will apply for each organ.</p> | <p>16. 6.4: Legal status of the General Regulations should be clarified during next diplomatic negotiations (Japan considers that the GR is not a legally –binding instrument as is the case for almost all International Organizations.)</p> |
| <p>Article 7</p> <p>The General Assembly</p> <p>1. The General Assembly of the Member States is the principal decision-making organ of the Organization and shall have all the powers of the Organization unless otherwise regulated by this Convention.</p> <p>2. Attendance shall be open to all Member States, Associate Members and Affiliate Members.</p> <p>3. Each Member State shall designate one of its delegates, preferably a representative from the national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation as its principal delegate at the General Assembly.</p> <p>4. Regular sessions of the General Assembly shall take place once every [three] years.</p> <p>5. Extraordinary sessions shall be convened whenever one-third of Member States give notice to the Secretary-General of the Organization that they desire a session to be arranged, or at any time if deemed necessary by the Council, after a notice of ninety days.</p> <p><u>6. All efforts shall be made for the General Assembly to make decisions by consensus among the Member States. Where decisions cannot be reached by consensus, voting rules specified in the General Regulations shall apply.</u></p> <p><u>67.</u> A majority of Member States shall constitute a quorum for the sessions of the</p> | <p>17. 7.1: Delete “of the Member States”, as the General Assembly is open to every type of member.</p> <p>18. 7.4: Put “three” in square brackets, as a consensus has not been reached yet on the frequency of the regular sessions of the General Assembly, and this point should be discussed during the next diplomatic negotiation.</p> <p>19. 7.5 and 7.7(g): Add “of the Organization” after “the Secretary-General” for clarification.</p> <p>20. 7.6: Insert a new paragraph before the existing paragraph 6, and modify the numbering of the subsequent paragraphs. See comment 15.</p> |

| | |
|---|---|
| <p>General Assembly.</p> <p>78. The General Assembly shall:</p> <p>(a) Elect the President and the Vice President <u>of the Organization</u> from amongst <u>among</u> the Member States in accordance with the General Regulations;</p> <p>(b) Decide the overall policy and the strategic vision of the Organization;</p> <p>(c) Review and approve the General Regulations of the Organization;</p> <p>(d) Elect the Council from amongst <u>among</u> the Member States other than the Member State holding the Presidency or Vice Presidency in accordance with Article 8;</p> <p>(e) Elect the Secretary-General from amongst the Member States in accordance with the General Regulations;</p> <p>(f) Review and approve the financial arrangements of the Organization, including the outline budget for the following three years and the rate of contributions for Member States and fees for Associate Members and Affiliate Members;</p> <p>(g) Consider the reports and proposals put to it by any Member State, the Council or the Secretary-General <u>of the Organization</u>;</p> <p>(h) Approve standards;</p> <p>(i) Decide on Associate membership <u>[and Affiliate membership]</u>;</p> <p>(j) Make recommendations to Member States, Associate Members and Affiliate Members on matters within the scope of the Organization;</p> <p><u>(k) Establish Committees and other subsidiary bodies and review and approve their respective terms of reference;</u></p> <p><u>(l) Terminate Committees and other subsidiary bodies;</u></p> <p><u>(km)</u> Approve formal agreements with other organizations; and</p> | <p>21. 7.7(a): Insert “of the Organization” between “Vice President” and “from” (consistency with Article 6.2). Replace “amongst” by “among” (consistency).</p> <p>22. 7.7(d): Replace “amongst” by “among” (consistency)</p> <p>23. 7.7(i): Add “[and Affiliate membership]” after “Associate membership”. See comment 8.</p> <p>24. 7.7(k): Insert paragraphs “(k) Establish Committees and other subsidiary bodies</p> |
|---|---|

| | |
|--|--|
| <p><u>(4n)</u> Decide on any other matters within the aim and objectives of the Organization.</p> | <p>and review and approve their respective terms of reference;" and "(l) Terminate Committees and other subsidiary bodies;" and modify the numbering thereafter accordingly. Since establishment of Committees may directly affect the nature and the finance of the Organization, it should be decided by the General Assembly, not by the Council. Other international organizations such as IMO and IHO provide such a function to the Assembly.</p> |
| <p>Article 8 The Council</p> <p>1. The Council is the executive organ of the Organization and shall be responsible for directing the activities of the Organization.</p> <p>2. The Council shall consist of the President and the Vice President and up to twenty three (23) Council members, each representing a different Member State.</p> <p>3. Council members shall be elected by ballot at each regular session of the General Assembly in accordance with the General Regulations.</p> <p><u>4. The Council may invite any Member State which is not a Council member to attend any of its sessions as an observer.</u></p> <p><u>45.</u> At the Council, Member States shall preferably be represented by a delegate from a national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation of that Member State.</p> <p><u>6. All efforts shall be made for the Council to make decisions by consensus among the Member States. Where the decisions cannot be reached by consensus, voting rules specified in the General Regulations shall apply.</u></p> <p><u>57.</u> The Council shall:</p> | <p>25. 8.2: Delete "(23)" (consistency with other Articles).</p> <p>26. 8.4: Insert a new paragraph before the existing paragraph 4, and modify the numbering of the subsequent paragraphs, because the Council should be open to any Member State in order to keep its transparency.</p> <p>27. 8.4: Add "," after "At the Council" for clarification.</p> <p>28. 8.5: Insert a new paragraph before the existing paragraph 5, and modify the numbering of the subsequent paragraphs. See comment 15.</p> |

| | |
|--|--|
| <p>(a) Exercise such responsibilities as may be delegated to it by the General Assembly;</p> <p>(b) Coordinate the activities of the Organization within the framework of the overall policy, the strategic vision and the outline budget, as decided by the General Assembly;</p> <p>(c) Review and approve the financial statements, including the annual budget;</p> <p>I(d) Decide on Affiliate membership;I</p> <p>(e) Convene the General Assembly;</p> <p>(f) Report to the General Assembly on the work of the Organization;</p> <p>(g) Review papers submitted to it in accordance with the General Regulations;</p> <p>(h) Refer to the General Assembly all matters requiring decision by the General Assembly;</p> <p>(i) Approve recommendations, guidelines, manuals and other appropriate documents;</p> <p>(j) Approve submissions to other organizations;</p> <p>(k) Establish Committees and other subsidiary bodies and review and approve their respective terms of reference;</p> <p>(l) Terminate Committees and other subsidiary bodies;</p> <p>(m) Review and approve the work programmes <u>programs</u> of the Committees; and</p> <p>(n) Decide the venue and the year of the Organization's conferences and symposia as described in the General Regulations.</p> | <p>29. 8.5 (d): Put sub-paragraph (d) in square brackets. See comment 8.</p> <p>30. 8.5(k) and (l): Delete paragraphs (k) and (l), and modify the numbering thereafter accordingly. See comment 24.</p> <p>31. 8.5(m) and 9.2 (a): Replace "programmes" by "programs" (consistency).</p> |
| <p>Article 9</p> <p>Committees and Other Subsidiary Bodies</p> <p>1. Committees and other subsidiary bodies shall support the aim and objectives of the</p> | |

| | |
|---|--|
| <p>Organization.</p> <p>2. The Committees shall:</p> <p>(a) Prepare and review standards, recommendations, guidelines, manuals and other <u>appropriate</u> documents identified in the work programmes <u>programs</u>;</p> <p>(b) Monitor developments in the area of Marine Aids to Navigation;</p> <p>(c) Facilitate the sharing of expertise and experience among Member States, Associate Members and Affiliate Members; and</p> <p>(d) Conduct any other tasks as decided by the Council.</p> | <p>9.2 (a): Add “appropriate” between “other” and “documents” (consistency with Article 8.5(i)).</p> |
| <p>Article 10</p> <p>Secretariat</p> <p>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 within the approved budgetary framework.</p> <p><u>2.</u> (a) The term of Secretary-General shall be three years. The Secretary-General may be re-elected for up to two additional consecutive terms of three years each.</p> <p>(b) The Secretary-General shall be responsible for the day to day management of the Organization, subject to any guidance issued by the General Assembly or the Council.</p> <p><u>2.3.</u> The staff of the Secretariat shall be appointed by the Secretary-General <u>[with approval of the Council]</u> on such terms and to perform such duties as the Secretary-General may determine.</p> <p>4. The Secretariat shall:</p> <p>(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</p> | <p>32. 10.1: The composition of the Article seems not appropriate. In the current draft, the provisions about the Secretary-General are stipulated as sub-paragraphs (a) and (b) of the paragraph¹ which is about the composition of the Secretariat, while the rules on the staff is stipulated in paragraph 2. Therefore, actual sub-paragraph (a) and (b) should be paragraph 2. Modify also the numbering of the subsequent paragraph.</p> <p>33. 10.2: Insert “[with approval of the Council]” between “the Secretary-General” and “on such terms”. The selection of the staffs by the Secretary-General should be controlled by other organs as is the case for other International Organizations such as IMO, IHO and WHO.</p> |

| | |
|--|--|
| <p>that may be required;</p> <p>(b) Administer the Organization's finances under the direction of the Council, in accordance with the General Regulations;</p> <p>(c) Prepare the financial statements, including the annual budget, for submission to the Council;</p> <p>(d) Keep Member States, Associate Members and Affiliate Members and other organizations informed with respect to the activities of the Organization;</p> <p>(e) Organize and support meetings of the General Assembly, the Council, Committees and other subsidiary bodies;</p> <p>(f) Organize and support conferences and symposia as approved by the Council;</p> <p>(g) Organize and support seminars, workshops and other events; and</p> <p>(h) Perform such other tasks as may be assigned by this Convention, the General Regulations, the General Assembly or the Council.</p> <p><u>4. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any Government or from any other source external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization. Each Member State on its part undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek influence them in the discharge of their responsibilities.</u></p> | <p>34. 10:Insert a new paragraph on the neutrality of the Secretariat at the end of the Article. Other international organizations such as IMO, IHO and WMO have such a provision in their Convention, not in the General Regulations.</p> |
| <p>Article 11 Languages</p> <p>The official languages of the Organization shall be English¹, French and Spanish¹.</p> | <p>35. 11:Put “, French and Spanish” in square brackets. The matter relating language should be discussed at the diplomatic negotiations. Japan considers that the official language of the Organization should be only English from the perspective</p> |

| | |
|---|--|
| | of administration cost and efficiency. |
| <p>Article 12 Finance</p> <p>1. The expenditure for the functioning of the Organization shall be met by the financial resources provided by:</p> <p>(a) Member State contributions <u>Contribution from Member states</u>;</p> <p>(b) <u>Annual member fees from</u> Associate Members and Affiliate Members fees;</p> <p>(c) Donations, bequests, grants, gifts; and</p> <p>(d) Other sources approved by the Council upon recommendation by the Secretary-General <u>of the Organization</u>.</p> <p>2. Each Member State shall pay a contribution and each Associate Member and Affiliate Member shall pay a fee to the Organization on an annual basis in the amount determined in accordance with in Article 7.7 (f). The contribution shall be set at the same rate for each Member State.</p> <p>3. Member State contributions and Associate Member and Affiliate Member fees shall be due and payable in accordance with the General Regulations.</p> <p>4. Any Member State which is two years in arrears in making contributions shall, after written notification by the Secretary-General, be denied voting rights and the right to be elected to the Council until such time as the outstanding contributions have been paid, in accordance with the General Regulations.</p> <p>5. Following the Council's approval of the Organization's audited financial statements, these statements shall be distributed to all Member States, Associate Members and</p> | <p>36. 12.1 (a): Replace "Member State contributions" by "Contributions from Member states" for clarification.</p> <p>37. 12.1 (b): Replace "Associate Member and Affiliate Members" by "Annual member fees from Associate Members and Affiliate Members" for clarification.</p> <p>38. 12.1 (d): Add "of the Organization" after "the Secretary-General" for clarification.</p> <p>39. 12.2: Delete "and each Associate Member and Affiliate Member shall pay a fee", because the Convention legally-binds only Contracting States.</p> <p>40. 12.3: Delete "and Associate Member and Affiliate Member fees", because the Convention legally-binds only Contracting States.</p> |

| | |
|---|--|
| Affiliate Members in the Annual Report. | |
| <p>Article 13</p> <p>Legal personality, privileges and immunities</p> <p>1. The Organization has international legal personality and has the capacity to:</p> <p>(a) Contract and conclude agreements with governments, organizations and other bodies;</p> <p>(b) Acquire and dispose of immovable and movable property; and</p> <p>(c) Institute legal proceedings.</p> <p>2. In the territory of each of its Member States the Organization shall enjoy, subject to agreement with the Member State concerned, such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its aim and objectives.</p> <p>3. No Member State or Member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.</p> | |
| <p>Article 14</p> <p>Depositary</p> <p>The Republic of France shall serve as the Depositary for this Convention.</p> | 41. 14: Add “” at the end of the sentence. |
| <p>Article 15</p> <p>Amendments</p> <p>1. Any Member State may propose an amendment to this Convention, in writing, to the Secretary-General.</p> <p>2. The Secretary-General shall circulate the proposed amendment to all Member States at least six months in advance of its consideration by the General Assembly.</p> | |

| | |
|--|---|
| <p>3. The proposed amendment shall be adopted by vote of the General Assembly.</p> <p>4. Any amendment adopted in accordance with <u>Article 15.3 paragraph 3 of this Article</u> shall be sent by the Secretary-General to the Depositary of this Convention. The latter shall notify all Member States and the Secretary-General of the adoption of the amendment.</p> <p>5. The amendment to this Convention shall come into force for <u>all</u> Member States having accepted the amendment six months after written notification of the acceptance to the Depositary by two-thirds of Member States and thereafter for each remaining Member State upon acceptance by it six month after written notifications of acceptance by two-thirds of the Member State have been received by the Depositary, which shall inform the Member States and the Secretary – General of the fact, specifying the date of entry into force of the amendment.</p> | <p>42. 15.4: Replace “Article 15.3” by “paragraph 3 of this Article” (consistency with other international agreements).</p> <p>43. 15.5: Modify the paragraph (example of IHO Convention Article 21.3). From the Point of view of unilateral application of the rules, it is preferable that the amendment enters into force for all Member States six months after the adoption of it by two-thirds of the Member States. In this case, the Depositary is required to inform them of the date of entry into force.</p> |
| <p>Article 16</p> <p>Interpretation and Disputes</p> <p>Member States shall make every effort to prevent disputes, and shall use their best efforts to resolve any disputes by amicable means which may include consultation and negotiation with each other. Disputes that remain unresolved [after a period of three months] may, with the agreement of all parties to the dispute, be referred to a panel of three independent arbitrators appointed by the Secretary-General of the Permanent Court of Arbitration for a non-binding resolution, unless the parties to the dispute agree upon another mode of dispute settlement.</p> | |
| <p>Article 17</p> <p>Signature, Ratification and Accession</p> | |

| | |
|--|--|
| <p>1. This Convention shall open for signature by any State that is a member of the United Nations at [xxx] and remain open until [xxx].</p> <p>2. This Convention is subject to ratification, acceptance or approval by the signatory States.</p> <p>3. This Convention shall be open for accession by any member of the United Nations which has not signed this Convention from the day after the date on which this Convention closes for signature.</p> <p>4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary, who shall then notify each Member State and the Secretary-General <u>of the Organization</u> thereof.</p> <p>5. No reservation can be made to this Convention.</p> | <p>44. 17.4: Add "of the Organization" after "the Secretary General" for clarification.</p> |
| <p>Article 18</p> <p>Entry into force</p> <p>1. The present Convention shall enter into force on the thirtieth day after the date of deposit of the [thirtieth] instrument of ratification, acceptance, approval or accession.</p> <p>2. For each State ratifying, accepting, approving or acceding to this 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.</p> <p>3. The transitional arrangements that shall apply upon entry into force of this Convention are set out in Annex A.</p> | <p>45. 18.1: Consider replacing "thirtieth" by "fifty-eighth". Currently, there are 85 countries and regions as national members in IALA. In order to avoid possible sudden increase of the rate of the contribution for Member States after the entry into force of the Convention, Japan considers that conclusion by at least two-thirds of current national members are required.</p> <p>46. 18.2: Add "," between "entry into force" and "the convention" for clarification.</p> <p>47. 18.3: Delete the entire paragraph. The transitional arrangements are to be applied to all the current members, so should not be annexed to this convention, which legally-binds only the Contracting States. Such rules are to be decided within the framework of the present IALA (by its resolution or the form of non-legally-binding instruments). Further discussion at the PREDIPCON is required.</p> |

| | |
|---|---|
| | |
| <p>Article 19 Withdrawal</p> <p>1. Any Member State may withdraw from this Convention by giving at least twelve month written notice to the Depositary, who will immediately inform all Member States and the Secretary-General of such notification.</p> <p>2. Notification of withdrawal may be given at any time after the expiration of six months from the date on which this Convention has come entered into force.</p> <p>3. The withdrawal shall take effect on 31st December following the expiration of the notice.</p> | <p>48. 19.2: Replace “come into force” by “entered into force” (consistency).</p> |
| <p>Article 20 Termination</p> <p>1. This Convention may be terminated by a vote of the General Assembly.</p> <p>2. The date of termination will be twelve months after the date of the above decision made in accordance with paragraph 1 of this Article, and in the intervening period the Council shall be responsible for the winding up of the Organization in accordance with the General Regulations.</p> | <p>49. 19.2: Replace “the above decision” by “the decision made in accordance with paragraph 1 of this Article”, for clarification.</p> |
| <p>IN WITNESS WHEREOF the undersigned, being duly authorized authorized by their respective Governments, have signed the present Convention.</p> <p>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 Depositary. The Depositary shall transmit certified copies thereof to all the [signatory and acceding] Governments and to the Secretary-General of the Organization.</p> | <p>50. Replace “auhorised” by “authorized” (consistency).</p> |

| | |
|---|---|
| <p>[Transitional Arrangements</p> <p>1. All National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities from States that are not Member States shall <u>will</u>, with the approval of the Council and subject to their request, become Associate Members of the Organization.</p> <p>2. All Associate and Industrial Members of the International Association of Marine Aids to Navigation and Lighthouse Authorities holding financial, non-suspended status shall <u>will</u>, with the approval of Council and subject to their request become Affiliate Members of the Organization.</p> <p>3. Upon the entry into force of this Convention the President, Vice President and the Council of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall <u>will</u> become the transitional President, Vice President and Council of the Organization and will operate as such until the first General Assembly convened under this Convention has elected a President, Vice President and Council, which must <u>should</u> be <u>done</u> within a period not exceeding six (6) months. Until such time as the Organization has adopted General Regulations, it shall <u>will</u> function in accordance with the General Regulations of the International Association of Marine Aids to Navigation and Lighthouse Authorities mutatis mutandis.</p> <p>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.</p> <p>5. The Committees of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall <u>will</u> become the transitional Committees of the Organization and will operate until Committees are established under this</p> | <p>51. Delete the entire annex (see comment 46). These arrangements are to be adopted in form of resolution of other non-legally document within the framework of the present IALA. Japan's comments to the draft texts are based on that condition (avoid use of "shall", etc.).</p> |
|---|---|

Convention.

6. In the event that a State which has Associate membership under this Convention becomes a Member State, the Associate membership ~~shall~~ will cease on the date on which this Convention enters into force for that State. In the case of a Member State having more than one Associate membership under this Convention, that State may decide to retain Associate memberships.

7. After the entry into force of this Convention, the International Association of Marine Aids to Navigation and Lighthouse Authorities, facilitated by the transitional Council will work in cooperation with the Organization to transfer its 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~~ will 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~~ will serve as the Secretary-General of the Organization until the General Assembly elects the Secretary-General in accordance with Article 7 of the Convention on the International Organization for Marine Aids to Navigation.



OCT 2018

Draft Convention on the International Organization for Marine Aids to Navigation.

After the Preparatory Diplomatic Conference in Marrakech 7th to 8th February 2018

Preamble

The States ~~party~~ Parties to this Convention:

RECALLING that the International Association of Lighthouse Authorities was established on 1st July 1957 and was renamed the International Association of Marine Aids to Navigation and Lighthouse Authorities in 1998;

RECOGNISING the role of the International Association of Marine Aids to Navigation and Lighthouse Authorities in the improvement and continued harmonization of Marine Aids to Navigation for the safe, economic and efficient movement of vessels for the benefit of the maritime community and the protection of the environment;

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 was formed as an association under French law; and~~

CONSIDERING FURTHER that developing, improving and harmonizing Marine Aids to Navigation for the benefit of the maritime community and the protection of the environment is best coordinated by international organizations;

HAVE AGREED as follows:

Article 1 Establishment

1. The International Organization for Marine Aids to Navigation (~~IALA~~) is hereby established under international law as an intergovernmental organization (hereinafter 'the Organization').
2. The Organization shall have a consultative and technical nature.
3. The **headquarters** of Organization shall have its seat in France unless otherwise decided by two-thirds of the Member States present and voting at the General Assembly.

메모 [m1]: Concerning that IMO and IHO Conventions use the term 'the States Parties', Korea suggests using 'State Parties'.

메모 [m2]: It seems unrelated to the establishment of the Organization. Korea suggests deleting this provision.

메모 [m3]: Since IALA has been used as the acronym for the former non-intergovernmental organization, Korea suggests using a different acronym that better reflects the title of the new organization.

Article 2 Definitions

For the purposes of this Convention:

State Party means a member State;

Member State means a State, which has consented to be bound by this Convention and for which this Convention is in force;

Associate Member means a territory or groups of territories for which a Member State has requested membership which has been accepted by the General Assembly.

Affiliate Member means a manufacturer or distributor of Marine Aids to Navigation equipment for sale, or an organization providing Marine Aids to Navigation services or technical advice under contract and any other service, organization or scientific agency concerned with Marine Aids to Navigation which has applied for membership which has been accepted by the Council.

Marine Aid to Navigation means a device, system or service, external to a vessel, designed and operated to enhance the safe and efficient navigation of individual vessels and vessel traffic;

International Organization means an intergovernmental organization;

Reservation means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to this Convention, whereby it purports to exclude or to modify the legal effect of certain provisions of this Convention in their application to that State.

메모 [m4]: Korea suggests including this provision (State Party, International Organization, Reservation) for clarification.

Article 3 Aim and Objectives

The aim of the Organization is to bring together governments, services and organizations concerned with the regulation, provision, maintenance and/or operation of Marine Aids to Navigation with the objectives of:

- (a) Fostering the safe and efficient movement of vessels through the improvement and harmonization of Marine Aids to Navigation worldwide;
- (b) Promoting access to technical cooperation and capacity building on all matters related to development and transfer of expertise, science and technology in relation to Marine Aids to Navigation;
- (c) Encouraging and facilitating the general adoption of the highest practicable standards in matters concerning Marine Aids to Navigation; and
- (d) Providing for the exchange of information among governments and intergovernmental international organizations on matters under consideration by the Organization.

Article 4 Functions

In order to achieve the aim and objectives set out in Article 3, the functions of the Organization shall be:

- (a) To provide non mandatory standards, recommendations, guidelines, manuals and/or other suitable means and to commend these to governments, intergovernmental organizations, Associate Members and Affiliate Members as appropriate;
- (b) To consider and make recommendations on standards, recommendations, guidelines, manuals and other documents that may be remitted to it by Member States, Associate Members and Affiliate Members, by any organ or specialized agency of the United Nations or by any other international intergovernmental organization;

- (c) To provide mechanisms for consultation and exchange of information covering inter alia recent developments and the activities of Member States, Associate Members and Affiliate Members;
- (d) To develop international cooperation by promoting close working relationships and assistance between Member States, Associate Members and Affiliate Members;
- (e) To facilitate assistance, whether technical, organizational or training to governments, services and other organizations requesting help with Marine Aids to Navigation;
- (f) To organize conferences, symposia, seminars, workshops and other events relevant to its work; and
- (g) To liaise and cooperate with relevant international and other organizations, offering specialized advice where appropriate.

Article 5 Membership

1. The Organization shall be ~~comprised of~~ opened to Member States, Associate Members and Affiliate Members.
2. Members of the United Nations may become Member States of the Organization by becoming State Parties to this Convention in accordance with the provisions of Article 17.
3. Any State having responsibility for the international relations of a territory or group of territories may request Associate membership for such territory or group of territories, by notification in writing to the Secretary-General.
4. Affiliate membership shall be open to manufacturers or distributors of Marine Aids to Navigation services or technical advice under contract and any other service, international organization or scientific agency concerned with Marine Aids to Navigation which has applied for membership which has been accepted by the Council.
5. ~~The Council may require or a Member State may request that aspects of an application for Affiliate Membership be reviewed by the Member State (or Member States) where the applicant carries out its activities or has its principal place of business or registered office. If supported by the Member States (or Member State), who requested the review, the Council shall decide accordingly.~~

메모 [m5]: Korea thinks the provision should be stipulated in the General Regulation.

Article 6 Structure

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 ~~who shall be President and Vice President of the General Assembly and of the Council. The President or in his or her absence the Vice President shall chair the General Assembly and the Council.~~
3. All efforts shall be made for the General Assembly and the Council to make decisions by consensus among Member States. Where decisions of the General Assembly or the Council cannot be reached by consensus, the following provisions shall apply:
 - (a) Only Member States have voting rights, which ~~will~~ shall be executed by the representative designated by each Member State. Each Member State ~~will~~ shall have one vote.
 - (b) Except where otherwise specified, decisions shall be ~~taken by two-thirds of the votes cast.~~ made by a two-thirds majority of the Member States present and voting.

메모 [m6]: Concerning that the term 'Organs' is used in multilateral conventions, Korea suggests using Organs.

메모 [m7]: It should be stipulated clearly that the President and the Vice President of the Organization chair both the General assembly and the Council.

메모 [m8]: This provision should be stipulated in the General Regulation.

메모 [m9]: Considering the importance of rules of procedure, Korea would like to stipulate "made by a 2/3 majority of the Member States present and voting" for clarification.

4. The General Regulations shall detail the Rules of Procedure that ~~will~~ **shall** apply for each organ.

Article 7 The General Assembly

1. The General Assembly **of the Member States** is the principal decision-making organ of the Organization and shall have all the powers of the Organization unless otherwise regulated by this Convention.
2. **The General Assembly shall be composed of all Member States. Attendance shall be open to all Member States and Members, Associate Members and Affiliate Members.**
3. Each Member State shall designate one of its delegates, preferably a representative from the national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation as its principal delegate at the General Assembly.
4. Regular sessions of the General Assembly shall take place once every three years.
5. Extraordinary sessions shall be convened whenever one-third of Member States 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.
6. A majority of Member States shall constitute a quorum for the sessions of the General Assembly.
7. The General Assembly shall:
 - (a) Elect the President and the Vice President from amongst the Member States in accordance with the General Regulations;
 - (b) Decide the overall policy and the strategic vision of the Organization;
 - (c) Review and adopt the General Regulations of the Organization;
 - (d) Elect the Council from amongst the Member States other than the Member State holding the Presidency or Vice Presidency in accordance with Article 8;
 - (e) Elect the Secretary-General from amongst the Member States in accordance with the General Regulations;
 - (f) Review and approve the financial arrangements of the Organization, including the outline budget for the following three years and the rate of contributions for Member States and fees for Associate Members and Affiliate Members **in accordance with Article 12**;
 - (g) Consider the reports and proposals put to it by any Member State, the Council or the Secretary-General;
 - (h) Approve standards;
 - (i) Decide on Associate membership;
 - (j) Make recommendations to Member States, Associate Members and Affiliate Members on matters within the scope of the Organization;
 - (k) Approve formal agreements with other organizations; ~~and~~
 - (l) Decide on any other matters within the aim and objectives of the Organization; ~~and~~
 - (m) **Establish Committees and review and approve their respective terms of reference; and**
 - (o) **Approve the work program of the Organization.**

메모 [m10]: Composition of the General Assembly should be clearly stipulated in the draft Convention. (Article 7.2)

메모 [m11]: Korea thinks this provision should be stipulated in the General Regulation.

메모 [m12]: As contributions are primary source of funding, Korea would like to clearly state the relationship between this provision and Article 12.

메모 [m13]: Korea thinks the General Assembly should have the power to establish committees and review and approve their respective terms of reference.

Article 8 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, **under the guidance of the General Assembly**, consist of the President and the Vice President and up to twenty three (23) Council members, each representing a different Member State.

메모 [m14]: Korea thinks the relationship between the General Assembly and the Council should be clearly stated in the draft Convention.

3. Council members shall be elected by ballot at each regular session of the General Assembly in accordance with the General Regulations.
4. ~~At the~~ All Council Member States shall preferably be represented by a delegate from a national authority responsible for the regulation, provision, maintenance and/or operation of Marine Aids to Navigation of that Member State.
5. Regular sessions of the Council shall take place at least twice a year.
6. Extraordinary sessions of the Council shall be convened in accordance with the General Regulations.
7. The presence of two-third of Council members shall be required to constitute a quorum for the sessions of the Council.
58. The Council shall:
 - (a) Exercise such responsibilities as may be delegated to it by the General Assembly;
 - (b) Coordinate the activities of the Organization within the framework of the overall policy, the strategic vision and the outline budget, as decided by the General Assembly;
 - (c) Review and approve the financial statements, including the annual budget;
 - (d) Decide on Affiliate membership;
 - ~~(e) Convene the General Assembly;~~
 - ~~(f)~~ Report to the General Assembly on the work of the Organization;
 - ~~(g)~~ Review papers submitted to it in accordance with the General Regulations;
 - ~~(h)~~ Refer to the General Assembly all matters requiring decision by the General Assembly;
 - ~~(i)~~ Approve recommendations, guidelines, manuals and other appropriate documents;
 - ~~(j)~~ Approve submissions to other organizations;
 - ~~(k)~~ Establish Committees and other subsidiary bodies and review and approve their respective terms of reference;
 - ~~(l)~~ Terminate Committees and other subsidiary bodies;
 - ~~(m)~~ Review and adopt the work programmes of the Committees; and
 - ~~(n)~~ Decide the venue and the year of the Organization's conferences and symposia as described in the General Regulations.

메모 [m15]: Korea suggests including the provisions.

메모 [m16]: Since the Council only convenes extraordinary general meetings, Korea suggests deleting the Art.8.8(e).

메모 [m17]: Please see Art.7.7(m)

Article 9 Committees and Other Subsidiary Bodies

1. Committees and ~~other~~ subsidiary bodies shall support the aim and objectives of the Organization.
2. The Committees shall:
 - (a) Prepare and review standards, recommendations, guidelines, manuals and other documents identified in the work programmes;
 - (b) Monitor developments in the area of Marine Aids to Navigation;
 - (c) Facilitate the sharing of expertise and experience among Member States, Associate Members and Affiliate Members; and
 - (d) Conduct any other tasks as decided by the Council.

Article 10 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 within the approved budgetary framework.
 - (a) The term of Secretary-General shall be three years. The Secretary-General may be re-elected for up to two additional consecutive terms of three years each.

- (b) The Secretary-General shall be responsible for the day to day management of the Organization, subject to any guidance issued by the General Assembly or the Council.
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:
- 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;
 - Administer the Organization's finances under the direction of the Council, in accordance with the General Regulations;
 - Prepare and submit to the Council the financial statements, including the annual budget and the financial arrangements of a three-year basis, with the estimates for each year shown separately. ~~the financial statements, including the annual budget, for submission to the Council;~~
 - Keep Member States, Associate Members and Affiliate Members and other organizations informed with respect to the activities of the Organization;
 - Organize and support meetings of the General Assembly, the Council, Committees and other subsidiary bodies;
 - Organize and support conferences and symposia as approved by the Council;
 - Organize and support seminars, workshops and other events; and
 - Perform such other tasks as may be assigned by this Convention, the General Regulations, the General Assembly or the Council.

메모 [m18]: Korea thinks draft Convention should clearly delineate the General Assembly's and the Council's power with regard to the handling of the budget.

Article 11 Languages

The official languages of the Organization shall be English, ~~French and Spanish.~~

메모 [m19]: Having 3 official languages would result in high operating cost. In the interest of cost and efficiency of the operation, Korea suggests designating English (the most commonly spoken second language) as the sole official and working language.

Article 12 Finances

- The expenditure for the functioning of the Organization shall be met by the financial resources provided by:
 - Member States' contributions;
 - Associate Member and Affiliate Member fees;
 - Donations, bequests, grants, gifts; and
 - Other sources approved by the Council upon recommendation by the Secretary-General.
- Each Member State shall pay a contribution and each Associate Member and Affiliate Member shall pay a fee to the Organization on an annual basis in the amount determined in accordance with in Article 7.7 (f). The contribution shall be set at the same rate for each Member State.
- Member State contributions and Associate Member and Affiliate Member fees shall be due and payable in accordance with the General Regulations.
- Any Member State which is two years in arrears in making contributions shall, after written notification by the Secretary-General, be denied voting rights and the right to be elected to the Council until such time as the outstanding contributions have been paid, in accordance with the General Regulations.
- Following the Council's approval of the Organization's audited financial statements, these statements shall be distributed to all Member States, Associate Members and Affiliate Members in the Annual Report.

Article 13

Legal personality, privileges and immunities

1. The Organization has international legal personality and has the capacity to:
 - (a) Contract and conclude agreements with governments, organizations and other bodies;
 - (b) Acquire and dispose of immovable and movable property; and
 - (c) Institute legal proceedings.
2. In the territory of each of its Member States the Organization shall enjoy, subject to agreement with the Member State concerned, such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its aim and objectives.
3. No Member State or Member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.

Article 14

Depositary

The Government of France shall serve as the Depositary for this Convention.

Article 15

Amendments

1. Any Member State may propose an amendment to this Convention, in writing, to the Secretary-General.
2. The Secretary-General shall circulate the proposed amendment to all Member States at least six months in advance of its consideration by the General Assembly.
3. The proposed amendment shall be adopted by vote of the General Assembly.
4. Any amendment adopted in accordance with Article 15.3 shall be sent by the Secretary-General to the Depositary of this Convention. The ~~latter~~ Depositary shall notify all Member States ~~and the Secretary-General~~ of the adoption of the amendment.
5. An amendment to this Convention shall come into force for Member States having accepted the amendment six months after written notification of the acceptance to the Depositary by two-thirds of Member States and thereafter for each remaining Member State upon acceptance by it.

메모 [m20]: Since the SG sends the amendment to the Depositary, Korea suggests deleting 'and the Secretary General' in the paragraph.

Article 16

Interpretation and Disputes

Member States shall make every effort to prevent disputes, and shall use their best efforts to resolve any disputes by amicable means, which may include consultation and negotiation with each other. Disputes that remain unresolved [after a period of three months] may, with the agreement of all parties to the dispute, be referred to a panel of three independent arbitrators appointed by the Secretary-General of the Permanent Court of Arbitration for a non-binding resolution, unless the parties to the dispute agree upon another mode of dispute settlement.

Article 17 Signature, Ratification and Accession

1. This Convention shall open for signature by any State that is a member 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 this Convention from the day after the date on which this Convention closes for signature.
4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary, who shall then notify each Member State and the Secretary-General thereof.
5. No reservation can be made to this Convention.

Article 18 Entry into force

1. ~~The This present~~ Convention shall enter into force on the thirtieth day after the date of deposit of the [thirtieth] instrument of ratification, acceptance, approval or accession.
2. For each State ratifying, accepting, approving or acceding to this 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.
3. The transitional arrangements that shall apply upon entry into force of this Convention are set out in Annex A.

Article 19 Withdrawal

1. Any Contracting State may withdraw from this Convention by giving at least twelve month written notice to the Depositary, who ~~will~~ ~~shall~~ immediately inform all Member States and the Secretary-General of such notification.
2. Notification of withdrawal may be given at any time after the expiration of ~~six~~ ~~twelve~~ months from the date on which this Convention has come into force.
3. The withdrawal shall take effect on 31st December following the expiration of the notice.

메모 [m21]: In regards to Article 19(1), the notification should also be any time after the expiration of 12 months.

Article 20 Termination

1. This Convention may be terminated by decision of the General Assembly upon a two-thirds majority of Member States present and voting, excluding any Member State denied by Article 5.6 the rights and benefits conferred on Member States.
2. The date of termination ~~will~~ ~~shall~~ 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 21 Transitional Arrangements

1. All National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities from States that are not Member States ~~shall~~ ~~may~~, ~~subject to their request and~~ ~~with~~ the approval of the Council, ~~and subject to their request~~, become Associate Members of the Organization.

2. All Associate or Industrial Members of the International Association of Marine Aids to Navigation and Lighthouse Authorities holding financial, non-suspended status ~~shall~~may, subject to their request and with the approval of Council ~~and subject to their agreement~~ become Affiliate Members of the Organization.
3. Upon the entry into force of this Convention the President, Vice President and the Council of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional President, Vice President and Council of the Organization and ~~will~~shall operate as such until the first General Assembly convened under this Convention has elected a President, Vice President and Council, which must be within a period not exceeding six (6) months. Until such time as the Organization has adopted General Regulations, it shall function in accordance with the General Regulations of the International Association of Marine Aids to Navigation and Lighthouse Authorities mutatis mutandis.
4. For the duration of the transitional Council Associate Members ~~will~~shall be permitted to engage in the work of the Council for the benefit of the Organization.
5. The Committees of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional Committees of the Organization and ~~will~~shall operate until Committees are established under this Convention.
6. In the event that a State which has Associate membership under this Convention becomes a Member State the Associate membership shall cease on the date on which this Convention enters into force for that State. In the case of a Member State having more than one Associate membership under this Convention that State may decide to retain an Associate Membership.
7. After the entry into force of this Convention the International Association of Marine Aids to Navigation and Lighthouse Authorities, facilitated by the transitional Council, ~~will~~shall work in cooperation with the Organization to transfer its 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 General Assembly elects the Secretary-General in accordance with Article 7.

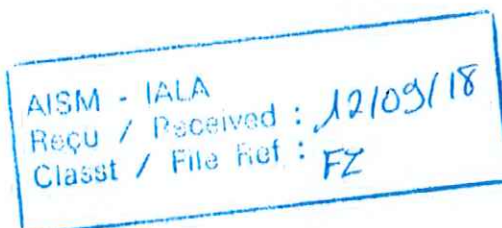
IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed the present Convention.

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 Depositary. The Depositary shall transmit certified copies thereof to all the [signatory and acceding] Governments and to the Secretary-General of the Organization.

메모 [m22]: Please see Article 11.



Réf: NV 181



Paris le 05 septembre 2018

L'Ambassade du Royaume du Maroc à Paris présente ses compliments au Secrétariat de l'Association Internationale de Signalisation Maritime (AISM) et a l'honneur de porter à sa connaissance que suite aux travaux de la 2^{ème} Conférence Diplomatique Préparatoire sur l'examen du projet du texte de la Convention portant sur le transformation du statut actuel de l'AISM en une association Intergouvernementale, tenue à Marrakech du 6 au 8 février 2018, le Ministère de l'Équipement, du Transport, de la Logistique et de l'Eau du Royaume du Maroc a émis un avis favorable sur ce changement de statut, sous réserve des observations relatives au règlement général suivantes :

- Article 2.4 : Prévoir des cotisations d'adhésion des Etats membres en fonction de la capacité de la flotte au lieu d'une contribution fixe.
- Article 9 : Prévoir les langues arabe, française, espagnole et anglaise.

L'Ambassade du Royaume du Maroc à Paris saisit cette occasion pour renouveler au Secrétariat de l'AISM l'assurance de sa plus Haute Considération.





ROYAL NORWEGIAN MINISTRY
OF TRANSPORT AND COMMUNICATIONS

IALA Secretariat

Your ref

Our ref

Date

15/2255-43

28 September 2018

Norway's comments to the draft Convention on the International Organization for Marine Aids to Navigation, after the second Preparatory Diplomatic Conference on 7 to 8 February 2018 in Marrakech

Norway refers to the Pre-Diplomatic Conference held in Marrakech on 7 and 8 February 2018 regarding the change of the status of IALA and would like to commend the participating parties on the progress made on a number of issues, including the Preamble, Aim and Objectives, Functions, General Assembly, Council, Secretariat and Finance. The agreement reached regarding these articles include settlement of important issues such as the name and acronym of the future IALA, that contributions shall be set at the same rate for each Member State, election of the president and vice-president by the General Assembly and Objectives and Functions that will retain the consultative and technical nature of IALA.

Should the third Preparatory Diplomatic Conference be equally successful to the two previous ones, Norway believes that we are approaching a level of agreement that could pave the way for a concluding Conference, and we look forward to discussing the matter further.

We have now reviewed the second draft of the Convention and would like to draw your attention to the following points:

Article 2 Definitions

For the sake of consistency, we propose to number the paragraphs in Article 2. This would be in line with the other articles and more convenient when referring to the specific paragraphs.

Postal address
Post-box 8010 Dep
0030 Oslo
postmottak@sd.dep.no

Office address
Akersg. 59
www.sd.dep.no

Telephone
+47 22 24 90 90
Org. nr.
972 417 904

Department
Department of Coastal
Management and
Marine Environment

Reference
Willy Grepstad
+47 22 24 64 32

Article 3 Aim and Objectives

Norway supports the aims and objectives stated in Article 3, but regret that a reference to the environment has not previously been included in the present draft in line with the wording of the aim of the current IALA Constitution. We therefore suggest to include such a reference and change the wording of Article 3 (a) to the following:

“(a) Fostering the safe, efficient and environmentally sustainable movement of vessels through the improvement and harmonization of Marine Aids to Navigation worldwide;”

Article 8 The Council

Both the current IALA Constitution and the General Regulations Article 3.6 (b) state that Councillors shall, as far as possible, be drawn from different parts of the world with a view to achieving as widespread a representation as possible. A similar principle is stated in the IMO Convention. Norway believes this is an important principle, which should be reflected in the Convention text itself. We therefore propose to add the following wording for Article 8.3:

“Council members should, as far as possible, be drawn from different parts of the world, with a view to achieving as widespread a representation as possible.”

Article 11 Languages

In Marrakech the parties agreed to address the issue of languages in a separate article, which has been taken into account in the present article 11. Given the importance connected to the matter, Norway supported this action as a sensible solution. However, Norway is of the view that the content of Article 11 in the current draft does not reflect the discussion and majority views of the Conference, nor does it reflect the current practice of IALA. Thus, we do not consider the content in the draft article to represent a satisfactory compromise. The proposal does not offer any insurance that the working language of the organization shall be English only, as is the current practice of IALA. Leaving such an important principle to be decided by the General Regulations is not acceptable to Norway. We would like to reiterate our previous position on this subject; that the number of official languages should be kept to a minimum and that English only shall be used as a working language in IALA, i.e. in all the affairs of Committees and other subsidiary bodies of IALA. This should be reflected in the wording of Article 11.

Article 13 Legal personality, privileges and immunities

With regard to Article 13, we would like to emphasize that it is Norway's view that the article regulates the legal capacity, privileges and immunities of the organization as such, and not tax related privileges and immunities for the officials of the organization.

Annex A Transitional Arrangements

There was a discussion in Marrakech whether the transitional arrangements should be removed altogether from the Convention or placed in an Annex. Norway supports retaining the transitional arrangements in the Convention, as an Annex. This way a clear distinction is made between the main body of the Convention and the transitional arrangements. It will at the same time ensure that said arrangements are transparent, predictable and made public to all.

Yours sincerely

Per André Torper
Acting Director General

Anita Christoffersen
Deputy Director General

This document is signed electronically and has therefore no handwritten signature

Copy:
Utenriksdepartementet
Kystverket hovedkontoret

Utenriksdepartementet



March 2018

Draft Convention on the International Organization for Marine Aids to Navigation.

After the Preparatory Diplomatic Conference in Marrakech 7th to 8th February 2018.

Preamble

The States party to this Convention:

RECALLING that the International Association of Lighthouse Authorities was established on 1st July 1957 and was renamed the International Association of Marine Aids to Navigation and Lighthouse Authorities in 1998; **RECOGNISING** the role of the International Association of Marine Aids to Navigation and Lighthouse Authorities in the improvement and continued harmonization of Marine Aids to Navigation for the safe, economic and efficient movement of vessels for the benefit of the maritime community and the protection of the environment;

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 was formed as an association under French law; and

CONSIDERING FURTHER that developing, improving and harmonizing Marine Aids to Navigation for the benefit of the maritime community and the protection of the environment is best coordinated by international organizations;

HAVE AGREED as follows:

Article 1 Establishment

1. The International Organization for Marine Aids to Navigation (IALA) is hereby established under international law as an intergovernmental organization (hereinafter 'the Organization').
2. The Organization shall have a consultative and technical nature.
3. The Organization shall have its seat in France unless otherwise decided by the Member States present and voting at the General Assembly.

Article 2 Definitions

For the purposes of this Convention:

Member State means a State, which has consented to be bound by this Convention and for which this Convention is in force.

Associate Member means a territory or groups of territories for which a Member State has requested membership which has been accepted by the General Assembly.

Affiliate Member means a manufacturer or distributor of Marine Aids to Navigation equipment for sale, or an organization providing Marine Aids to Navigation services or technical advice under contract and any other service, organization or scientific agency concerned with Marine Aids to Navigation which has applied for membership which has been accepted by the Council.

Marine Aid to Navigation means a device, system or service, external to a vessel, designed and operated to enhance safe and efficient navigation of individual vessels and vessel traffic.

Article 3 Aim and Objectives

The aim of the Organization is to bring together governments, services and organizations concerned with the regulation, provision, maintenance or operation of Marine Aids to Navigation with the objectives of:

- (a) Fostering the safe and efficient movement of vessels through the improvement and harmonization of Marine Aids to Navigation worldwide;
- (b) Promoting access to technical cooperation and capacity building on all matters related to development and transfer of expertise, science and technology in relation to Marine Aids to Navigation;
- (c) Encouraging and facilitating the general adoption of the highest practicable standards in matters concerning Marine Aids to Navigation; and
- (d) Providing for the exchange of information among governments and intergovernmental organizations on matters under consideration by the Organization.

Article 4 Functions

In order to achieve the aim and objectives set out in Article 3, the functions of the Organization shall be:

- (a) To provide non mandatory standards, recommendations, guidelines, manuals or other suitable means and to commend these to governments, intergovernmental organizations, Associate Members and Affiliate Members as appropriate;
- (b) To consider and make recommendations on standards, recommendations, guidelines, manuals and other documents that may be remitted to it by Member States, Associate Members and Affiliate Members, by any organ or specialized agency of the United Nations or by any other intergovernmental organization;
- (c) To provide mechanisms for consultation and exchange of information covering inter alia recent developments and the activities of Member States, Associate Members and Affiliate Members;
- (d) To develop international cooperation by promoting close working relationships and assistance between Member States, Associate Members and Affiliate Members;

- (e) To facilitate assistance, whether technical, organizational or training to governments, services and other organizations requesting help with Marine Aids to Navigation;
- (f) To organize conferences, symposia, seminars, workshops and other events relevant to its work; and
- (g) To liaise and cooperate with relevant international and other organizations, offering specialized advice where appropriate.

Article 5 Membership

1. The Organization shall be comprised of Member States, Associate Members and Affiliate Members.
2. Any Member State having responsibility for the international relations of a territory or group of territories may request Associate membership for such territory or group of territories, by notification in writing to the Secretary-General.
3. The Council may require or a Member State may request that aspects of an application for Affiliate Membership be reviewed by the Member State (or Member States) where the applicant carries out its activities or has its principal place of business or registered office. If supported by the Member State (or Member States), who requested the review, the Council shall decide accordingly.

Article 6 Structure

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. The President or in his or her absence the Vice President shall chair the General Assembly and the Council.
3. All efforts shall be made for the General Assembly and the Council to make decisions by consensus among Member States. Where decisions of the General Assembly or Council cannot be reached by consensus, the following provisions shall apply:
 - (a) Only Member States have voting rights, which will be executed by the representative designated by each Member State. Each Member State will have one vote.
 - (b) Except where otherwise specified, decisions shall be taken by two-thirds of the votes cast.
4. The General Regulations shall detail the Rules of Procedure that will apply for each organ.

Commenté [CZ1]: Voting with qualified majority (2/3) should be encouraged for acquiring more flexibility

Commenté [CZ2]: Paragraph 3 in article 6 should specify under point c) that in case of emergency the General Assembly can vote by mail or e-mail (according to the updates of the General Regulations subsequent to the meeting in May in Korea), respecting the terms imposed by paragraph 5 in article 7.

Article 7 The General Assembly

1. The General Assembly of the Member States is the principal decision-making organ of the Organization and shall have all the powers of the Organization unless otherwise regulated by this Convention.
2. Attendance shall be open to all Member States, Associate Members and Affiliate Members.
3. Each Member State shall designate one of its delegates, preferably a representative from the national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation as its principal delegate at the General Assembly.
4. Regular sessions of the General Assembly shall take place once every three years.
5. Extraordinary sessions shall be convened whenever one-third of Member States 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.

6. A majority of Member States shall constitute **a quorum** for the sessions of the General Assembly.
7. The General Assembly shall:
- (a) Elect the President and the Vice President from amongst the Member States in accordance with the General Regulations;
 - (b) Decide the overall policy and the strategic vision of the Organization;
 - (c) Review and approve the General Regulations of the Organization;
 - (d) Elect the Council from amongst the Member States other than the Member State holding the Presidency or Vice Presidency in accordance with Article 8;
 - (e) Elect the Secretary-General from amongst the Member States in accordance with the General Regulations;
 - (f) Review and approve the financial arrangements of the Organization, including the outline budget for the following three years and **the rate of contributions** for Member States and fees for Associate Members and Affiliate Members;
 - (g) Consider the reports and proposals put to it by any Member State, the Council or the Secretary-General;
 - (h) Approve standards;
 - (i) Decide on Associate membership;
 - (j) Make recommendations to Member States, Associate Members and Affiliate Members on matters within the scope of the Organization;
 - (k) Approve formal agreements with other organizations; and
 - (l) Decide on any other matters within the aim and objectives of the Organization.

Commenté [CZ3]: What kind of majority is implied here?

Mis en forme : Couleur de police : Rouge

Commenté [CZ4]: The tax should be clearly defined, so that the members are aware of the obligations undertaken once signing the Statute of the Organization. Preferably, the tax should be calculated according to the tonnage of the ships that transit the ports. This way, we can encourage the development of the system of marine aids to navigation and we take into account the principle of proportionality between taxes paid and revenue.

Mis en forme : Couleur de police : Rouge

Article 8 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 the President and the Vice President and up to twenty three (23) Council members, each representing a different Member State.
3. Council members shall be elected by ballot at each regular session of the General Assembly in accordance with the General Regulations.
4. At the Council Member States shall preferably be represented by a delegate from a national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation of that Member State.
5. The Council shall:
 - (a) Exercise such responsibilities as may be delegated to it by the General Assembly;
 - (b) Coordinate the activities of the Organization within the framework of the overall policy, the strategic vision and the outline budget, as decided by the General Assembly;
 - (c) Review and approve the financial statements, including the annual budget; (d) Decide on Affiliate membership;
 - (e) Convene the General Assembly;
 - (f) Report to the General Assembly on the work of the Organization;
 - (g) Review papers submitted to it in accordance with the General Regulations;
 - (h) Refer to the General Assembly all matters requiring decision by the General Assembly;
 - (i) Approve recommendations, guidelines, manuals and other appropriate documents; (j) Approve submissions to other organizations;
 - (k) Establish Committees and other subsidiary bodies and review and approve their respective terms of reference;
 - (l) Terminate Committees and other subsidiary bodies;
 - (m) Review and approve the work programmes of the Committees; and

- (n) Decide the venue and the year of the Organization's conferences and symposia as described in the General Regulations.

Article 9 Committees and Other Subsidiary Bodies

1. Committees and other subsidiary bodies shall support the aim and objectives of the Organization.
2. The Committees shall:
 - (a) Prepare and review standards, recommendations, guidelines, manuals and other documents identified in the work programmes;
 - (b) Monitor developments in the area of Marine Aids to Navigation;
 - (c) Facilitate the sharing of expertise and experience among Member States, Associate Members and Affiliate Members; and
 - (d) Conduct any other tasks as decided by the Council.

Article 10 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 within the approved budgetary framework.
 - (a) The term of Secretary-General shall be three years. The Secretary-General may be reelected for up to two additional consecutive terms of three years each.
 - (b) The Secretary-General shall be responsible for the day to day management of the Organization, subject to any guidance issued by the General Assembly or the Council.
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) Administer the Organization's finances under the direction of the Council, in accordance with the General Regulations;
 - (c) Prepare the financial statements, including the annual budget, for submission to the Council;
 - (d) Keep Member States, Associate Members and Affiliate Members and other organizations informed with respect to the activities of the Organization;
 - (e) Organize and support meetings of the General Assembly, the Council, Committees and other subsidiary bodies;
 - (f) Organize and support conferences and symposia as approved by the Council;
 - (g) Organize and support seminars, workshops and other events; and
 - (h) Perform such other tasks as may be assigned by this Convention, the General Regulations, the General Assembly or the Council.

Article 11 Languages

The official languages of the Organization shall be English, French and Spanish.

Article 12 Finance

1. The expenditure for the functioning of the Organization shall be met by the financial resources provided by:
 - (a) Member State contributions;
 - (b) Associate Member and Affiliate Member fees;
 - (c) Donations, bequests, grants, gifts; and
 - (d) Other sources approved by the Council upon recommendation by the Secretary-General.
2. Each Member State shall pay a contribution and each Associate Member and Affiliate Member shall pay **a fee** to the Organization on an annual basis in the amount determined in accordance with in Article 7.7 (f). The contribution shall be set at the same rate for each Member State.
3. Member State contributions and Associate Member and Affiliate Member fees shall be due and **payable in accordance with the General Regulations**.
4. Any Member State which is two years in arrears in making contributions shall, after written notification by the Secretary-General, be denied voting rights and the right to be elected to the Council until such time as the outstanding contributions have been paid, in accordance with the General Regulations.
5. Following the Council's approval of the Organization's audited financial statements, these statements shall be distributed to all Member States, Associate Members and Affiliate Members in the Annual Report.

Mis en forme : Couleur de police : Rouge

Commenté [CZ5]: We suggest paying the tax according to the tonnage of the ships transiting ports

Commenté [CZ6]: We would like to have the precise formula for calculating the taxes required for each Member

Mis en forme : Police :Italique

Mis en forme : Police :Italique

Article 13 Legal personality, privileges and immunities

1. The Organization has international legal personality and has the capacity to:
 - (a) Contract and conclude agreements with governments, organizations and other bodies;
 - (b) Acquire and dispose of immovable and movable property; and
 - (c) Institute legal proceedings.
2. In the territory of each of its Member States the Organization shall enjoy, subject to agreement with the Member State concerned, such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its aim and objectives.
3. No Member State or Member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.

Article 14 Depositary

The Republic of France shall serve as the Depositary for this Convention.

Article 15 Amendments

1. Any Member State may propose an amendment to this Convention, in writing, to the Secretary General.
2. The Secretary-General shall circulate the proposed amendment to all Member States at least six months in advance of its consideration by the General Assembly.
3. The proposed amendment shall be adopted by vote of the General Assembly.
4. Any amendment adopted in accordance with Article 15.3 shall be sent by the Secretary-General to the Depositary of this Convention. The latter shall notify all Member States and the Secretary General of the adoption of the amendment.
5. An amendment to this Convention shall come into force for Member States having accepted the amendment six months after written notification of the acceptance to the Depositary by two-thirds of Member States and thereafter for each remaining Member State upon acceptance by it.

Article 16 Interpretation and Disputes

Member States shall make every effort to prevent disputes, and shall use their best efforts to resolve any disputes by amicable means which may include consultation and negotiation with each other. Disputes that remain unresolved [after a period of three months] may, with the agreement of all parties to the dispute, be referred to a panel of three independent arbitrators appointed by the Secretary-General of the Permanent Court of Arbitration for a non-binding resolution, unless the parties to the dispute agree upon another mode of dispute settlement.

Article 17 Signature, Ratification and Accession

1. This Convention shall open for signature by any State that is a member 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 this Convention from the day after the date on which this Convention closes for signature.
4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary, who shall then notify each Member State and the Secretary-General thereof.
5. No reservation can be made to this Convention.

Article 18 Entry into force

1. The present Convention shall enter into force on the thirtieth day after the date of deposit of the [thirtieth] instrument of ratification, acceptance, approval or accession.
2. For each State ratifying, accepting, approving or acceding to this 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.
3. The transitional arrangements that shall apply upon entry into force of this Convention are set out in Annex A.

Article 19 Withdrawal

1. Any Member State may withdraw from this Convention by giving at least twelve month written notice to the Depositary, who will immediately inform all Member States and the Secretary-General of such notification.
2. Notification of withdrawal may be given at any time after the expiration of six months from the date on which this Convention has come into force.
3. The withdrawal shall take effect on 31st December following the expiration of the notice.

Article 20 Termination

1. This Convention may be terminated by a vote of the General Assembly.
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.

ROMANIA 1/2

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 Depositary. The Depositary shall transmit certified copies thereof to all the [signatory and acceding] Governments and to the Secretary-General of the Organization.

Transitional Arrangements

1. All National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities from States that are not Member States shall, with the approval of the Council and subject to their request, become Associate Members of the Organization.
2. All Associate and Industrial Members of the International Association of Marine Aids to Navigation and Lighthouse Authorities holding financial, non-suspended status shall, with the approval of Council and subject to their request become Affiliate Members of the Organization.
3. Upon the entry into force of this Convention the President, Vice President and the Council of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional President, Vice President and Council of the Organization and will operate as such until the first General Assembly convened under this Convention has elected a President, Vice President and Council, which must be within a period not exceeding six (6) months. Until such time as the Organization has adopted General Regulations, it shall function in accordance with the General Regulations of the International Association of Marine Aids to Navigation and Lighthouse Authorities *mutatis mutandis*.
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 Marine Aids to Navigation and Lighthouse Authorities shall become the transitional Committees of the Organization and will operate until Committees are established under this Convention.
6. In the event that a State which has Associate membership under this Convention becomes a Member State the Associate membership shall cease on the date on which this Convention enters into force for that State. In the case of a Member State having more than one Associate membership under this Convention that State may decide to retain Associate memberships.
7. After the entry into force of this Convention the International Association of Marine Aids to Navigation and Lighthouse Authorities, facilitated by the transitional Council will work in cooperation with the Organization to transfer its 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 General Assembly elects the Secretary-General in accordance with Article 7.

- Paragraph 3 in article 6 should establish a 2/3 voting procedure, rather than *consensus*, as we envisage a more flexible manner for the Organization's decision-making process.
- Paragraph 3 in article 6 should specify under a newly-created point c) that in case of emergency the General Assembly can vote by mail or e-mail (according to the updates of the General Regulations subsequent to the meeting in May in Korea), respecting the terms imposed by paragraph 5 in article 7.
- Paragraph 6 in article 7 should mention precisely the majority needed for the quorum, especially since the General Regulation include now exceptional situations for postal and electronic voting.
- Paragraph 7 in article 7, F, the tax should be clearly defined, so that the members are aware of the obligations undertaken once signing the Statute of the Organization. Preferably, the tax should be calculated according to the tonnage of the ships that transit the ports. This way, we can encourage the development of the system of marine aids to navigation and we take into account the principle of proportionality between taxes paid and revenue.
- At Paragraph 2 in article 12 we would favour a tax system that is calculated according to the tonnage of the ships, in line with the suggestions above-mentioned at art. 7(7), F.
- Paragraph 3 in the very article 12 should add the formula for calculating the tax required for each Member state.

Suggestions

to the Draft Convention on the International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA), as well as to the General Regulations and Financial Rules of the Organization

1. In the article 5 *Membership*, grounds should be specified for termination or suspension of the membership in the Organization. Now it is only worded in the *General Regulations of the Organization*.

2. The paragraph 3 of the article 6 can be placed in a separate article *The Procedure for Decision-making by the Organization*. At the same time, it is necessary to state what conditions should be met for ascertaining the lack of consensus. It would also be preferable not to vote on the principle of "a simple majority", but a qualified majority (for example, 2/3 of the votes). As an option, this can be specified for the most serious issues, for example, for the adoption of standards, etc.

3. In the article 6, the paragraph 4, it is important to establish the legal nature of the *General Regulations of the Organization* and to specify their status in more detail.

4. In the article 5, the paragraph 2, it is not entirely clear from the phrase "any Contracting Party may claim Associate membership for a territory or group of territories for which it has responsibility", whether it concerns the mandated territories of states (islands and the like) or other categories.

5. It is necessary to distinguish between general provisions on the bodies and the procedural aspects (e.g. the appointment procedure of the extraordinary session, the paragraph 5 of the article 7). The latter should be regulated by the *General Regulations of the Organization*.

6. The problem of distinguishing between substantive and procedural issues is also urgent in financial matters. So, in the Convention (the paragraph 4 of the article 12) and Financial rules (the paragraph 1 of the article 8), the regime of sanctions for contribution nonpayment is duplicated. However, the proposed measures were not identical and it required their harmonization within the Financial rules and the deletion of the paragraph from the Convention.

7. The General Assembly should be delegated the authority for the establishment (termination) of the committees and subsidiary bodies (the paragraph 5 (k) and (l) of the article 8), and the Council should be left to control their current activity (the paragraph 5(m) of the article 8).

8. In the paragraph 7(h) of the article 7 *The General Assembly*, the legal force of the standards adopted by the General Assembly should be specified. In the *General Regulations of the Organization*, an "adoption of standards", but not an "approval of standards" is on the agenda of the General Assembly.

9. Separately, when working on standards, it is necessary to determine the role of the Council. In the article 8, there is no information about this.

10. In the article 8, the paragraph 5(j), it is important to define what is meant by "submissions to other organizations" and how this paragraph is consistent with the authority of the General Assembly (the article 7, the paragraph 7(k)).

11. It is necessary to clarify what will be a range of matters for the recommendations and manuals that the Council is authorized to adopt in the Article 8 and what will be a legal force of these documents. Perhaps, it is required to give more detailed descriptions to the specified types of the documents in the *General Regulations*.

12. With regard to the article 10, it would be considered that the conditions of staff recruitment to the Secretariat and corresponding responsibilities should not be accepted by the Secretary-General, but by the General Assembly through the adoption of the relevant rules, similar to other international organizations.

13. Пункт 2 статьи 10, возможно, перенести в «Общие правила»
The paragraph 2 of the article 10 can be placed to the *General Regulations*.

14. The article 11 raises questions, because, at the 2nd Diplomatic Conference, the parties have not agreed to include the Spanish language as the third official language of the IALA. At the same time, proposals were made to include Arabic, Chinese, and Russian languages in the list of official languages of the Organization. Clarifications are also required regarding the set of languages referred to in the *General Regulations*.

15. With respect to the article 12, the paragraph 1 (c), it might be possible to set a limit (for example, \$ 10,000) on the amount of cash donations, gifts, etc., beyond which the Executive Secretary should request permission from the Council.

16. In the article 13, paragraph 2, it should be clarified what was meant by "subject to the agreement of each Contracting Party". If this implies that the granting of the appropriate scope of privileges and immunities should be determined by a separate "arrangement" with each Member State, this should be specified accordingly.

17. It would be proposed to change the title of the article 16 to "Dispute settlement on interpretation and application of the Convention".

18. In the article 16, we would suggest that the person appointing the panel of arbitrators should not be the Secretary-General of the Permanent Court of Arbitration, but the President of The International Court of Justice or the Secretary-General of the United Nations.

19. In the paragraph 3 of the article 19, it would be advisable to specify the fate of the contributions which the state that has announced its withdrawal should pay.

Annex "A " to the Convention

1. As the approval of associate members under the Convention is the prerogative of the General Assembly, then the paragraph 1 of the Annex should not contain the consent of the Council but the consent of the General Assembly.

2. For the purposes of uniform use of the paragraph 5 and the paragraph 8, they could be harmonized, referring either to the Convention as a whole (as in the paragraph 5 "under this Convention") or to a specific article (as in the paragraph 8).

General Regulations of IALA

1. We believe that the basic provisions of The *General Regulations of the Organization* should be determined within the framework of Diplomatic Conferences.

2. There is a need to eliminate duplication between the provisions of the Convention and the *General Regulations*.

3. The references to the Convention contained in the *General Regulations* (for example, the paragraph 1 of the article 1, the paragraph 4(d) of the article 2, the paragraph 5 of the article 3) should be clarified.

4. Throughout the text, mention of Industrial members and provisions related to them should be removed (for example, the paragraph 3 of the article 2, etc).

5. Throughout the text, amendments should be made in relation to associate members, decision on these members should not be taken by the Council but by the General Assembly (e.g. the article 2, the paragraph 5(d), the article 2, the paragraph 6(b), etc).

6. The Article 2, the paragraph 5(c), should be placed to the Financial Rules.

7. We believe that considering suspension of associate and affiliated members in the Organization (the paragraph 5(b) of the article 2, the paragraph 6(c) of the article 2), it necessary to define

the term "justifiable cause" used in this context in order to avoid loose interpretation.

8. We would suggest that the provisions concerning electronic voting should be deleted from the *General Regulations*. We consider it unacceptable, for example, to approve the results of the General Assembly by such procedure. This should be carried out within the framework of the Assembly meeting (the article 3, the paragraph 4.4(c)), and not remotely. It is analogously found to be right in respect of the election of the President (the paragraph 5(g) of the article 3).

9. In the article 4, the paragraph 6, the election to the Council should be provided on the basis of regional quotas, as well as rotation of the members of the Council should be on the same principles including the election of the Chair of the Council.

10. Placing the article 5 on the Finance and Audit Committee into the Financial rules should be considered. It should be clarified whether this action falls within the scope of the article 9 of the Convention.

11. In the article 6, the paragraph 1(a), the Council should be replaced with the General Assembly.

12. The article 6, the paragraph 2(a), should be amended to allow the committees to elect their own Chairpersons.

13. It should be specified in the article 7, the paragraph 4, that the Rules of Procedure of the Secretariat should be developed by the Secretary-General and approved by the General Assembly.

Financial rules of the IALA

1. The provisions contained in the Convention, the General Regulations and the Financial rules should not be duplicated (see comments above).

2. The Financial rules should include principles for calculating contributions from members of the Organization, which should be based on objective indicators.

3. A reference to specific dates of contribution payments should be removed from the article 8 *Unsettled contributions and payments*.

4. The transfer of funds between the various budget items, as decided by the Secretary-General of the Organization, as prescribed in article 4 *Budget*, does not provide for any procedure for the approval of such transfers by members of the Organization. This practice effectively gives the Secretary-General unlimited authority to manage IALA assets and it needs to be reviewed. It should be stated that the approval of the Secretary-General's proposals is carried out by the governing bodies of the IALA after the relevant independent expert evaluation, for example, "Financial and Audit Committee".

5. In order to improve the efficiency of control over the financial activities of the Organization, we consider that it is appropriate to supplement the Financial rules with a provision on the need to prepare and submit the reporting documents in accordance with International Public Sector Accounting Standards (IPSAS).

6. The draft Financial rules do not prescribe a mechanism for the use of contributions / payments balances of the members of the Organization. According to established practice in other international organizations, they should be returned to the members of the Organization (in proportion to their contributions/payments).

COMMENTS FROM SINGAPORE ON THE DRAFT IALA CONVENTION

| Current draft Post-2 nd Preparatory Diplomatic Conference Draft dated March 2018 | Proposed amendments to text is in blue | Comments |
|--|--|----------|
| Preamble The States party to this Convention: | Preamble The States party to this Convention: | |
| <p>RECALLING that the International Association of Lighthouse Authorities was established on 1st July 1957 and was renamed the International Association of Marine Aids to Navigation and Lighthouse Authorities in 1998;</p> <p>RECOGNISING the role of the International Association of Marine Aids to Navigation and Lighthouse Authorities in the improvement and continued harmonization of Marine Aids to Navigation for the safe, economic and efficient movement of vessels for the benefit of the maritime community and the protection of the environment;</p> <p>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;</p> <p>CONSIDERING that the International Association of Marine Aids to Navigation and Lighthouse Authorities was formed as an association under French law; and</p> <p>CONSIDERING FURTHER that developing, improving and harmonizing Marine Aids to Navigation for the benefit of the maritime community and the protection of the environment is best coordinated by international organizations;</p> | <p>RECALLING that the International Association of Lighthouse Authorities was established on 1st July 1957 and was renamed the International Association of Marine Aids to Navigation and Lighthouse Authorities in 1998;</p> <p>RECOGNISING the role of the International Association of Marine Aids to Navigation and Lighthouse Authorities in the improvement and continued harmonization of Marine Aids to Navigation for the safe, economic and efficient movement of vessels for the benefit of the maritime community and the protection of the environment;</p> <p>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;</p> <p>CONSIDERING that the International Association of Marine Aids to Navigation and Lighthouse Authorities was formed as an association under French law; and</p> <p>CONSIDERING FURTHER that developing, improving and harmonizing Marine Aids to Navigation for the benefit of the maritime community and the protection of the environment is best coordinated by international organizations;</p> | |

| HAVE AGREED as follows: | HAVE AGREED as follows: | |
|---|--|---|
| Article 1 Establishment 1. The International Organization for Marine Aids to Navigation (IALA) is hereby established under international law as an intergovernmental organization (hereinafter 'the Organization'). | Article 1 Establishment 1. The International Organization for of Marine Aids to Navigation and Lighthouse Authorities (IALA) is hereby established under international law as an intergovernmental organization (hereinafter 'the Organization'). | Singapore: Propose to amend "International Organization for Marine Aids to Navigation" to "International Organization of Marine Aids to Navigation and Lighthouse Authorities" (i.e., the full name of IALA), to align with the name of the Organization used in the Preamble. |
| 2. The Organization shall have a consultative and technical nature. | 2. The Organization shall have a consultative and technical nature. | |
| 3. The Organization shall have its seat in France unless otherwise decided by the Member States present and voting at the General Assembly. | 3. The Organization shall have its seat in France unless otherwise decided by the Member States present and voting at the General Assembly. | |

| Article 2 Definitions | Article 2 Definitions | |
|---|---|---|
| <p>For the purposes of this Convention:</p> <p>Member State means a State, which has consented to be bound by this Convention and for which this Convention is in force.</p> | <p>For the purposes of this Convention:</p> <p>Member State means a State, which has consented to be bound by this Convention and for which this Convention is in force.</p> | |
| <p>Associate Member means a territory or groups of territories for which a Member State has requested membership which has been accepted by the General Assembly.</p> <p>Affiliate Member means a manufacturer or distributor of Marine Aids to Navigation equipment for sale, or an organization providing Marine Aids to Navigation services or technical advice under contract and any other service, organization or scientific agency concerned with Marine Aids to Navigation which has been accepted by the Council.</p> | <p>Associate Member means a territory or groups of territories for which a Member State has requested membership which has been accepted by the General Assembly.</p> <p>Affiliate Member means a manufacturer or distributor of Marine Aids to Navigation equipment for sale, or an organization providing Marine Aids to Navigation services or technical advice under contract and any other service [(also known as “Industrial Members”)], organization or scientific agency concerned with Marine Aids to Navigation which has applied for membership which has been accepted by the Council.</p> | <p>The definition of “Affiliate Member[ship]” in the draft Convention is made up of “Associate Members” and “Industrial Members” as defined in the Article 5.1 of the IALA Constitution. The draft Convention however, does not define the term “Industrial Members” nor make references to “Industrial Members” as a membership category under Article 5.1 of the Convention on Composition of the Organization.</p> <p>Should the Organization wish to retain the use and concept of “Industrial Members”, it should be defined in the Convention, rather than in the General Regulations. As currently drafted, the term “Industrial Members” is only defined in Article 2.3 of the General Regulations and used only once in Article 8.3(a) of the General Regulations.</p> |
| <p>Marine Aid to Navigation means a device, system or service, external to a vessel, designed and operated to enhance safe and efficient navigation of individual vessels and vessel traffic.</p> | <p>Marine Aid to Navigation means a device, system or service, external to a vessel, designed and operated to enhance safe and efficient navigation of individual vessels and vessel traffic.</p> | |
| <p>Article 3 Aim and Objectives</p> | <p>Article 3 Aim and Objectives</p> | |

| | | |
|--|--|---|
| <p>The aim of the Organization is to bring together governments, services and organizations concerned with the regulation, provision, maintenance or operation of Marine Aids to Navigation with the objectives of:</p> <p>(a) Fostering the safe and efficient movement of vessels through the improvement and harmonization of Marine Aids to Navigation worldwide;</p> <p>(b) Promoting access to technical cooperation and capacity building on all matters related to development and transfer of expertise, science and technology in relation to Marine Aids to Navigation;</p> <p>(c) Encouraging and facilitating the general adoption of the highest practicable standards in matters concerning Marine Aids to Navigation; and</p> <p>(d) Providing for the exchange of information among governments and intergovernmental organizations on matters under consideration by the Organization.</p> | <p>The aim of the Organization is to bring together governments, services and organizations concerned with the regulation, provision, maintenance or operation of Marine Aids to Navigation with the objectives of:</p> <p>(a) Fostering the safe and efficient movement of vessels through the improvement and harmonization of Marine Aids to Navigation worldwide;</p> <p>(b) Promoting access to technical cooperation and capacity building on all matters related to development and transfer of expertise, science and technology in relation to Marine Aids to Navigation;</p> <p>(c) Encouraging and facilitating the general adoption of the highest practicable standards in matters concerning Marine Aids to Navigation; and</p> <p>(d) Providing for the exchange of information among governments and intergovernmental organizations on matters under consideration by the Organization.</p> | |
| <p>Article 4 Functions</p> | <p>Article 4 Functions</p> | |
| <p>In order to achieve the aim and objectives set out in Article 3, the functions of the Organization shall be:</p> <p>(a) To provide non mandatory standards, recommendations, guidelines, manuals or other suitable means and to commend these to governments, intergovernmental organizations, Associate Members and Affiliate Members as appropriate;</p> | <p>In order to achieve the aim and objectives set out in Article 3, the functions of the Organization shall be:</p> <p>(a) To provide non mandatory standards, recommendations, guidelines, manuals or other suitable means and to commend recommend these to governments, intergovernmental organizations, Associate Members and Affiliate Members as appropriate;</p> | <p>Propose to amend “to commend” to “to recommend”. It is illogical to commend non mandatory standards, recommendations, guidelines, manuals to the relevant parties. See IMO Convention Article 2(b), for reference.</p> <p><u>IMO Convention – Part II Functions, Article 2</u> (b) <i>Provide for the drafting of conventions, agreements, or other suitable instruments, and recommend these to Governments and to intergovernmental organizations, and convene such conferences as may be necessary;</i></p> |

| | | |
|---|---|--|
| <p>(b) To consider and make recommendations on standards, recommendations, guidelines, manuals and other documents that may be remitted to it by Member States, Associate Members and Affiliate Members, by any organ or specialized agency of the United Nations or by any other intergovernmental organization;</p> <p>(c) To provide mechanisms for consultation and exchange of information covering inter alia recent developments and the activities of Member States, Associate Members and Affiliate Members;</p> <p>(d) To develop international cooperation by promoting close working relationships and assistance between Member States, Associate Members and Affiliate Members;</p> <p>(e) To facilitate assistance, whether technical, organizational or training to governments, services and other organizations requesting help with Marine Aids to Navigation;</p> <p>(f) To organize conferences, symposia, seminars, workshops and other events relevant to its work; and</p> <p>(g) To liaise and cooperate with relevant international and other organizations, offering specialized advice where appropriate.</p> | <p>(b) To consider and make recommendations on standards, recommendations, guidelines, manuals and other documents that may be remitted to it by Member States, Associate Members and Affiliate Members, by any organ or specialized agency of the United Nations or by any other intergovernmental organization;</p> <p>(c) To provide mechanisms for consultation and exchange of information covering inter alia recent developments and the activities of Member States, Associate Members and Affiliate Members;</p> <p>(d) To develop international cooperation by promoting close working relationships and assistance between Member States, Associate Members and Affiliate Members;</p> <p>(e) To facilitate assistance, whether technical, organizational or training to governments, services and other organizations requesting help with Marine Aids to Navigation;</p> <p>(f) To organize conferences, symposia, seminars, workshops and other events relevant to its work; and</p> <p>(g) To liaise and cooperate with relevant international and other organizations, offering specialized advice where appropriate.</p> | |
| <p>Article 5 Membership</p> | <p>Article 5 Membership</p> | |
| <p>1. The Organization shall be comprised of Member States, Associate Members and Affiliate Members.</p> | <p>1. The Organization shall be comprised of Member States, Associate Members and Affiliate Members.</p> | |

| | |
|--|--|
| 2. Any Member State having responsibility for the international relations of a territory or group of territories may request Associate membership for such territory or group of territories, by notification in writing to the Secretary-General. | 2. Any Member State having responsibility for the international relations of a territory or group of territories may request Associate membership for such territory or group of territories, by notification in writing to the Secretary-General. |
| 3. The Council may require or a Member State may request that aspects of an application for Affiliate Membership be reviewed by the Member State (or Member States) where the applicant carries out its activities or has its principal place of business or registered office. If supported by the Member State (or Member States), who requested the review, the Council shall decide accordingly. | 3. The Council may require or a Member State may request that aspects of an application for Affiliate Membership be reviewed by the Member State (or Member States) where the applicant carries out its activities or has its principal place of business or registered office. If supported by the Member State (or Member States), who requested the review, the Council shall decide accordingly. |
| Article 6 Structure | Article 6 Structure |
| 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. | 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. The President or in his or her absence the Vice President shall chair the General Assembly and the Council. | 2. There shall be a President and a Vice President of the Organization. The President or in his or her absence the Vice President shall chair the General Assembly and the Council. |
| 3. All efforts shall be made for the General Assembly and the Council to make decisions by consensus among Member States. Where decisions of the General Assembly or Council cannot be reached by consensus, the following provisions shall apply: | 3. All efforts shall be made for the General Assembly and the Council to make decisions by consensus among Member States. Where decisions of the General Assembly or Council cannot be reached by consensus, the following provisions shall apply: |

| | | |
|---|---|---|
| <p>(a) Only Member States have voting rights, which will be executed by the representative designated by each Member State. Each Member State will have one vote.</p> <p>(b) Except where otherwise specified, decisions shall be taken by two-thirds of the votes cast.</p> | <p>(a) Only Member States have voting rights, which will be executed by the representative designated by each Member State. Each Member State will have one vote.</p> <p>(b) Except where otherwise specified, decisions shall be taken by two-thirds of the votes cast.</p> | |
| <p>4. The General Regulations shall detail the Rules of Procedure that will apply for each organ.</p> | <p>4. The General Regulations shall detail the Rules of Procedure that will apply for each organ.</p> | |
| <p>Article 7 The General Assembly</p> | <p>Article 7 The General Assembly</p> | |
| <p>1. The General Assembly of the Member States is the principal decision-making organ of the Organization and shall have all the powers of the Organization unless otherwise regulated by this Convention.</p> | <p>1. The General Assembly of the Member States is the principal decision-making organ of the Organization and shall have all the powers of the Organization unless otherwise regulated by this Convention.</p> | <p>Propose to delete “of the Member States” as it is unnecessary. Further, it is clear from Article 6.3 of the Convention that only Member States have voting rights.</p> |
| <p>2. Attendance shall be open to all Member States, Associate Members and Affiliate Members.</p> | <p>2. Attendance shall be open to all Member States, Associate Members and Affiliate Members.</p> | |
| <p>3. Each Member State shall designate one of its delegates, preferably a representative from the national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation as its principal delegate at the General Assembly.</p> | <p>3. Each Member State shall designate one of its delegates, preferably a representative from the national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation as its principal delegate at the General Assembly.</p> | |
| <p>4. Regular sessions of the General Assembly shall take place once every three years.</p> | <p>4. Regular sessions of the General Assembly shall take place once every three years.</p> | |

| | | |
|---|---|--|
| 5. Extraordinary sessions shall be convened whenever one-third of Member States 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. Extraordinary sessions shall be convened whenever one-third of Member States 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. | |
| 6. A majority of Member States shall constitute a quorum for the sessions of the General Assembly. | 6. A majority of Member States shall constitute a quorum for the sessions of the General Assembly. | |
| 7. The General Assembly shall: (a) Elect the President and the Vice President from amongst the Member States in accordance with the General Regulations; (b) Decide the overall policy and the strategic vision of the Organization; (c) Review and approve the General Regulations of the Organization; (d) Elect the Council from amongst the Member States other than the Member State holding the Presidency or Vice Presidency in accordance with Article 8; (e) Elect the Secretary-General from amongst the Member States in accordance with the General Regulations; | 7. The General Assembly shall: (a) Elect the President and the Vice President from amongst the Member States in accordance with the General Regulations; (b) Decide the overall policy and the strategic vision of the Organization; (c) Review and approve the General Regulations of the Organization; (d) Elect the Council from amongst the Member States other than the Member State holding the Presidency or Vice Presidency in accordance with Article 8; (e) Elect the Secretary-General from amongst the Member States in accordance with the General Regulations; | |
| (f) Review and approve the financial arrangements of the Organization, including the outline budget for the following three years and the rate of contributions for Member States and the fees for Associate Members and Affiliate Members; | (f) Review and approve the financial arrangements of the Organization, including the outline budget for the following three years and the rate of contributions for Member States and the fees for Associate Members and Affiliate Members; | |
| (g) Consider the reports and proposals put to it by any Member State, the Council or the Secretary-General; (h) Approve standards; (i) Decide on Associate membership; (j) Make recommendations to Member States, Associate Members and Affiliate Members on matters within the scope of the Organization; | (g) Consider the reports and proposals put to it by any Member State, the Council or the Secretary-General; (h) Approve standards; (i) Decide on Associate membership; (j) Make recommendations to Member States, Associate Members and Affiliate Members on matters within the scope of the Organization; | |

| | | |
|---|---|--|
| <p>(k) Approve formal agreements with other organizations; and</p> <p>(l) Decide on any other matters within the aim and objectives of the Organization.</p> | <p>(k) Approve formal agreements with other organizations; and</p> <p>(l) Decide on any other matters within the aim and objectives of the Organization.</p> | |
| <p>Article 8 The Council</p> | <p>Article 8 The Council</p> | |
| <p>1. The Council is the executive organ of the Organization and shall be responsible for directing the activities of the Organization.</p> <p>2. The Council shall consist of the President and the Vice President and up to twenty three (23) Council members, each representing a different Member State.</p> <p>3. Council members shall be elected by ballot at each regular session of the General Assembly in accordance with the General Regulations.</p> | <p>1. The Council is the executive organ of the Organization and shall be responsible for directing the activities of the Organization.</p> <p>2. The Council shall consist of the President and the Vice President and up to twenty three (23) Council members, each representing a different Member State.</p> <p>3. Council members shall be elected by ballot at each regular session of the General Assembly in accordance with the General Regulations.</p> | |
| <p>4. At the Council Member States shall preferably be represented by a delegate from a national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation of that Member State.</p> | <p>4. At the Council Member States shall preferably be represented by a delegate from a national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation of that Member State.</p> | |
| <p>5. The Council shall:</p> <p>(a) Exercise such responsibilities as may be delegated to it by the General Assembly;</p> <p>(b) Coordinate the activities of the Organization within the framework of the overall policy, the strategic vision and the outline budget, as decided by the General Assembly;</p> | <p>5. The Council shall:</p> <p>(a) Exercise such responsibilities as may be delegated to it by the General Assembly;</p> <p>(b) Coordinate the activities of the Organization within the framework of the overall policy, the strategic vision and the outline budget, as decided by the General Assembly;</p> | |

| | | |
|--|--|--|
| <p>(c) Review and approve the financial statements, including the annual budget;</p> <p>(d) Decide on Affiliate membership;</p> <p>(e) Convene the General Assembly;</p> <p>(f) Report to the General Assembly on the work of the Organization;</p> <p>(g) Review papers submitted to it in accordance with the General Regulations;</p> <p>(h) Refer to the General Assembly all matters requiring decision by the General Assembly;</p> <p>(i) Approve recommendations, guidelines, manuals and other appropriate documents;</p> <p>(j) Approve submissions to other organizations;</p> <p>(k) Establish Committees and other subsidiary bodies and review and approve their respective terms of reference;</p> <p>(l) Terminate Committees and other subsidiary bodies;</p> <p>(m) Review and approve the work programmes of the Committees; and</p> <p>(n) Decide the venue and the year of the Organization's conferences and symposia as described in the General Regulations.</p> | <p>(c) Review and approve the financial statements, including the annual budget;</p> <p>(d) Decide on Affiliate membership;</p> <p>(e) Convene the General Assembly;</p> <p>(f) Report to the General Assembly on the work of the Organization;</p> <p>(g) Review papers submitted to it in accordance with the General Regulations;</p> <p>(h) Refer to the General Assembly all matters requiring decision by the General Assembly;</p> <p>(i) Approve recommendations, guidelines, manuals and other appropriate documents;</p> <p>(j) Approve submissions to other organizations;</p> <p>(k) Establish Committees and other subsidiary bodies and review and approve their respective terms of reference;</p> <p>(l) Terminate Committees and other subsidiary bodies;</p> <p>(m) Review and approve the work programmes of the Committees; and</p> <p>(n) Decide the venue and the year of the Organization's conferences and symposia as described in the General Regulations.</p> | |
| <p>Article 9 Committees and Other Subsidiary Bodies</p> | <p>Article 9 Committees and Other Subsidiary Bodies</p> | |

| | | |
|---|---|--|
| <p>1. Committees and other subsidiary bodies shall support the aim and objectives of the Organization :</p> <p>2. The Committees shall</p> <p>(a) Prepare and review standards, recommendations, guidelines, manuals and other documents identified in the work programmes;</p> <p>(b) Monitor developments in the area of Marine Aids to Navigation;</p> <p>(c) Facilitate the sharing of expertise and experience among Member States, Associate Members and Affiliate Members; and</p> <p>(d) Conduct any other tasks as decided by the Council.</p> | <p>1. Committees and other subsidiary bodies shall support the aim and objectives of the Organization :</p> <p>2. The Committees shall</p> <p>(a) Prepare and review standards, recommendations, guidelines, manuals and other documents identified in the work programmes;</p> <p>(b) Monitor developments in the area of Marine Aids to Navigation;</p> <p>(c) Facilitate the sharing of expertise and experience among Member States, Associate Members and Affiliate Members; and</p> <p>(d) Conduct any other tasks as decided by the Council.</p> | |
| <p>Article 10 Secretariat</p> | <p>Article 10 Secretariat</p> | |
| <p>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 within the approved budgetary framework.</p> <p>(a) The term of Secretary-General shall be three years. The Secretary-General may be re-elected for up to two additional consecutive terms of three years each.</p> <p>(b) The Secretary-General shall be responsible for the day to day management of the Organization, subject to any guidance issued by the General Assembly or the Council.</p> | <p>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 within the approved budgetary framework.</p> <p>(a) The term of Secretary-General shall be three years. The Secretary-General may be re-elected for up to two additional consecutive terms of three years each.</p> <p>(b) The Secretary-General shall be responsible for the day to day management of the Organization, subject to any guidance issued by the General Assembly or the Council.</p> | |

| | | |
|---|---|--|
| <p>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.</p> <p>3. The Secretariat shall:</p> <p>(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;</p> <p>(b) Administer the Organization's finances under the direction of the Council, in accordance with the General Regulations;</p> <p>(c) Prepare the financial statements, including the annual budget, for submission to the Council;</p> <p>(d) Keep Member States, Associate Members and Affiliate Members and other organizations informed with respect to the activities of the Organization;</p> <p>(e) Organize and support meetings of the General Assembly, the Council, Committees and other subsidiary bodies;</p> <p>(f) Organize and support conferences and symposia as approved by the Council;</p> <p>(g) Organize and support seminars, workshops and other events; and</p> <p>(h) Perform such other tasks as may be assigned by this Convention, the General Regulations, the General Assembly or the Council.</p> | <p>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.</p> <p>3. The Secretariat shall:</p> <p>(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;</p> <p>(b) Administer the Organization's finances under the direction of the Council, in accordance with the General Regulations;</p> <p>(c) Prepare the financial statements, including the annual budget, for submission to the Council;</p> <p>(d) Keep Member States, Associate Members and Affiliate Members and other organizations informed with respect to the activities of the Organization;</p> <p>(e) Organize and support meetings of the General Assembly, the Council, Committees and other subsidiary bodies;</p> <p>(f) Organize and support conferences and symposia as approved by the Council;</p> <p>(g) Organize and support seminars, workshops and other events; and</p> <p>(h) Perform such other tasks as may be assigned by this Convention, the General Regulations, the General Assembly or the Council.</p> | |
| <p>Article 11 Languages</p> | <p>Article 11 Languages</p> | |

| | | |
|---|---|---|
| The official languages of the Organization shall be English, [French and Spanish.] | The official languages of the Organization shall be English, [French and Spanish.] | On Article 11 as currently drafted, propose to place “French and Spanish” in square brackets given that the official language(s) of the Organization have yet to be decided. Further propose that Convention Article 11 can be expanded to provide for the working language of the Organization and the languages to be used for the Organization’s output/input documents – which are language-related issues that are provided for in Article 3.3(b), 4.3(b), 5.3(e) and 6.1(c) of the General Regulations. The consolidation of all language provisions in Article 11 of the Convention will avoid any inconsistent practice of applicable languages in the workings of the Organization. This will also allow the General Regulations to draw reference back to the Convention on any language-related provisions. |
| Article 12 Finance | Article 12 Finance | |
| <p>1 The expenditure for the functioning of the Organization shall be met by the financial resources provided by:</p> <ul style="list-style-type: none"> (a) Member States contributions; (b) Associate Member and Affiliate Member fees; (c) Donations, bequests, grants, gifts; and (d) Other sources approved by the Council upon recommendation by the Secretary-General. | <p>1 The expenditure for the functioning of the Organization shall be met by the financial resources provided by:</p> <ul style="list-style-type: none"> (a) Member States contributions; (b) Associate Member and Affiliate Member fees; (c) Donations, bequests, grants, gifts; and (d) Other sources approved by the Council upon recommendation by the Secretary-General. | |
| <p>2. Each Member State shall pay a contribution and each Associate Member and Affiliate Member shall pay a fee to the Organization on an annual basis in the amount determined in accordance with in Article 7.7 (f). The contribution shall be set at the same rate for each Member State.</p> | <p>2. Each Member State shall pay a contribution and each Associate Member and Affiliate Member shall pay a fee to the Organization on an annual basis in the amount determined in accordance with in Article 7.7 (f). The contribution shall be set at the same rate for each Member State.</p> | |

| | | |
|--|--|--|
| <p>3. Member State contributions and Associate Member and Affiliate Member fees shall be due and payable in accordance with the General Regulations.</p> <p>4. Any Member State which is two years in arrears in making contributions shall, after written notification by the Secretary-General, be denied voting rights and the right to be elected to the Council until such time as the outstanding contributions have been paid, in accordance with the General Regulations.</p> | <p>3. Member State contributions and Associate Member and Affiliate Member fees shall be due and payable in accordance with the General Regulations.</p> <p>4. Any Member State which is two years in arrears in making contributions shall, after written notification by the Secretary-General, be denied voting rights and the right to be elected to the Council until such time as the outstanding contributions have been paid, in accordance with the General Regulations.</p> | |
| <p>5. Following the Council's approval of the Organization's audited financial statements, these statements shall be distributed to all Member States, Associate Members and Affiliate Members in the Annual Report.</p> | <p>5. Following the Council's approval of the Organization's audited financial statements, these statements shall be distributed to all Member States, Associate Members and Affiliate Members in the Annual Report.</p> | |
| <p>Article 13 Legal personality, privileges and immunities</p> | <p>Article 13 Legal personality, privileges and immunities</p> | |
| <p>1. The Organization has international legal personality and has the capacity to:</p> <ul style="list-style-type: none"> (a) Contract and conclude agreements with governments, organizations and other bodies; (b) Acquire and dispose of immovable and movable property; and (c) Institute legal proceedings. <p>2. In the territory of each of its Member States the Organization shall enjoy, subject to agreement with the Member State concerned, such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its aim and objectives.</p> <p>3. No Member State or Member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.</p> | <p>1. The Organization has international legal personality and has the capacity to:</p> <ul style="list-style-type: none"> (a) Contract and conclude agreements with governments, organizations and other bodies; (b) Acquire and dispose of immovable and movable property; and (c) Institute legal proceedings. <p>2. In the territory of each of its Member States the Organization shall enjoy, subject to agreement with the Member State concerned, such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its aim and objectives.</p> <p>3. No Member State or Member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.</p> | |

| | | |
|---|--|---|
| Article 14 Depositary | Article 14 Depositary | |
| The Republic of France shall serve as the Depositary for this Convention. | The Republic of France shall serve as the Depositary for this Convention. | |
| Article 15 Amendments | Article 15 Amendments | |
| 1. Any Member State may propose an amendment to this Convention, in writing, to the Secretary-General. | 1. Any Member State may propose an amendment to this Convention, in writing, to the Secretary-General. | |
| 2. The Secretary-General shall circulate the proposed amendment to all Member States at least six months in advance of its consideration by the General Assembly. | 2. The Secretary-General shall circulate the proposed amendment to all Member States at least six months in advance of its consideration by the General Assembly. | |
| 3. The proposed amendment shall be adopted by vote of the General Assembly. | 3. The proposed amendment shall be adopted by vote of the General Assembly. | |
| 4. Any amendment adopted in accordance with Article 15.3 shall be sent by the Secretary-General to the Depositary of this Convention. The latter shall notify all Member States and the Secretary-General of the adoption of the amendment. | 4. Any amendment adopted in accordance with Article 15.3 shall be sent by the Secretary-General to the Depositary of this Convention. The latter shall notify all Member States and the Secretary-General of the adoption of the amendment. | |
| 5. An amendment to this Convention shall come into force for Member States having accepted the amendment six months after written notification of the acceptance to the Depositary by two-thirds of Member States and thereafter for each remaining Member State upon acceptance by it. | 5. An amendment to this Convention shall come into force for Member States having accepted the amendment [S]ix months after written notification of the acceptance to the Depositary by two-thirds of Member States, an amendment shall come into force for all Member States. and thereafter for each remaining Member State upon acceptance by it. | Propose that the Organization adopt the practice at the IMO for amendments to come into force for all Member States upon the acceptance by two-third majority of Member States. It is not desirable to have provisions apply only to those Member States who have accepted the amendments as that would result in obligations and standards not being applied uniformly across all Member States. See IMO Convention, Part XVII, Article 66, for reference. |
| <i>IMO Convention – Part XVII Amendments, Article 66</i> | | |

| | | |
|--|--|--|
| | | <p><i>Texts of proposed amendments to the Convention shall be communicated by the Secretary-General to Members at least six months in advance of their consideration by the Assembly. Amendments shall be adopted by a two-thirds majority vote of the Assembly. Twelve months after its acceptance by two thirds of the Members of the Organization, other than Associate Members, each amendment shall come into force for all Members. If within the first 60 days of this period of twelve months a Member gives notification of withdrawal from the Organization on account of an amendment the withdrawal shall, notwithstanding the provisions of Article 73 of the Convention, take effect on the date on which such amendment comes into force.</i></p> |
| <p>Article 16 Interpretation and Disputes</p> <p>Member States shall make every effort to prevent disputes, and shall use their best efforts to resolve any disputes by amicable means which may include consultation and negotiation with each other. Disputes that remain unresolved [after a period of three months] may, with the agreement of all parties to the dispute, be referred to a panel of three independent arbitrators appointed by the Secretary-General of the Permanent Court of Arbitration for a non-binding resolution, unless the parties to the dispute agree upon another mode of dispute settlement.</p> | <p>Article 16 Interpretation and Disputes</p> <p>Member States shall make every effort to prevent disputes, and shall use their best efforts to resolve any disputes by amicable means which may include consultation and negotiation with each other. Disputes that remain unresolved [after a period of three months] may, with the agreement of all parties to the dispute, be referred to a panel of three independent arbitrators appointed by the Secretary-General of the Permanent Court of Arbitration for a non-binding resolution, unless the parties to the dispute agree upon another mode of dispute settlement.</p> | |
| <p>Article 17 Signature, Ratification and Accession</p> <p>1. This Convention shall open for signature by any State that is a member of the United Nations at [xxx] and remain open until [xxx].</p> | <p>Article 17 Signature, Ratification and Accession</p> <p>1. This Convention shall open for signature by any State that is a member of the United Nations at [xxx] and remain open until [xxx].</p> | |

| | | |
|--|--|--|
| <p>2. This Convention is subject to ratification, acceptance or approval by the signatory States.</p> <p>3. This Convention shall be open for accession by any member of the United Nations which has not signed this Convention from the day after the date on which this Convention closes for signature.</p> <p>4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary, who shall then notify each Member State and the Secretary-General thereof.</p> <p>5. No reservation can be made to this Convention.</p> | <p>2. This Convention is subject to ratification, acceptance or approval by the signatory States.</p> <p>3. This Convention shall be open for accession by any member of the United Nations which has not signed this Convention from the day after the date on which this Convention closes for signature.</p> <p>4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary, who shall then notify each Member State and the Secretary-General thereof.</p> <p>5. No reservation can be made to this Convention.</p> | |
| <p>Article 18 Entry into force</p> <p>1. The present Convention shall enter into force on the thirtieth day after the date of deposit of the [thirtieth] instrument of ratification, acceptance, approval or accession.</p> <p>2. For each State ratifying, accepting, approving or acceding to this 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.</p> <p>3. The transitional arrangements that shall apply upon entry into force of this Convention are set out in Annex A.</p> <p>Article 19 Withdrawal</p> | <p>Article 18 Entry into force</p> <p>1. The present Convention shall enter into force on the thirtieth day after the date of deposit of the [thirtieth] instrument of ratification, acceptance, approval or accession.</p> <p>2. For each State ratifying, accepting, approving or acceding to this Convention after its entry into force the Convention shall enter into force for that state on the thirtieth day after the deposit of its instrument of ratification, acceptance, approval or accession.</p> <p>3. The transitional arrangements that shall apply upon entry into force of this Convention are set out in Annex A.</p> <p>Article 19 Withdrawal</p> | <p>Propose to include “for that state” after “enter into force” for clarity.</p> |

| | | |
|---|---|---|
| <p>1. Any Member State may withdraw from this Convention by giving at least twelve month written notice to the Depositary, who will immediately inform all Member States and the Secretary-General of such notification.</p> <p>2. Notification of withdrawal may be given at any time after the expiration of six months from the date on which this Convention has come into force.</p> <p>3. The withdrawal shall take effect on 31st December following the expiration of the notice.</p> | <p>1. Any Member State may withdraw from this Convention by giving at least twelve month written notice to the Depositary, who will immediately inform all Member States and the Secretary-General of such notification.</p> <p>2. Notification of withdrawal may be given at any time after the expiration of six months from the date on which this Convention has come into force.</p> <p>3. The withdrawal shall take effect on 31st December following the expiration of the notice.</p> | |
| <p>Article 20 Termination</p> <p>1. This Convention may be terminated by a vote of the General Assembly.</p> <p>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.</p> | <p>Article 20 Termination</p> <p>1. This Convention may be terminated by a vote of the General Assembly.</p> <p>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.</p> | |
| <p>IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed the present Convention.</p> <p>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 Depositary. The Depositary shall transmit certified copies thereof to all the [signatory and acceding] Governments and to the Secretary-General of the Organization.</p> | <p>IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed the present Convention.</p> <p>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 Depositary. The Depositary shall transmit certified copies thereof to all the [signatory and acceding] Governments and to the Secretary-General of the Organization.</p> | <p>Propose editorial amendment to include square brackets around "French and Spanish" and "each text being equally authentic" as the issue on official languages has not been resolved.</p> |

SINGAPORE

ANNEX A – TRANSITIONAL ARRANGEMENTS

| Current draft Post-2 nd Preparatory Diplomatic Conference Draft dated March 2018 | Proposed amendments to text is in blue | Comments |
|--|--|---|
| <p>1. All National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities from States that are not Member States shall, with the approval of the Council and subject to their request, become Associate Members of the Organization.</p> | <p>1. All National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities from States that are not Member States shall, with the approval of the Council General Assembly and subject to their request, become Associate Members of the Organization.</p> | <p>Propose to amend "Council" to "General Assembly". The Organization has agreed at the 2nd LAP that the General Assembly shall now decide on Associate Membership. See draft Convention Article 7.7(i). As such, Annex A.1 should be amended accordingly.</p> |
| <p>2. All Associate and Industrial Members of the International Association of Marine Aids to Navigation and Lighthouse Authorities holding financial, non-suspended status shall, with the approval of Council and subject to their request become Affiliate Members of the Organization.</p> | <p>2. All Associate and Industrial Members of the International Association of Marine Aids to Navigation and Lighthouse Authorities holding financial, non-suspended status shall, with the approval of Council and subject to their request become Affiliate Members of the Organization.</p> | |
| <p>3. Upon the entry into force of this Convention the President, Vice President and the Council of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional President, Vice President and Council of the Organization and will operate as such until the first General Assembly convened under this Convention has elected a President, Vice President and Council, which must be within a period not exceeding six (6) months. Until such time as the Organization has adopted General Regulations, it shall function in accordance with the General Regulations of the International Association of Marine Aids to Navigation and Lighthouse Authorities mutatis mutandis.</p> | <p>3. Upon the entry into force of this Convention the President, Vice President and the Council of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional President, Vice President and Council of the Organization and will operate as such until the first General Assembly convened under this Convention has elected a President, Vice President and Council, which must be within a period not exceeding six (6) months. Until such time as the Organization has adopted General Regulations, it shall function in accordance with the General Regulations of the International Association of Marine Aids to Navigation and Lighthouse Authorities mutatis mutandis.</p> | |

| | | |
|--|--|---|
| <p>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.</p> <p>5. The Committees of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional Committees of the Organization and will operate until Committees are established under this Convention.</p> | <p>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.</p> <p>5. The Committees of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional Committees of the Organization and will operate until Committees are established under this Convention.</p> | |
| <p>6. In the event that a State which has Associate membership under this Convention becomes a Member State the Associate membership shall cease on the date on which this Convention enters into force for that State. In the case of a Member State having more than one Associate membership under this Convention that State may decide to retain Associate memberships.</p> | <p>6. In the event that a State which has Associate membership under this Convention becomes a Member State the Associate membership shall cease on the date on which this Convention enters into force for that State. In the case of a Member State having more than one Associate membership under this Convention that Member State may decide to retain Associate memberships.</p> | <p>Propose to amend "State" to "Member State" in line with the former half of the sentence and in accordance with the current categories of membership.</p> |
| <p>7. After the entry into force of this Convention the International Association of Marine Aids to Navigation and Lighthouse Authorities, facilitated by the transitional Council will work in cooperation with the Organization to transfer its activities, records, documents, publications, archives, rights, interests, funds, assets and liabilities to the Organization.</p> | <p>7. After the entry into force of this Convention the International Association of Marine Aids to Navigation and Lighthouse Authorities, facilitated by the transitional Council will work in cooperation with the Organization to transfer its activities, records, documents, publications, archives, rights, interests, funds, assets and liabilities to the Organization.</p> | |
| <p>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 General Assembly elects the Secretary-General in accordance with Article 7.</p> | <p>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 General Assembly elects the Secretary-General in accordance with Article 7.</p> | |

| IALA Amendments and remarks proposed by Spain | | |
|---|---|--|
| 24th August 2018 | | |
| Draft Convention on the International Organization for Marine Aids to Navigation. After the Preparatory Diplomatic Conference in Marrakech 7th to 8th February 2018. | Draft Convention on the International Organization for Marine Aids to Navigation. After the Preparatory Diplomatic Conference in Marrakech 7th to 8th February 2018. Spanish alternative drafting proposal | Draft Convention on the International Organization for Marine Aids to Navigation. After the Preparatory Diplomatic Conference in Marrakech 7th to 8th February 2018. Spanish remarks and observations |
| Preamble The States party to this Convention: RECALLING that the International Association of Lighthouse Authorities was established on 1st July 1957 and was renamed the International Association of Marine Aids to Navigation and Lighthouse Authorities in 1998; RECOGNISING the role of the International Association of Marine Aids to Navigation and Lighthouse Authorities in the improvement and continued harmonization of Marine Aids to Navigation for the safe, economic and efficient movement of vessels for the benefit of the maritime community and the protection of the environment; 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 was formed as an association under French law; and | | <ul style="list-style-type: none"> • "Marine Aids to Navigation" should only be written in capital letters when included in IALA name or other official denominations. All other mentions should be written "marine aids to navigation". • A choice might be advisable between saying "International organizations" or "intergovernmental organizations". The use of both expressions seems not to be based on any specific decision or reasoning, which may lead to confusion. It is suggested to opt for any of the two alternatives, and stick to that choice thereafter. |

| | | |
|---|--|---|
| <p>CONSIDERING FURTHER that developing, improving and harmonizing Marine Aids to Navigation for the benefit of the maritime community and the protection of the environment is best coordinated by international organizations; HAVE AGREED as follows:</p> | | |
| <p>Article 1 Establishment 1. The International Organization for Marine Aids to Navigation (IALA) is hereby established under international law as an intergovernmental organization (hereinafter 'the Organization'). 2. The Organization shall have a consultative and technical nature. 3. The Organization shall have its seat in France unless otherwise decided by the Member States present and voting at the General Assembly.</p> | <p>- 3. The Organization shall have its seat in France unless otherwise decided by the Member States present and voting at the General Assembly.</p> | <p>The General Assembly is made up of Member States (art. 7.1), and only they are eligible to participate in the formulation of decisions by the Assembly (art. 6.3). it is unnecessary language to insist, then, on the "Member States present and voting".</p> |
| <p>Article 2 Definitions For the purposes of this Convention:</p> <p>Member State means a State, which has consented to be bound by this Convention and for which this Convention is in force.</p> <p>Associate Member means a territory or groups of territories for which a Member State has requested membership which has been accepted by the General Assembly.</p> <p>Affiliate Member means a manufacturer or distributor of Marine Aids to Navigation equipment for sale, or an organization providing Marine Aids to Navigation services or technical advice under contract and any other service, organization or scientific</p> | <p>Article 2 Definitions For the purposes of this Convention:</p> <p>a) Member State means a <u>Member State of the United Nations</u>, which has consented to be bound by this Convention, and for which this Convention is in force <u>and which has been accepted as such by the General Assembly. This State should be member of UN.</u></p> <p>b) Associate Member means a territory or groups of territories for which a Member State has requested membership which has been accepted by the General Assembly.</p> | <ul style="list-style-type: none"> • An "a), b), c), d)" format is suggested, in line with what other Treaties establish regarding definitions. • Regarding the Member State question, and in line with discussions held during the last diplomatic conference in Marrakech, specification is suggested, in order to clarify what are eligible Member States for membership under this Convention, and how can they become such. • Although it seems that "Member State", "Associate Member" and "Affiliate Member" are the appropriate English denomination for the three categories of |

| | | |
|---|--|---|
| <p>agency concerned with Marine Aids to Navigation which has applied for membership which has been accepted by the Council.</p> <p>Marine Aid to Navigation means a device, system or service, external to a vessel, designed and operated to enhance safe and efficient navigation of individual vessels and vessel traffic.</p> | <p>c) Affiliate Member means a manufacturer or distributor of Marine Aids to Navigation equipment for sale, or an organization providing Marine Aids to Navigation services or technical advice under contract and any other service, organization or scientific agency concerned with Marine Aids to Navigation which has applied for membership which has been accepted by the Council.</p> <p>d) Marine Aid to Navigation means a device, system or service, external to a vessel, designed and operated to enhance safe and efficient navigation of individual vessels and vessel traffic.</p> | <p>membership. Spain still feels uncomfortable with this language and, specifically, with using the word “Member” for each of the three categories. It definitely seems superfluous when translated into Spanish, and we would like to see suggestions of alternative denominations which make possible the use of different words for each category.</p> |
| <p>Article 3 Aim and Objectives The aim of the Organization is to bring together governments, services and organizations concerned with the regulation, provision, maintenance or operation of Marine Aids to Navigation with the objectives of:</p> <ul style="list-style-type: none"> (a) Fostering the safe and efficient movement of vessels through the improvement and harmonization of Marine Aids to Navigation worldwide; (b) Promoting access to technical cooperation and capacity building on all matters related to development and transfer of expertise, science and technology in relation to Marine Aids to Navigation; (c) Encouraging and facilitating the general adoption of the highest practicable standards in matters concerning Marine Aids to Navigation; and (d) Providing for the exchange of information among governments and intergovernmental organizations on matters under consideration by the Organization | | |
| <p>Article 4</p> | | |

| | |
|---|--|
| <p>Functions</p> <p>In order to achieve the aim and objectives set out in Article 3, the functions of the Organization shall be:</p> <p>(a) To provide non mandatory standards, recommendations, guidelines, manuals or other suitable means and to commend these to governments, intergovernmental organizations, Associate Members and Affiliate Members as appropriate;</p> <p>(b) To consider and make recommendations on standards, recommendations, guidelines, manuals and other documents that may be remitted to it by Member States, Associate Members and Affiliate Members, by any organ or specialized agency of the United Nations or by any other intergovernmental organization;</p> <p>(c) To provide mechanisms for consultation and exchange of information covering inter alia recent developments and the activities of Member States, Associate Members and Affiliate Members;</p> <p>(d) To develop international cooperation by promoting close working relationships and assistance between Member States, Associate Members and Affiliate Members;</p> <p>(e) To facilitate assistance, whether technical, organizational or training to governments, services and other organizations requesting help with Marine Aids to Navigation;</p> <p>(f) To organize conferences, symposia, seminars, workshops and other events relevant to its work; and</p> <p>(g) To liaise and cooperate with relevant international and other organizations, offering specialized advice where appropriate.</p> | <p>Article 5</p> <p>Membership</p> <p>1. The Organization shall be comprised of Member States, Associate Members and Affiliate Members.</p> |
| | <p>- 3. The Council may require of A Member State may request that aspects of an application for Affiliate Membership be reviewed by the Member State (or Member States) where the applicant carries out its activities or has its principal place of business or</p> |
| | <p>- Art. 5.3 currently fails to answer two questions: (i) whether the decision of the relevant Member State prevails over the Council regarding admission or rejection of the application for membership, and (ii) what</p> |

| | | |
|--|--|--|
| <p>2. Any Member State having responsibility for the international relations of a territory or group of territories may request Associate membership for such territory or group of territories, by notification in writing to the Secretary-General.</p> <p>3. The Council may require or a Member State may request that aspects of an application for Affiliate Membership be reviewed by the Member State (or Member States) where the applicant carries out its activities or has its principal place of business or registered office. If supported by the Member State (or Member States), who requested the review, the Council shall decide accordingly.</p> | <p>registered office. If supported by the Member State (or Member States), who requested the review, the Council shall decide accordingly.</p> | <p>happens when it is the Council the one taking the initiative to consult with the said State, and there is not later any Member State supporting any specific proposal regarding membership. For that reason, a new language is suggested.</p> |
| <p>Article 6 Structure</p> <p>1. The Organization shall have as its organs:</p> <ul style="list-style-type: none"> (a) The General Assembly; (b) The Council; (c) Committees and other subsidiary bodies necessary to support the Organization's activities; and (d) The Secretariat. <p>2. There shall be a President and a Vice President of the Organization. The President or in his or her absence the Vice President shall chair the General Assembly and the Council.</p> <p>3. All efforts shall be made for the General Assembly and the Council to make decisions by consensus among Member States. Where decisions of the General Assembly or Council cannot be reached by consensus, the following provisions shall apply:</p> <ul style="list-style-type: none"> (a) Only Member States have voting rights, which will be executed by the representative designated by each Member State. Each Member State will have one vote. (b) Except where otherwise specified, decisions shall be taken by two-thirds of the votes cast. | | |

| | | |
|---|---|--|
| <p>4. The General Regulations shall detail the Rules of Procedure that will apply for each organ.</p> | <p>Article 7 The General Assembly 1. The General Assembly of the Member States is the principal decision-making organ of the Organization and shall have all the powers of the Organization unless otherwise regulated by this Convention. 2. Attendance shall be open to all Member States, Associate Members and Affiliate Members. 3. Each Member State shall designate one of its delegates, preferably a representative from the national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation as its principal delegate at the General Assembly. 4. Regular sessions of the General Assembly shall take place once every three years. 5. Extraordinary sessions shall be convened whenever one-third of Member States 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. 6. A majority of Member States shall constitute a quorum for the sessions of the General Assembly. 7. The General Assembly shall: a) Elect the President and the Vice President from amongst the Member States in accordance with the General Regulations; b) Decide the overall policy and the strategic vision of the Organization; c) Review and approve the General Regulations of the Organization;</p> | <p>Amendments suggested seek to clarify, complement or specify the relevant powers of the General Assembly. The Draft Convention already mentions some of those powers throughout its text, which where however absent from article 7's enumeration.</p> |
|---|---|--|

| | |
|---|---|
| <p>d) Elect the Council from amongst the Member States other than the Member State holding the Presidency or Vice Presidency in accordance with Article 8;</p> <p>e) Elect the Secretary-General from amongst the Member States in accordance with the General Regulations;</p> <p>f) Review and approve the financial arrangements of the Organization, including the outline budget for the following three years and the rate of contributions for Member States and fees for Associate Members and Affiliate Members;</p> <p>g) Consider the reports and proposals put to it by any Member State, the Council or the Secretary-General;</p> <p>h) Approve standards;</p> <p>i) Decide on Associate membership;</p> <p>j) Make recommendations to Member States, Associate Members and Affiliate Members on matters within the scope of the Organization;</p> <p>k) Approve formal agreements with other organizations; and</p> <p>l) (l) Decide on any other matters within the aim and objectives of the Organization.</p> | <p>c) Review and approve the General Regulations of the Organization. <u>The General Assembly shall approve the first General Regulation of the Organization once it reaches a minimum of 50 Member States;</u></p> <p>d) Elect the Council from amongst the Member States other than the Member State holding the Presidency or Vice Presidency in accordance with Article 8;</p> <p>e) Elect the Secretary-General from amongst the Member States in accordance with the General Regulations;</p> <p>f) Review and approve the financial arrangements (as defined in General Regulations) of the Organization, including the outline budget for the following three years and the rate of contributions for Member States and fees for Associate Members and Affiliate Members;</p> <p>g) Consider the reports and proposals put to it by any Member State, the Council or the Secretary-General;</p> <p>h) Approve standards;</p> <p>i) Decide on <u>the accession of new Member States and Associate- members membership;</u></p> <p>j) Make recommendations to Member States, Associate Members and Affiliate Members on matters within the scope of the Organization;</p> <p><u>k) Approve formal agreements with other organizations</u></p> <p><u>l) Decide on the adoption of amendments to the Convention</u></p> <p><u>m) Decide on the relocation of the seat of the Organization, as per art. 1.3; and</u></p> |
|---|---|

| | | | |
|--|---|--|--|
| | | <p>n) <u>Establish Committees or any other bodies; and</u></p> <p>o) <u>Decide on any other matters within the aim and objectives of the Organization.</u></p> <p>— Approve the accession of a new Member State.</p> <p>p) Establish Committees-bodies</p> | |
| <p>Article 8 The Council</p> <p>1. The Council is the executive organ of the Organization and shall be responsible for directing the activities of the Organization.</p> <p>2. The Council shall consist of the President and the Vice President and up to twenty three (23) Council members, each representing a different Member State.</p> <p>3. Council members shall be elected by ballot at each regular session of the General Assembly in accordance with the General Regulations.</p> <p>4. At the Council Member States shall preferably be represented by a delegate from a national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation of that Member State.</p> <p>5. The Council shall:</p> <p>a) Exercise such responsibilities as may be delegated to it by the General Assembly;</p> <p>b) Coordinate the activities of the Organization within the framework of the overall policy, the strategic vision and the outline budget, as decided by the General Assembly;</p> <p>c) Review and approve the financial statements, including the annual budget;</p> <p>d) Decide on Affiliate membership;</p> <p>e) Convene the General Assembly;</p> | <p>8.5.c) Review and approve the financial statements(as defined in <u>General Regulations</u>), including the annual budget;</p> | | |

| | | |
|--|---|---|
| <p>f) Report to the General Assembly on the work of the Organization;</p> <p>g) Review papers submitted to it in accordance with the General Regulations;</p> <p>h) Refer to the General Assembly all matters requiring decision by the General Assembly;</p> <p>i) Approve recommendations, guidelines, manuals and other appropriate documents;</p> <p>j) Approve submissions to other organizations;</p> <p>k) Establish Committees and other subsidiary bodies and review and approve their respective terms of reference;</p> <p>l) Terminate Committees and other subsidiary bodies;</p> <p>m) Review and approve the work programs of the Committees; and</p> <p>n) (n) Decide the venue and the year of the Organization's conferences and symposia as described in the General Regulations.</p> | <p>8.5.j) Approve submissions to other organizations <u>on</u> technical matters.</p> <p>8.5.k) Establish Committees and other subsidiary bodies and review and approve their respective terms of reference;</p> | |
| <p>Article 9 Committees and Other Subsidiary Bodies</p> <p>1. Committees and other subsidiary bodies shall support the aim and objectives of the Organization.</p> <p>2. The Committees shall:</p> <ol style="list-style-type: none"> 1. Prepare and review standards, guidelines, manuals and other documents identified in the work programmes; 2. Monitor developments in the area of Marine Aids to Navigation; 3. Facilitate the sharing of expertise and experience among Member States, Associate Members and Affiliate Members; 4. Conduct any other tasks as decided by the Council. | <p>Article 9 Committees and Other Subsidiary Bodies</p> <p>1. Committees and other subsidiary bodies shall support the aim and objectives of the Organization.</p> <p>2. The Committees shall:</p> <ol style="list-style-type: none"> 1. Prepare and review standards, recommendations, guidelines, manuals and other documents identified in the work programs; 2. Monitor developments in the area of Marine Aids to Navigation; 3. Facilitate the sharing of expertise and experience among Member States, Associate Members and Affiliate Members 3-4. Foster when feasible <u>appropriate geographic representation in its composition or in the location of its activities</u>; and | <p>Spain understands that IALA intends to be a technical Organization. But its international nature invites and promotes the participation and the free sharing of contributions from all member States. Geographical representation is simply a means to an end: widening the scope of participation among Member States in all technical matters, in line with that can be seen in other International Organizations.</p> |

| | | | | |
|--|--|--|--|---|
| | <p>Article 10 Secretariat</p> <p>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 within the approved budgetary framework.</p> <p>(a) The term of Secretary-General shall be three years. The Secretary-General may be re-elected for up to two additional consecutive terms of three years each.</p> <p>(b) The Secretary-General shall be responsible for the day to day management of the Organization, subject to any guidance issued by the General Assembly or the Council.</p> <p>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.</p> <p>3. The Secretariat shall:</p> <p>(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;</p> <p>(b) Administer the Organization's finances under the direction of the Council, in accordance with the General Regulations;</p> <p>(c) Prepare the financial statements, including the annual budget, for submission to the Council;</p> <p>(d) Keep Member States, Associate Members and Affiliate Members and other organizations informed with respect to the activities of the Organization;</p> <p>(e) Organize and support meetings of the General Assembly, the Council, Committees and other subsidiary bodies;</p> | <p>4-5. Conduct any other tasks as decided by the Council.</p> | <p>Article 10 Secretariat</p> <p><u>1. 1.</u>—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 within the approved budgetary framework.</p> <p><u>2. (a)</u>—The term of Secretary-General shall be three years. The Secretary-General may be re-elected for up to two additional consecutive terms of three years each.</p> <p><u>3. (b)</u>—The Secretary-General shall be responsible for the day to day management of the Organization, subject to any guidance issued by the General Assembly or the Council.</p> <p><u>4. 2.</u> 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. <u>The paramount consideration that will be taken into account when appointing the staff and the Secretariat and when determining the conditions of service, is the need to ensure the highest degree of efficiency, competence and integrity. Consideration will also be given to the</u></p> | <p>Given the importance of the items mentioned in 1. (a) and (b) in the Draft Agreement, a different drafting format is suggested.</p> <p>As for what was added to new point 4, it is what the UN Charter, art. 101.3 says about the issue.</p> |
|--|--|--|--|---|

| | |
|---|---|
| <p>(f) Organize and support conferences and symposia as approved by the Council;</p> <p>(g) Organize and support seminars, workshops and other events; and</p> <p>(h) Perform such other tasks as may be assigned by this Convention, the General Regulations, the General Assembly or the Council.</p> | <p>importance of hiring staff in the way that there is the widest possible geographic representation "</p> <p><u>5. 3.</u>— The Secretariat shall:</p> <p>(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;</p> <p>(b) Administer the Organization's finances under the direction of the Council, in accordance with the General Regulations;</p> <p>(c) Prepare the financial statements, including the annual budget, for submission to the Council;</p> <p>(d) Keep Member States, Associate Members and Affiliate Members and other organizations informed with respect to the activities of the Organization;</p> <p>(e) Organize and support meetings of the General Assembly, the Council, Committees and other subsidiary bodies;</p> <p>(f) Organize and support conferences and symposia as approved by the Council;</p> <p>(g) Organize and support seminars, workshops and other events; and</p> <p>(h) Perform such other tasks as may be assigned by this Convention, the General Regulations, the General Assembly or the Council.</p> |
| <p>Article 11 Languages The official languages of the Organization shall be English, French and Spanish</p> | |
| <p>Article 12 Finance</p> | <p>Finance</p> |

| | | |
|---|---|--|
| <p>1. The expenditure for the functioning of the Organization shall be met by the financial resources provided by:</p> <ul style="list-style-type: none"> (a) Member State contributions; (b) Associate Member and Affiliate Member fees; (c) Donations, bequests, grants, gifts; and (d) Other sources approved by the Council upon recommendation by the Secretary-General. <p>2. Each Member State shall pay a contribution and each Associate Member and Affiliate Member shall pay a fee to the Organization on an annual basis in the amount determined in accordance with in Article 7.7 (f). The contribution shall be set at the same rate for each Member State.</p> <p>3. Member State contributions and Associate Member and Affiliate Member fees shall be due and payable in accordance with the General Regulations.</p> <p>4. Any Member State which is two years in arrears in making contributions shall, after written notification by the Secretary-General, be denied voting rights and the right to be elected to the Council until such time as the outstanding contributions have been paid, in accordance with the General Regulations.</p> <p>5. Following the Council's approval of the Organization's audited financial statements, these statements shall be distributed to all Member States, Associate Members and Affiliate Members in the Annual Report.</p> | <p>1. The expenditure for generated from the functioning of the Organization shall be met by the financial resources provided by:</p> <ul style="list-style-type: none"> (a) Member State contributions; (b) Associate Member and Affiliate Member fees; (c) Donations, bequests, grants, gifts; and (d) Other sources approved by the Council upon recommendation by the Secretary-General. <p>2. Each Member State shall pay a contribution and each Associate Member and Affiliate Member shall pay a fee to the Organization on an annual basis in the amount determined in accordance with in Article 7.7 (f). The contribution shall be set at the same rate for each Member State.</p> <p>3. Member State contributions and Associate Member and Affiliate Member fees shall be due and payable in accordance with the General Regulations. <u>After the first three years of entering into force of this Convention, a nominal increase of the contributitions or fees shall only be contemplated in exceptional circumstances, to be approved by the Assembly.</u></p> <p>4. Any Member State which is two years in arrears in making contributions shall, after written notification by the Secretary-General, be denied voting rights and the right to be elected to the Council until such time as the outstanding contributions have been paid, in accordance with the General Regulations.</p> <p>5. Following the Council's approval of the Organization's audited financial statements, these statements shall be distributed to all Member States, Associate Members and Affiliate Members in the Annual Report.</p> <p>After the three first years of entering into force of this convention, contributions and fees will not be increased by more than 10%, by no means.</p> | <p>Art. 12.3 amendment intends to institute in the Convention the "zero nominal growth" budgetary principle.</p> |
|---|---|--|

| | | |
|---|---|--|
| <p>Article 13 Legal personality, privileges and immunities</p> <p>1. The Organization has international legal personality and has the capacity to:</p> <ul style="list-style-type: none"> (a) Contract and conclude agreements with governments, organizations and other bodies; (b) Acquire and dispose of immovable and movable property; and (c) Institute legal proceedings. <p>2. In the territory of each of its Member States the Organization shall enjoy, subject to agreement with the Member State concerned, such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its aim and objectives.</p> <p>3. No Member State or Member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.</p> | <p><u>6.</u></p> <p>Article 13 Legal personality, privileges and immunities</p> <p>1. The Organization has international legal personality and has the capacity to:</p> <ul style="list-style-type: none"> (a) Contract and conclude agreements with governments, organizations and other bodies; (b) Acquire and dispose of immovable and movable property; and (c) Institute legal proceedings. <p>2. In the territory of each of its Member States the Organization shall enjoy, subject to agreement with the Member State concerned, such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its aim and objectives.</p> <p>3. No Member State, Associate Member or Affiliate Member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.</p> | <p>In order to keep consistency with the rest of the draft Convention, specification on which kind of membership is considered is suggested at art. 13.3</p> |
| <p>Article 14 Depositary</p> <p>The Republic of France shall serve as the Depositary for this Convention.</p> | <p>-</p> | |
| <p>Article 15 Amendments</p> <p>1. Any Member State may propose an amendment to this Convention, in writing, to the Secretary-General.</p> <p>2. The Secretary-General shall circulate the proposed amendment to all Member States at least six months in advance of its consideration by the General Assembly.</p> <p>3. The proposed amendment shall be adopted by vote of the General Assembly.</p> | <p>Article 15 Amendments</p> <p>1. Any Member State may propose an amendment to this Convention, in writing, to the Secretary-General.</p> <p>2. The Secretary-General shall circulate the proposed amendment to all Member States at least six months in advance of its consideration by the General Assembly.</p> <p>3. The proposed amendment shall be adopted by vote of the General Assembly.</p> | |

| | | |
|--|--|--|
| <p>4. Any amendment adopted in accordance with Article 15.3 shall be sent by the Secretary-General to the Depositary of this Convention. The latter shall notify all Member States and the Secretary-General of the adoption of the amendment.</p> <p>5. An amendment to this Convention shall come into force for Member States having accepted the amendment six months after written notification of the acceptance to the Depositary by two-thirds of Member States and thereafter for each remaining Member State upon acceptance by it.</p> | <p>4. Any amendment adopted in accordance with Article 15.3 the previous paragraph shall be sent by the Secretary-General to the Depositary of this Convention. The latter shall notify all Member States and the Secretary-General of the adoption of the amendment.</p> <p>5. An amendment to this Convention shall come into force for Member States having accepted the amendment six months after written notification of the acceptance to the Depositary by two-thirds of Member States and thereafter for each remaining Member State upon acceptance by it.</p> | |
| <p>Article 16 Interpretation and Disputes</p> <p>Member States shall make every effort to prevent disputes, and shall use their best efforts to resolve any disputes by amicable means which may include consultation and negotiation with each other. Disputes that remain unresolved [after a period of three months] may, with the agreement of all parties to the dispute, be referred to a panel of three independent arbitrators appointed by the Secretary-General of the Permanent Court of Arbitration for a non-binding resolution, unless the parties to the dispute agree upon another mode of dispute settlement.</p> | - | |
| <p>Article 17 Signature, Ratification and Accession</p> <p>1. This Convention shall open for signature by any State that is a member of the United Nations at [xxx] and remain open until [xxx].</p> <p>2. This Convention is subject to ratification, acceptance or approval by the signatory States.</p> <p>3. This Convention shall be open for accession by any member of the United Nations which has not signed this Convention</p> | <p>Article 17 Signature, Ratification and Accession</p> <p>6-1. This Convention shall <u>be</u> open for signature by any State that is a member of the United Nations at [xxx] and remain open until [xxx].</p> <p>7-2. This Convention is subject to ratification, acceptance or approval by the signatory States.</p> <p>8-3. This Convention shall be open for accession by any member of the United Nations which has not</p> | <p>While the Convention is not yet in force, notification of the relevant instruments of ratification cannot be done to "Member States", as there won't be Member States yet. Spain suggests alternative language, in order to ensure there are notifications to other States.</p> |

| | | |
|---|---|---|
| <p>from the day after the date on which this Convention closes for signature.</p> <p>4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary, who shall then notify each Member State and the Secretary-General thereof.</p> <p>5. No reservation can be made to this Convention.</p> | <p>signed this Convention from the day after the date on which this Convention closes for signature.</p> <p>4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary, who shall then notify each Member State, each Contracting State and the Secretary-General thereof. The General Assembly will then decide on the accession.</p> <p>9. 10-5. No reservation can be made to this Convention.</p> | |
| <p>Article 18 Entry into force</p> <p>1. The present Convention shall enter into force on the thirtieth day after the date of deposit of the [thirtieth] instrument of ratification, acceptance, approval or accession.</p> <p>2. For each State ratifying, accepting, approving or acceding to this 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.</p> <p>3. The transitional arrangements that shall apply upon entry into force of this Convention are set out in Annex A.</p> | <p>Article 18 Entry into force</p> <p>1. The present Convention shall enter into force on the thirtieth day after the date of deposit of the [thirtieth] instrument of ratification, acceptance, approval or accession.</p> <p>2. For each State ratifying, accepting, approving or acceding to this 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 the General Assembly has accepted its application for membership.</p> <p>3. The transitional arrangements that shall apply upon entry into force of this Convention are set out in Annex A.</p> | <p>In line with the competences of the General Assembly, membership for a State depends on the approval of the aforementioned General Assembly, not on the sole depositing of the instruments of ratification of the Convention.</p> |
| <p>Article 19 Withdrawal</p> <p>1. Any Member State may withdraw from this Convention by giving at least twelve month written notice to the Depositary, who will immediately inform all Member States and the Secretary-General of such notification.</p> <p>2. Notification of withdrawal may be given at any time after the expiration of six months from the date on which this Convention has come into force.</p> | <p>Article 19 Withdrawal</p> <p>1. Any Member State may withdraw from this Convention by giving at least twelve month written notice to the Depositary, who will immediately inform all Member States and the Secretary-General of such notification.</p> <p>2. Notification of withdrawal may be given at any time after the expiration of six months from the date</p> | <p>The specification that the entering into force of the Convention refers to the withdrawing State aims to increase legal certainty and security, as well as protection for third parties which might be affected by the decision.</p> |

| | | |
|---|---|---|
| <p>3. The withdrawal shall take effect on 31st December following the expiration of the notice.</p> | <p>on which this Convention has come into force for the withdrawing State.</p> <p>3. The withdrawal shall take effect on 31st December following the expiration of the notice.</p> | |
| <p>Article 20 Termination</p> <p>1. This Convention may be terminated by a vote of the General Assembly.</p> <p>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.</p> | - | |
| <p>IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed the present Convention.</p> <p>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 Depositary. The Depositary shall transmit certified copies thereof to all the [signatory and acceding] Governments and to the Secretary-General of the Organization.</p> | | |
| <p>Annex A</p> <p>Transitional Arrangements</p> <p>1. All National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities from States that are not Member States shall, with the approval of the Council and subject to their request, become Associate Members of the Organization.</p> <p>2. All Associate and Industrial Members of the International Association of Marine Aids to Navigation and Lighthouse Authorities holding financial, non-suspended status shall,</p> | <p>Annex A</p> <p>Transitional Arrangements</p> <p>1. All National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities from States that are not Member States of the Organization shall, with the approval of the CouncilGeneral Assembly and subject to their request, become Associate Members of the Organization.</p> | <p>Since no other Annexes are included, it is suggested to delete "A" and keep simply Annex.</p> <p>Instead of "transitional", "acting" is suggested in order to be more specific.</p> <p>Consistent with the competences recognized to the General Assembly, it seems appropriate to let it decide, and not the Council, on the status of the relevant National Members.</p> |

| | | |
|---|---|---|
| <p>with the approval of Council and subject to their request become Affiliate Members of the Organization.</p> <p>3. Upon the entry into force of this Convention the President, Vice President and the Council of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional President, Vice President and Council of the Organization and will operate as such until the first General Assembly convened under this Convention has elected a President, Vice President and Council, which must be within a period not exceeding six (6) months. Until such time as the Organization has adopted General Regulations, it shall function in accordance with the General Regulations of the International Association of Marine Aids to Navigation and Lighthouse Authorities mutatis mutandis.</p> <p>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.</p> <p>5. The Committees of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional Committees of the Organization and will operate until Committees are established under this Convention.</p> <p>6. In the event that a State which has Associate membership under this Convention becomes a Member State the Associate membership shall cease on the date on which this Convention enters into force for that State. In the case of a Member State having more than one Associate membership under this Convention that State may decide to retain Associate memberships.</p> <p>7. After the entry into force of this Convention the International Association of Marine Aids to Navigation and Lighthouse Authorities, facilitated by the transitional Council will work in cooperation with the Organization to transfer its</p> | <p>2. All Associate and Industrial Members of the International Association of Marine Aids to Navigation and Lighthouse Authorities holding financial, non-suspended status shall, with the approval of Council and subject to their request become Affiliate Members of the Organization.</p> <p>3. Upon the entry into force of this Convention the President, Vice President and the Council of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the <u>transitional acting</u> President, Vice President and Council of the Organization and will operate as such until the first General Assembly convened under this Convention has elected a President, Vice President and Council, which must be within a period not exceeding six (6) months. Until such time as the Organization has adopted General Regulations, it shall function in accordance with the General Regulations of the International Association of Marine Aids to Navigation and Lighthouse Authorities mutatis mutandis.</p> <p>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.</p> <p>5. The Committees of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional Committees of the Organization and will operate until Committees are established under this Convention.</p> <p><u>6.</u> In the event that a State which has Associate membership under this Convention becomes a Member State the Associate membership shall cease on the date on which this Convention enters into force for that State. In the case of a Member State</p> | <p>Finally, and given that no mention is included regarding the status of the current Honorary Members of IALA, suggested language is introduced in order to regulate what their future status will be settled.</p> |
|---|---|---|

| | |
|---|--|
| <p>activities, records, documents, publications, archives, rights, interests, funds, assets and liabilities to the Organization.</p> <p>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 General Assembly elects the Secretary-General in accordance with Article 7.</p> | <p>having more than one Associate membership under this Convention that State may decide to retain Associate memberships.</p> <p>6-7. <u>The Council will decide on the status of each of the current Honorary Members of IALA.</u></p> <p>7-8. After the entry into force of this Convention the International Association of Marine Aids to Navigation and Lighthouse Authorities, facilitated by the transitional Council will work in cooperation with the Organization to transfer its activities, records, documents, publications, archives, rights, interests, funds, assets and liabilities to the Organization.</p> <p>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 General Assembly elects the Secretary-General in accordance with Article 7.</p> |
|---|--|

~~EN ROJO~~ ~~COMENTARIOS DE ALVARO RODRIGUEZ DAPENA~~ ~~PUERTOS DEL ESTADO recibidos el 2.8.18~~

~~EN AZUL~~ ~~COMENTARIOS DE.....~~

| | |
|-------------------|---------------|
| Our date | Our reference |
| 28 September 2018 | 18-00124-15 |

| | |
|--------------|----------------|
| Your date | Your reference |
| 6 April 2018 | IGO/18-075 |

IALA Secretary General
secgen@iala-aism.org

Comments on draft IALA Convention

As requested by the Secretary General after the Second Preparatory Diplomatic Conference, Marrakech, 7-8 February 2018, Sweden hereby submits its comments, with reference to the applicable paragraphs of the draft Convention (March 2018 version) in comparison with the version of the draft Convention after the Extraordinary meeting of the Legal Advisory Panel 30th – 30st October 2017 (Pre DIPCON Session 2, November 2017).

For now, Sweden does not have comments on the draft General Regulations.

For Your information, Sweden will also join the Legal Advisory Panel (LAP EX4) at its meeting 21st – 23rd November 2018 in IALA in Paris when a new, consolidated draft text for submission to the Pre-Diplomatic Conference in March 2019 will be prepared.

Draft Convention Article 2/Definitions

Sweden has noted that the definition of "Member" has been clarified by further distinguishing between "Associate Member" and "Affiliate Member". According to the draft Convention Associate Members are to be accepted by the General Assembly and Affiliate Members by the Council.

Our date

28 September 2018

Our reference

18-00124-15

Draft Convention Article 18/Entry into force

According to the draft Convention Article 18.1 “The present Convention shall enter into force on the thirtieth day after the date of deposit of the [thirtieth] instrument of ratification, acceptance, approval or accession”.

To accommodate for a rigid ratification process Sweden would prefer entry into force “twelve months” instead of “on the thirtieth day”.

For now and within square brackets, thirty instruments of ratification, acceptance, approval or accession are to be satisfactory for the entry into force of the Convention. A Swedish reflection on that is whether a total of thirty Members is sufficient for keeping the IALA budget in balance? Sweden looks forward to take part in the discussions and considerations during LAP EX 4.