



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

After the Extraordinary meeting of the Legal Advisory Panel 30<sup>th</sup> - 31<sup>st</sup> October 2017.

### Preamble

The States party to this Convention ("The Contracting States"):

**RECALLING** that the International Association of Lighthouse Authorities was established on 1<sup>st</sup> 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 one responsible international organization;

**HAVE AGREED** as follows:

### Article 1 Establishment

- 1.1 The International Organization for Marine Aids to Navigation (IALA) is hereby established as an international organization (hereinafter 'the Organization').
- 1.2 The Organization shall have a consultative and technical nature.
- 1.3 The Organization shall have its seat in France unless otherwise decided by two-thirds of the Member States present and voting at the General Assembly.
- 1.4 The official languages of the Organization shall be English[, French and Spanish]. The working language of the Organization shall be English [and French], unless otherwise decided by the General Assembly.
- 1.5 The functioning of the Organization shall be as set out in the General Regulations.

## **Article 2**

### **Definitions**

For the purposes of this Convention:

**Contracting State** means a State which has consented to be bound by this Convention, whether or not the Convention has entered into force.

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

**Member** means Associate Member and Affiliate Member having applied for a membership in accordance with Article 5.2 and having been accepted by the Council in accordance with the General Regulations.

**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.

**Secretary-General** means the Secretary-General of the Organization elected in accordance with Article 7.8.

## **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 States, intergovernmental organizations and 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 and 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 and Members;
- (d) To develop international cooperation by promoting close working relationships and assistance between Member States and Members;
- (e) To facilitate assistance, whether technical, organizational or training to States, services and other organizations requesting help with Marine Aids to Navigation;

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

## **Article 5 Membership**

- 5.1 The Organization shall be comprised of Member States and Members as described in Article 5.2.
- 5.2 Members shall be Associate Members or Affiliate Members, each category of which is set out in (a) and (b) below:
  - (a) Associate membership shall be open to:
    - i. a territory or groups of territories for which a Member State has responsibility, in accordance with Article 5.3; and
    - ii. former National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities whose country is not party to this Convention, in accordance with Article 20.1 and 20.6.
  - (b) Affiliate membership shall be open to:
    - i. manufacturers and distributors of Marine Aids to Navigation equipment for sale, or organizations providing Marine Aids to Navigation services or technical advice under contract. These affiliates will be known as Industrial Members;
    - ii. any other services, organizations or scientific agencies concerned with Marine Aids to Navigation; and
    - iii. former Industrial and Associate members of the International Association of Marine Aids to Navigation and Lighthouse Authorities, in accordance with Article 20.2.
  - (c) The General Regulations shall make provision for matters related to Members.
- 5.3 Any Member State may request 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.
- 5.4 Each Member State shall pay a contribution to the Organization on an annual basis in the amount determined in accordance with in Article 7.8 (f) and Article 11. The contribution shall be set at the same rate for each Member State.
- 5.5 Member State contributions and Member fees shall be due and payable in accordance with the General Regulations.
- 5.6 Any Member State which is two years in arrears in making contributions shall, after written notification by the Secretary-General, be denied the rights and benefits conferred on Member States by this Convention until such time as the outstanding contributions have been paid, in accordance with the General Regulations.

## **Article 6 Structure**

- 6.1 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.

- 6.2 There shall be a President and a Vice President of the Organization elected by the General Assembly.
- 6.3 All efforts shall be made for the General Assembly and the Council to make decisions by consensus. 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.
  - (b) Except where otherwise specified, decisions shall be taken on a simple majority of the votes cast.
- 6.4 The General Regulations shall detail the Rules of Procedure that will apply for each organ.

## **Article 7**

### **The General Assembly**

- 7.1 The General Assembly is the principal decision-making organ of the Organization and shall have all the powers of the Organization unless otherwise regulated by this Convention or delegated by the General Assembly to other organs.
- 7.2 Attendance shall be open to all Member States and Members.
- 7.3 Each Member State shall designate one of its delegates, preferably the head of a national authority legally responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation, or his or her representative, as its principal delegate at the General Assembly.
- 7.4 Regular sessions of the General Assembly shall take place at least once every three years.
- 7.5 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.
- 7.6 A majority of Member States excluding any Member State denied by Article 5.6 the rights and benefits conferred on Member States, shall constitute a quorum for the sessions of the General Assembly.
- 7.7 The General Assembly shall be chaired by the President or the Vice President and operate in accordance with this Convention and the General Regulations.
- 7.8 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 adopt the financial arrangements of the Organization, including the rate of contributions for Member States and Member fees and the outline budget for the following three years;
  - (g) Consider the reports and proposals put to it by any Member State, the Council or the Secretary-General;
  - (h) Approve standards;
  - (i) Make recommendations to Member States and Members on matters within the scope of the Organization; and
  - (j) Decide on any other matters within the aim and objectives of the Organization.

**Article 8**  
**The Council**

- 8.1 The Council is the executive organ of the Organization and shall be responsible for directing the activities of the Organization.
- 8.2 The Council shall consist of the President and the Vice President and up to twenty three (23) Councillors elected from amongst the Member States.
- 8.3 Councillors shall be elected by ballot at each regular session of the General Assembly in accordance with the General Regulations.
- 8.4 At Council Member States shall preferably be represented by the head of a national authority legally responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation of that Member State, or his or her representative.
- 8.5 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 Associate and Affiliate membership matters;
  - (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, and formal agreements with, 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.

**Article 9**  
**Committees and Other Subsidiary Bodies**

Committees and other subsidiary bodies shall support the endeavours of the Organization and shall operate in accordance with this Convention and the General Regulations.

**Article 10**  
**Secretariat**

- 10.1 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.
- 10.2 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.
- 10.3 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 and 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** **Income and Expenditure**

- 11.1 The expenditure for the functioning of the Organization shall be met by the financial resources provided by:
  - (a) Member States contributions;
  - (b) Member fees;
  - (c) Donations, bequests, grants, gifts; and
  - (d) Other sources approved by the Secretary-General.
- 11.2 Following the Council's approval of the Organization's audited financial statements, these statements shall be distributed to all Member States and Members in the Annual Report.

#### **Article 12** **Legal personality, privileges and immunities**

- 12.1 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.
- 12.2 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.
- 12.3 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 13** **Depositary**

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

**Article 14**  
**Amendments**

- 14.1 Any Member State may propose an amendment to this Convention, in writing, to the Secretary-General.
- 14.2 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.
- 14.3 The proposed amendment shall be adopted by vote of the General Assembly by 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.
- 14.4 Any amendment adopted in accordance with Article 14.3 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.
- 14.5 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 15**  
**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 16**  
**Signature, Ratification and Accession**

- 16.1 This Convention shall open for signature by members of the United Nations at [xxx] and remain open until [xxx].
- 16.2 This Convention is subject to ratification, acceptance or approval by the signatory States.
- 16.3 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.
- 16.4. 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.
- 16.5 No reservation can be made to this Convention.

**Article 17**  
**Entry into force**

- 17.1 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.
- 17.2 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.

**Article 18**  
**Withdrawal**

- 18.1 Any Contracting 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.
- 18.2 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.
- 18.3 The withdrawal shall take effect on 31<sup>st</sup> December following the expiration of the notice.

**Article 19**  
**Termination**

- 19.1 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.
- 19.2 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 20**  
**Transitional Arrangements**

- 20.1 All National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities, who are not Member States, shall, with the approval of the Council and subject to their agreement, become Associate Members of the Organization.
- 20.2 All Associate or 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 agreement become Affiliate Members of the Organization.
- 20.3 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*.
- 20.4 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.
- 20.5 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.
- 20.6 In the event that a Country which has Associate membership under this Convention becomes a Contracting State the Associate membership shall cease on the date on which this Convention enters into force for that Country. In the case of a Contracting State having more than one Associate membership under this Convention that Country may decide to retain Associate memberships.

- 20.7 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.
- 20.8 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] language[s, 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.