# IALA%20logo1

**Draft Report of the 11th Session of the IALA Legal Advisory Panel**

**September 19-21, 2012**

***Executive Summary***

Session 11 of the IALA Legal Advisory Panel (LAP11) concentrated on its Agenda item 5

Extensive consideration was given to the IALA status, currently an NGO, and the necessary actions to become a fully International Organization. A road map was developed and future work was organised in order to have a document ready for the next General Assembly in 2014.

The LAP also worked on a revised IALA Constitution, the IALA Risk Register and AIS data used as evidence at court cases.

Two action items resulting from the session impact on the work of other IALA Committees or bodies:

* The addition of a work item on the e-NAV work programme;: and,
* The recommendation to the WWA to develop its own Risk Register.

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| Legal Advisory Panel  11th Session | 19-21 September 2012 |

Draft Report of the 11th Session of the IALA Legal Advisory Panel

# General

The 11th meeting of the **Legal Advisory Panel** was held from 19 to 21 September 2012 at IALA, with Francis Zachariae as Chair and Jon Price as Vice Chair. The Secretary for the meeting was the IALA Administration Manager, Marie-Helene Grillet. The meeting was attended by 14 participants representing 8 National Members.

Apologies for absence were received from the US Coast Guard’s representative.

## Welcome

The Secretary General opened the meeting by welcoming all participants, especially the new Deputy Secretary General, Michael Card.

## Approval of the agenda

The agenda for LAP11, as set out in LAP11/1/1 was reviewed and approved.

# Review of action items from LAP 10

The action items were noted completed or in hand with the following exceptions:

* Action item 5: There was not enough information available within the DMA to produce a paper on IALA as the custodian of reference implementation for maritime open source software. This Agenda item was not considered as a high priority item and will be brought to a further LAP meeting when information is available;
* Action item 5: The new task on the e-NAV Committee Work Programme: the production of a paper by technical experts on the reliability of AIS data for use at courts, was not brought to the attention of the 53rd Council session. It remains as an action item from LAP11.

The latter is referred to under section 9 of the report.

# Review of input papers

The input papers were reviewed.

The papers missing on the list were circulated at the meeting and posted to the IALA Website the same day.

It was requested to add to the table a column that would show in a clearer way the Agenda items to which the papers are related.

Also, the Risk Register should be circulated in pdf form to the next LAP meetings and Council.

Action item 1: The Secretariat to add a column to the input papers’ list showing Agenda items.

# Report of IALA Council 53

The LAP noted the Council report with special attention to section 9.10.

Concerns of different natures were expressed at Council about signing an international agreement: some mentioned their inability to sign it in a short period in time, others were worried about a complicated procedure, or had doubts about their countries’ representation at the IALA Council.

There was, however, support for IALA having a Headquarters Agreement with the host nation and further work on an international agreement.

The Council requested the Terms of Reference for the Pilotage Authority Forum to be revised. The LAP agreed to work on the matter.

The LAP noted the discussions at IMO on deep sea pilotage.

Action item 2: ToRs for the PAF should be an Agenda item for future meetings.

The Risk Register was well received.

# Headquarters Agreement between IALA and the Government of the French Republic

## Road map

The LAP agreed on the following steps to achieve an international agreement:

* September 2012: LAP11 to draft a road map and procedure
* December 2012: Council to agree the road map and procedure
* April 2013: LAP12 to draft an international agreement together with explanatory notes for the Council
* June 2013: Council to consider the draft international agreement
* September 2013: LAP13 to continue the work on the agreement
* December 2013: Council to decide on the status of IALA and number of signatures required for the agreement to enter into force
* December 2013: French Ministry of Foreign Affairs starts approaching countries and encourage them to join
* April 2014: LAP14 to complete the work on the agreement
* May 2014: Council to approve the draft agreement
* May 2014: General Assembly to vote on the Agreement and countries start to sign.

Diplomatic consultations will need to start in June 2013 in order to have as many countries able to sign in 2014 as possible.

## International agreement

The LAP started to work on a new IALA Constitution that would establish IALA as an international organization. The work was inspired by the conventions establishing various international organizations, keeping as much as possible of the current Constitution.

Some articles need to be rearranged and new ones introduced.

The transition period between IALA in its current status and IALA as an IGO is an issue. It seems not possible to run two entities at the same time, one for countries having signed the new agreement and one for those remaining under the present arrangements. The transition period, i.e. the period of time between the international agreement is open for signature and its entry into force should be long enough to allow every country to become part of the agreement.

It might be necessary to introduce a clause stating that the NGO remains in existence until the IGO enters into force.

It is important that France is part of the agreement from the beginning; this is a vital condition for the HQ agreement. The procedure normally takes 24 to 36 months and Philippe Maurel will check if it is possible to reduce the delay.

Action item 3: Philippe Maurel to check if France could sign the international agreement in a period of time shorter than 24-36 months.

At the same time it was felt important to look into options for staff social protection and welfare. Philippe Maurel agreed to consider the matter and give templates of social protection agreements.

Action item 4: Philippe Maurel to provide IALA with templates of social protection agreements.

Action item 5: The LAP to forward to Council an information paper on progress and road map for an international agreement.

## Draft HQ Agreement

Philippe Maurel informed the LAP that the Headquarters agreement can presented for signature at the Parliament at the same time as the international agreement establishing IALA as an IGO. However, it is unlikely that it can be applied before the international agreement enters into force.

Official/working languages: it is not compulsory to have several languages but considered as part of best practices, proving that the organization is truly international. Philippe Maurel will inform the LAP of what the best practices are consisting of.

Action item 6: Philippe Maurel to inform LAP about best practices.

## Changes to the Constitution

The LAP continued the work started at its 9th session and made further changes to the Constitution.

The changes were kept at a minimum, taking into account that the 2014 General Assembly will have a critical issue with decisions to be made on IALA status. The new revision is at LAP11 – output – 03.

It was agreed that it should be forwarded to the IALA Council as an input paper, with clear indications of the reasons for the changes, preferably in the form of a table. This would keep the Council aware of the progress made and give it an opportunity to comment before the final draft new Constitution is given approval and put to vote at the next General Assembly in May 2014.

The LAP noted that there are some discrepancies between the French and the English versions and agreed to recommend improving procedures to approve the consolidated version at the General Assembly. Both French and English versions should appear in parallel columns in the same document and be approved and signed.

Action item 7: The Secretariat to forward the amended Constitution to the 54th session of the IALA Council.

Action item 8: The Secretariat to work on procedures to have the Constitution approved and signed at General Assemblies.

# Requests for advice from other IALA bodies

## From Council: Inputs to the 2014-2018 IALA Strategy – deadline by October 2012

The LAP will offer the Strategy Group to look at the risk implications of strategic items.

*Action item 9: The list of strategic items should be put on the Agenda for the next LAP meeting.*

# World Wide Academy

Concerned had been raised within IALA about the Academy issuing certificates. This will be considered at the next WWA Board meeting and LAP advice will be sought if needed.

In order to give the LAP a better idea of what the Academy is and does, it was agreed that a presentation should be made at the next meeting, with special emphasis on the risk aspects.

Action item 10: The Secretariat to arrange for a presentation to be made at LAP12 on the WWA, with special emphasis on the risk aspects.

# Provisional National Membership for developing countries

The LAP was of the opinion that having different classes of National Membership is not desirable but this issue is not in the scope of work of the Panel, which would deal on impacts on the Constitution only.

The LAP however advised the Secretariat to look into various arrangements within international organizations, formulae used by the UN to deal with developing countries and explore sponsorship. An input paper to the next Council meeting, addressing the Strategy Agenda item, should be developed on the basis of input paper LAP11/8/1 integrating the LAP comments as above. (LAP11-output-04.)

Action item 11: Marie-Helene Grillet to develop an input paper to the Council and forward it to Council after it has been agreed by the LAP.

# AIS data used as evidence at court cases

This is a standing LAP Agenda item, for which an action item is still pending from LAP10 and should be completed by the next meeting.

Action item 12: The Secretariat to invite the Council to add a new task on the e-NAV Committee Work Programme: the production of a paper on the reliability of AIS data by technical experts for use at courts. Such a paper would be an IALA document submitted to the Council for approval.

# AIS data protection

This new Agenda item was generated by a problem reported at LAP10 (see report section10) about AIS data being made available to anybody without control.

There is a need to draft a harmonized legal base to protect AIS data and, in order to achieve it, information on the various different policies is needed. Such a protection shouldn’t prevent from AIS data being used as evidence at court cases.

It was agreed to keep the issue on the Agenda for the next meeting and have an associated input paper, which would be complemented by the report of the IALA Workshop on the sharing of maritime data.

Action item 13: The Secretariat to forward the report of the IALA Workshop on global sharing of maritime data to LAP12 as an input paper

Action item 14: Stefan Jenner to prepare an input paper to LAP12 aiming at developing a legal base for harmonized AIS data protection.

# Update on IALA-NET

There was no development to report under this Agenda item.

# Review IALA Risk Register

The IALA Risk Register was reviewed and Jon Price agreed to amend it accordingly and circulate the revised version as an input paper to LAP12.

Action item 15: The revised IALA Risk Register and a covering report should be forwarded to the Council for consideration (Jon Price).

Action item 16: The Secretariat to forward to the WWA the recommendation by the LAP to develop their own Risk Register.

# Any other business

There was no other business.

# Review of output and working papers

Output papers and working papers were reviewed and approved as they appear at Annex D.

# Review of action items

Action items are at Annex E.

# Date and place of next meeting

The 12th meeting of the IALA Legal Advisory Panel (LAP11) will be held at IALA Headquarters from 10th to 12th April 2013, commencing 10h00 on the 10th and finishing 13h00 on the 12th.

# List of Annexes

1. Agenda

A copy of the agenda is at Annex A.

1. Participants

A list of LAP11 participants is at Annex B.

1. Input Papers

A list of input papers is at Annex C.

1. Output and Working papers

A list of output and working papers is at Annex D.

1. Action Items

A list of action items is at Annex E.

1. LAP11 Agenda

|  |  |
| --- | --- |
| **Legal Advisory Panel**  11th Session  Agenda item 1 | **LAP 11 / 1 / 1**  September 19-21, 2012 |

The 11th meeting of the IALA **Legal Advisory Panel** will be held from 19th to 21st September 2012, at IALA Headquarters, **10 rue des Gaudines**, in Saint Germain en Laye, France.

The meeting will commence at 10h00 hours on 19th September and is expected to finish at 1300 hours on the 21st.

LAP 11 - PROVISIONAL AGENDA

1. Approval of the agenda
2. Review of action items from LAP10
3. Review of input papers
4. Report of IALA Council 53
5. Headquarters Agreement between IALA and the Government of the French Republic

5.1 Road Map

5.2 Draft International Agreement

5.2 Draft HQ Agreement

5.3 Explanatory notes

5.4 Changes to the Constitution

1. Requests for advice from other IALA bodies

6.2 From Council: Inputs for the 2014-2018 IALA Strategy – deadline by October 2012

1. World Wide Academy
2. Provisional National Membership for developing countries
3. AIS data used as evidences at court cases
4. AIS data protection
5. Update on IALA-NET
6. Review of IALA Risk Register
7. Any other business
8. Review of output and working papers
9. Review of Action Items

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1. List of input papers

| **Number** | **Title** | **Comments** |
| --- | --- | --- |
| LAP 11/1/1 | Draft Agenda |  |
| LAP 11/2/1 | LAP 10 action items |  |
| LAP 11/3/1 | List of Input Papers |  |
| LAP 11/4/1 | Report of IALA Council 53 |  |
| LAP 11/5/4/1 | IALA Constitution |  |
| LAP 11/5/2/1 | Convention sur l’Institut européen de la forêt |  |
| LAP 11/5/2/2 | Convention on the European Forest Institute |  |
| LAP 11/5/2/3 | Convention du mètre |  |
| LAP 11/5/2/4 | Convention sur l’Organisation météorologique mondiale |  |
| LAP 11/5/2/5 | IALA Legal Status : on the road towards becoming a fully fledged international organization |  |
| LAP11/5/2/6 | IHO Convention |  |
| LAP11/5/2/7 | Paris MOU |  |
| LAP11/5/2/8E | Treaty Manual English |  |
| LAP11/5/2/8F | Treaty Manual French |  |
| LAP11/5/2/9 | IALA International Agreement |  |
| LAP11/5/4/2 | Proposed changes to the Constitution |  |
| LAP 11/6/2 | Strategic items for 2014-2018 work period |  |
| LAP 11/8/1 | Provisional National Membership for developing countries |  |
| LAP 11/12/1 | LAP Vice-Chair’s note to IALA Council 53 |  |
| LAP 11/12/2 | IALA Risk Register |  |

1. List of Output and Working Papers

Output documents are submitted for review by a body other than the LAP.

|  |  |  |
| --- | --- | --- |
| Number | Title | Status |
| LAP11-output-01 | Draft Report | To Council to note |
| LAP11-output-02 | Status and road map on international agreement | To Council to note |
| LAP11-output-03 | Draft amended IALA Constitution | To Council to note progress |
| LAP11-output-04 | Information paper on provisional national membership for developing countries | To Council to note progress |
| LAP11-output-05 | IALA Risk Register | To Council to note |

Working papers are documents that will remain within the Panel for further review.

|  |  |  |
| --- | --- | --- |
| Number | Title | Status |
| LAP11/WP1 | IALA Risk Register | Ongoing |
| LAP11/WP2 | IALA Constitution | Ongoing |
| LAP11/WP3 | Notes on international agreement | To LAP12 |
| LAP11/WP4 | Action list on international agreement | LAP internal circulation |

1. Action Items

Action item 1: The Secretariat to add a column to the input papers’ list showing Agenda items.

Action item 2: ToRs for the PAF should be an Agenda item for future meetings.

Action item 3: Philippe Maurel to check if France could sign the international agreement in a period of time shorter than 24-36 months.

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