

**Agenda item 18 – Any Other Business**

**18.1 IALA change of status**

**18.1.2 Documents to note**

***18.1.2-1 Report of the Extraordinary LAP meeting***

**Note by the Secretary**

**1 SUMMARY**

This paper presents the report of the Extraordinary LAP meeting held in Copenhagen in October 2013 to get comments from National Membership on the draft International Agreement to be used to change the IALA status to that of an International Organisation.

**2 BACKGROUND**

All National Members were provided in August 2013 with a brochure presenting the benefits of IALA becoming an International Organisation.

A draft International Agreement developed by the LAP for that purpose was made available to all Members by the means of the IALA Website. National Members were invited to comment the draft Agreement and attend an Extraordinary LAP meeting organized in Copenhagen to contribute to the development of a final draft for submission to the 56<sup>th</sup> session of the IALA Council.

**3 ACTION REQUESTED OF COUNCIL**

Council is requested to note the report of the meeting.



## **Report of a meeting of IALA National Members (Extraordinary LAP meeting)**

**14 – 16 October 2013  
Copenhagen**

### ***Executive Summary***

- The meeting was convened to provide the opportunity for input from all National Members on the draft International Agreement to establish IALA as an Intergovernmental Organization.
- To address concerns raised by some participants it was agreed that the Diplomatic Conference would not be held concurrently with the next IALA General Assembly, as originally planned. This would leave Governments more time to consider the proposed International Agreement. The target timeframe for holding the Diplomatic Conference is now October 2014 at the earliest.<sup>1</sup>
- The IALA Council will be invited to approve a new road map reflecting the new time frame.
- The meeting did not have time to reach a consensus on all draft Articles and the Secretariat was tasked with redrafting some of them taking into account the suggestions made at the meeting (primarily Articles 5 to 9, 15 and 17).

The participants were invited to comment on a new draft when it is circulated.

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Post meeting note: Following the meeting held in Copenhagen 14-16 October, 2013. The Secretary-General of IALA and the Chair of the Legal Advisory Panel (LAP) held a meeting with representatives of the Department Affairs Maritime, France. It was agreed at that meeting that due to the outcomes of the Extraordinary LAP meeting that any diplomatic actions by France, should not commence until after General Assembly of IALA has met in May 2014 and considered the proposed changes for IALA. Assuming a positive outcome from Assembly, France would then commence immediate diplomatic actions, with any future Diplomatic Conference on the new IALA Agreement, unlikely to be held until late in 2014. A copy of the revised 'road map' incorporating this change is attached at Annex D to these minutes.

- The French Government was encouraged to commence the necessary diplomatic actions in respect of the draft International Agreement through its Foreign Ministry and the Foreign Ministries of IALA's Member Governments.
- The participants were invited to start the process necessary to have their respective Governments aware and supportive of the change of status project.
- A further meeting, to which all National Members and their Governments will be invited, will be held in March 2014.
- There may be a need for further Preparatory Meetings.

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## **Meeting of IALA National Members (Extraordinary LAP meeting)**

### **1 OPENING**

The meeting was held between 14 & 16 October 2013, at the Headquarters of the Danish Maritime Authority, Copenhagen, with Francis Zachariae in the Chair. The Secretary for the meeting was Marie-Hélène Grillet.

The Chairman opened the meeting by introducing himself as Chair of the IALA Legal Advisory Panel. He drew attention to the fact that the purpose of the meeting was not to discuss the principle of the change of IALA status to that of an International Organization, but to achieve a consensus on the draft text of the International Agreement and revised Constitution of the current Association, for presentation at the IALA Council in December 2013.

The Chairman then welcomed all participants and briefed the meeting about the daily routine to be followed.

### **2 INTRODUCTION TO THE IALA LEGAL ADVISORY PANEL**

The Chair explained that the IALA Legal Advisory Panel (LAP) reports to the IALA Council and advises the Council on legal aspects of IALA's work and activities. The LAP does not have any decision-making role. The group has worked on the change of status project for some years and, as requested by Council, has sought the involvement of a greater number of National member representatives.

### **3 INTRODUCTION OF THE PARTICIPANTS**

The participants were invited to introduce themselves. Among the 30 present at the meeting was Dr Rosalie Balkin Assistant Secretary General and Director of the Legal Affairs and External Relations Division of IMO.

Strong support to the project was given by a number of members present whilst some noted reservations with the process, the timetable and the desired outcome .

A complete list of attendees is at Annex A.

### **4 APPROVAL OF THE AGENDA**

The Agenda was approved (see Annex B).

### **5 PRESENTATION: SAFELY NAVIGATING IN THE FUTURE**

The IALA Secretary General Gary Prosser made a presentation describing the background of the project and the likely future developments in which IALA will be engaged.

His presentation is to be found on the IALA Website at <http://www.iala-aism.org/committees/private/meetings/lap/extraordinary1/>.

## **6 THE IALA CONSTITUTION AND ITS INTERFACE WITH THE DRAFT INTERNATIONAL AGREEMENT**

Mr Jon Price, the Vice Chair, explained that IALA is currently formed as an association under the French law of July 1901 governing not for profit organizations. The Constitution was last amended in 2006 and the Council had asked the LAP to look into changes in order to allow IALA to operate more efficiently in the period between the General Assembly in 2014 and the entry into force of the International Agreement.

The LAP had also identified that the Constitution required amendment to allow the Association to exercise the necessary powers to terminate the Association and to transfer its assets and liabilities to the new International Organisation. This was covered by the proposed amendments to Article 13.

The meeting considered the proposed amendments and agreed them subject to minor amendment, subject to French legal advice being sought in respect of Article 13 – Termination.

It was agreed that the draft new Constitution will be forwarded to the Council for approval and submission to the next General Assembly accordingly.

## **7 PRESENTATION: LEGAL STATUS AND INTERNATIONAL CONVENTIONS – LEARNING FROM THE IMO**

The presentation was made by Dr Rosalie Balkin, Assistant Secretary General and Director of the Legal Affairs and External Relations Division of IMO.

Dr Balkin explained the process for creation of international conventions and the steps necessary to achieve such an agreement. She explained that it could be a long process often requiring several preparatory meetings ending with a diplomatic conference, where the final text is agreed.

It was important to involve the governments at an early stage. Invitations to the diplomatic conference, which normally involves high level diplomats, are usually sent at least six months in advance together with the draft agreed text.

She explained the running of a diplomatic conference and the different organs created for this event, from the very first minute until the signature of the final act, which is signed by all States attending as evidence that the conference was held.

Some potential issues were described. Among them is the number of ratifications needed for the International Agreement to enter into force: it has to be high enough to establish a viable organization but not too ambitious due national ratification processes: a too high number may have the new IALA waiting decades before it can enter into force.

The full presentation is available from the IALA Website at <http://www.iala-aism.org/committees/private/meetings/lap/extraordinary1/>.

## **8 DEVELOPMENT OF THE DRAFT INTERNATIONAL AGREEMENT AND THE GENERAL REGULATIONS**

All IALA National Members had been invited to make comments on the draft International Agreement, which was input paper EXLAP 1 item 8.1 annex A. Comments were received in writing from seven National Members. They had been collated in a document circulated by means of an e-mail from the LAP Chair to the participants on 9<sup>th</sup> October.

## **9 PRESENTATION: SUMMARY OF NATIONAL MEMBER COMMENTS ON THE DRAFT INTERNATIONAL AGREEMENT**

Participants were invited to make opening comments about the draft international agreement. Among the comments that were made the following concerns were expressed:

- The proposed timeline is very short. Having the diplomatic conference in May 2014 is not realistic;
- Official written support from IMO would be ideal to convince governments ;
- It is not clear if IALA becoming an IGO would allow it to make direct submissions to IMO;
- IALA as an IGO needed to ensure it remained effective;
- The role of Governments and the rights and obligations of States needed to be clearly identified;
- Having three official languages may have financial impact.

## **10 WORKING COLLABORATIVELY TOWARDS CONSENSUS AMENDMENTS**

The draft International Agreement was refined in view of the written and verbal comments received and the participants were circulated with a modified working draft on 14<sup>th</sup> October 2013 as a basis for further discussion.

The document was presented on the screen and amended as and when changes were agreed by the meeting.

Some articles have to be reviewed entirely:

- Article 5 – General Assembly. In view of the General Assembly being given more power than in the present Constitution there is a need to carefully identify decisions that will have to be made by the General Assembly and those that can be left with the Council, the aim being that the General Assembly does not need to meet at frequent intervals, but that Governments make important decisions;
- Article 6 to Article 9 – Council, Committees, Secretariat and Funding and Expenditure. These articles are dependent upon Article 5. It was agreed that the Secretariat would give further consideration to these articles after the meeting and suggest some text for these Articles in the amended new draft International Agreement;
- Article 15 – Denunciations: This article should be renamed “Withdrawals” and be reviewed, with consideration given to use of the IMO Convention, amended as appropriate;
- Article 17 – Transitional arrangements. It was agreed that the first step should be to agree a governing text for the transitional period and then decide if it should be integrated into the Agreement and where.

The annotated document dated 18 October 2013 is attached to this report at Annex C.

The Secretariat will continue working on the Articles needing a change of text and circulate them by e-mail to the participants for further input.

## **11 ADOPTION OF THE INTERNATIONAL AGREEMENT**

Further to the comments made earlier it was agreed to separate the next IALA General Assembly and the Diplomatic Conference. A new road map will be submitted to the Council at its December session, suggesting holding a Diplomatic Conference in October 2014 at the earliest.

It is anticipated that the French Ministry of Foreign Affairs will start the diplomatic approaches after the present meeting and participants were encouraged to submit the amended Agreement to their relevant ministries, including Foreign Affairs, for further comment.

IALA and its Government partners will continue to work toward gaining support for the change of status for IALA, and gathering consensus on the wording of an appropriate International Agreement to achieve this. As this will be a matter for Governments, a Diplomatic Conference to agree the final wording of the Agreement will be required. By way of example, participants were provided with the text of the Final Act from the IMO HNS Protocol Diplomatic Conference to demonstrate the role and function of this important process.

## **12 SETTLING THE TEXT OF THE DRAFT INTERNATIONAL AGREEMENT**

In view of the above, there was no discussion under this Agenda item.

## **13 APPROVAL OF DOCUMENTS FOR THE IALA COUNCIL SESSION 56 – DECEMBER 2013**

It was agreed that the Council would be invited to agree a new road map for the implementation of the International Agreement taking into account the revised time frame.

The Council will also be invited to approve amendments to the IALA Constitution.

## **14 NEXT STEPS FOR PARTICIPANTS**

The participants – as well all non-represented National Members – will be provided with the revised draft International Agreement and the report of the meeting. All are invited to make contact with their relevant ministries in order for them to be prepared to discuss IALA's change of status and the draft International Agreement at Government level. At the same time IALA understands the French Ministry of Foreign Affairs will request French diplomats to make contact with the Governments of IALA National Members, drawing their attention to the importance of the project.

All National Members / their Governments will be invited to a further meeting planned to be held from 12<sup>th</sup> to 14<sup>th</sup> March 2014 at IALA Headquarters in order to continue to refine the draft Agreement.

## **15 SUMMARY AND CLOSE**

The Chair summarized the discussions held during the first two days, drawing attention to the changing environment in which IALA works now, including noting that:

- Aids to Navigation are not dealt with in a purely technical manner any longer. They are often integrated in larger ministries and other agencies, which are also involved in political matters;
- This has an impact on the priority accorded to IALA meetings. Given its current status as an NGO travel to IALA is very often low priority and the attendance from large countries is decreasing;
- In the same way it is more and more difficult to fund NGOs with governmental funds;
- The IALA brochure demonstrates the other reasons why a change of status is important.

Based on the above there was support to continue work toward IALA becoming an international organization governed by international law.

In order to have the change accepted by the Governments of National Members it will be necessary to enhance the role of the General Assembly. Having a strong General Assembly will give more influence to the contracting States, which may enable them to accept the proposed arrangements more readily.

Finally, it is important to keep an important role for the Associate and Industrial Members, which must remain the vital players that they are now.

The Chair then thanked the participants for their fruitful cooperation and wished them a safe trip home.



## **16 LIST OF ANNEXES**

### **1 Participants**

A list of participants is at ANNEX A.

### **2 Agenda**

A copy of the agenda is at ANNEX B.

### **3 Draft International Agreement dated 18 October 2013 is at ANNEX C.**

### **4 A road map is at ANEXX D.**

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## **ANNEX B      AGENDA**

<b>Item</b>	<b>Topic</b>
1	Welcome
2	Introduction to the Legal Advisory Panel
3	Participants introductions
4	Approval of the draft Agenda
5	<i>Presentation:</i> Safely navigating in the future
6	The IALA Constitution and its interface with the draft International Agreement
7	<i>Presentation:</i> Legal status and International Conventions – Learning from the IMO
8	Development of the draft International Agreement and the General Regulations
9	<i>Presentation:</i> Summary of National Members' comments on the draft International Agreement
10	Working collaboratively towards consensus amendments
11	Adoption of the International Agreement
12	Settling the text of the draft International Agreement
13	Approval of documents for Council 56
14	Next steps for participants
15	Summary and close

## ANNEX C DRAFT INTERNATIONAL AGREEMENT FOR IALA AS AN INTERNATIONAL ORGANIZATION

Item	Text of convention by Article
1	Agreement on the International Organization for Marine Aids to Navigation (IALA)
2	<p>Preamble</p> <p>The States party to this Agreement, hereafter referred to as the Contracting Parties:</p> <p>RECALLING that the International Association of Lighthouse Authorities was established on 1st July 1957 following a conference of national lighthouse authorities held in Scheveningen, Netherlands;</p> <p>NOTING that the International Association of Lighthouse Authorities was renamed the International Association of Marine Aids to Navigation and Lighthouse Authorities by its General Assembly in Hamburg, Germany in 1998;</p> <p>RECOGNISING the role of the International Association of Marine Aids to Navigation and Lighthouse Authorities in the improvement and continued harmonisation of marine aids to navigation for the safe, economic and efficient movement of vessels;</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 is formed as an association under French law; and</p> <p>CONSIDERING FURTHER that the Contracting Parties agree that the will of Governments to develop, improve and harmonise marine aids to navigation for the benefit of the maritime community and the protection of the environment is best coordinated by one responsible international intergovernmental organisation;</p> <p>HAVE AGREED as follows:</p>
3	<p style="text-align: center;">Article 1</p> <p style="text-align: center;">Establishment of the International Organization</p>

	<ol style="list-style-type: none"> <li>1. The International Organization for Marine Aids to Navigation is hereby established as an international organization and shall be known as IALA (herein after 'the Organization').</li> <li>2. The Organization shall have its seat in France unless otherwise decided by the General Assembly.</li> <li>3. The official languages of the Organization shall be English, French and Spanish. [The working language of the Organization shall be English and French].<sup>2</sup></li> <li>4. The operation of the Organization shall be as set out in the General Regulations.<sup>3</sup></li> </ol>
4	<p style="text-align: center;">Article 2 Aims</p> <ol style="list-style-type: none"> <li>1. The Organization shall have a consultative, recommendatory and technical nature.<sup>4</sup></li> <li>2. The aims of the Organization are to: <ol style="list-style-type: none"> <li>(a) foster the safe and efficient movement of vessels through the improvement and harmonisation of marine aids to navigation worldwide and by other appropriate means;</li> <li>(b) bring together governments, services and organisations concerned with the regulation, provision, maintenance or operation of marine aids to navigation and allied activities at sea and on inland waterways;<sup>5</sup></li> <li>(c) promote access to technical cooperation on all matters related to development and transfer of expertise, science and technology in relation to marine aids to navigation.</li> </ol> </li> </ol>

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<sup>1</sup> The working language(s) could be determined by the Rules of Procedure of each organ or could be expressed as a matter for General Assembly to decide.

<sup>3</sup> Further work required to ensure that Agreement contains enough detail to allow a meeting of the approval body to take place in order to establish these Regulations in the first instance.

<sup>4</sup> Further consider the need to include this provision, but if removed, consider need to refer to 'technical nature' elsewhere.

<sup>5</sup> Consider if this is needed in view of wording of functions.

	<p>(d) encourage and facilitate the general adoption of the highest practicable standards in matters concerning marine aids to navigation.</p> <p>(e) provide for the exchange of information among governments and intergovernmental organizations on matters under consideration by the Organization.</p> <p>3. For the purposes of this Agreement the term 'Marine Aids to Navigation' means a device, system or service, external to a vessel, designed and operated to enhance safe and efficient navigation of all vessels and/or vessel traffic.</p>
	<p style="text-align: center;">Article 2bis Functions of the Organization</p> <p>1. The functions of the Organization, to achieve the aims referred to in Article 2, are to:</p> <p>(a) provide for the drafting of conventions, standards, guidelines, recommendations, manuals or other suitable instruments and to recommend these to governments, intergovernmental organizations and Non-national members as appropriate;</p> <p>(b) consider and make recommendations upon standards, guidelines and other documents that may be remitted to it by members, by any organ or specialised agency of the United Nations or by any other intergovernmental organization;</p> <p>(c) provide mechanisms for consultation and exchange of information including about the activities of members and recent developments;</p> <p>(d) develop international cooperation by promoting close working relationships and assistance between its members;</p> <p>(e) facilitate assistance to governments, services and other organizations requesting help with marine aids to navigation, whether technical, organisational or training;</p> <p>(f) organise conferences, symposia, seminars, workshops and other events relevant to its work; and</p> <p>(g) liaise and cooperate with relevant intergovernmental, international and other organisations, offering specialised advice where appropriate.</p>

5	<p style="text-align: center;">Article 3 Membership</p> <ol style="list-style-type: none"> <li>1. The Organization shall be comprised of National members and Non-national members.<sup>6</sup></li> <li>2. The Contracting Parties shall be the only National members.</li> <li>3. Any National member may claim Affiliate membership for a territory or group of territories for which it has responsibility and which is legally responsible for the provision, maintenance or operation of marine aids to navigation, by notification in writing to the Secretary General of the Organization.</li> <li>4. Non-national members shall include, and the General Regulations may make provision for all matters related to: <ol style="list-style-type: none"> <li>(a) Affiliate membership;</li> <li>(b) Associate membership;</li> <li>(c) Industrial membership;</li> <li>(d) Honorary membership; or</li> <li>(e) Other membership.</li> </ol> </li> <li>5. Each National Member shall pay a membership contribution to the Organization on an annual basis in the amount determined in accordance with in Article 6 and Article 9.<sup>7</sup></li> <li>6. National Membership contributions shall be due and payable in accordance with the General Regulations.</li> <li>7. Failure to make membership contributions when such payment becomes due may result in National Members being charged interest, the rate of which will be determined by the Council.</li> </ol>
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<sup>6</sup> Consider use of the term 'member' for this group, whilst retaining current strong link with industry and other non-governmental members.

<sup>7</sup> Consider whether a method for sharing the costs should be specified in the Agreement.

	<p>8. Any National member which is two years in arrears in making contributions shall, after notification, be denied the rights and benefits conferred on National members by this Agreement until such time as the outstanding contributions have been paid.</p> <p>9. No National member or Non-national member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.</p>
6	<p style="text-align: center;">Article 4 Structure of the Organization</p> <p>1. The Organization shall have as its [principle] organs:</p> <ul style="list-style-type: none"> <li>(a) the General Assembly;</li> <li>(b) the Council;</li> <li>(c) Committees and other subsidiary bodies necessary to support the Organization's activities;</li> <li>(d) the Secretariat.<sup>8</sup></li> </ul> <p>2. There shall be a President and a Vice President of the Organization elected in accordance with the General Regulations.</p> <p>3. 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"> <li>(a) Only National Members have voting rights, which will be executed by the representative designated by each National Member;</li> <li>(b) Except where otherwise specified, decisions are taken on a simple majority of the votes cast.</li> </ul>

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<sup>8</sup>Whether the Secretariat is an organ needs to be further considered, as does whether this provision is required at all.

	4. [The General Regulations shall detail the Rules of Procedure that will apply for each organ]. <sup>9</sup>
7	<p style="text-align: center;">Article 5 The General Assembly</p> <ol style="list-style-type: none"> <li>1. The General Assembly is the principal decision-making organ of the Organization and attendance shall be open to all members.</li> <li>2. Each National member 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.</li> <li>3. Regular sessions of the General Assembly shall take place at least once every [five] years.</li> <li>4. Extraordinary sessions shall be convened whenever one third of the National Members 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 [sixty] days.</li> <li>5. A [majority] of the National Members shall constitute a quorum for the meetings of the General Assembly.<sup>10</sup></li> <li>6. The General Assembly shall operate in accordance with this Agreement and the General Regulations.</li> <li>7. The General Assemble shall:</li> </ol> <p>Note: text to be developed specifying the functions of the General Assembly in line with the following higher order functions:</p> <ul style="list-style-type: none"> <li>• Develop IALA Strategy</li> <li>• Provide high level governance for the organization, including approval of General Regulations, work program and financial plan for period to next GA</li> <li>• Approve standards and the text of conventions</li> </ul>

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<sup>9</sup> Or provide that each organ creates its own Rules of Procedure separate to the General Regulations.

<sup>10</sup> Consider whether suspended National members are included in this count, and if this should be specified in detail.

	<ul style="list-style-type: none"> <li>• Recommend the adoption of standards and conventions</li> <li>• Elect Council</li> <li>• Consider empowering Council with certain functions that would otherwise belong to the General Assembly on conditions established by the General Assembly for use between General Assemblies</li> </ul>
8	<p style="text-align: center;">Article 6 The Council<sup>11</sup></p> <ol style="list-style-type: none"> <li>1. The Council is the executive organ of the Organization and shall be responsible for directing the activities of the Organization.</li> <li>2. <sup>12</sup> [The Council shall consist of up to twenty one (21) elected National Members and three (3) non-elected National Members.</li> <li>3. Elected National members on Council: <ol style="list-style-type: none"> <li>(a) shall be elected by ballot by the General Assembly in accordance with the General Regulations.</li> <li>(b) shall, so far as is possible, be drawn from different regions of the world;</li> </ol> </li> <li>4. Non-elected National members on Council shall include: <ol style="list-style-type: none"> <li>(a) the National member of the State in which the seat of the Organization is located (“Host Nation”);</li> <li>(b) the National member of the State in which the next General Assembly is to be held;</li> <li>(c) the National member of the State in which the last General Assembly was held.]</li> </ol> </li> <li>5. At Council National Members shall 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 National member, or his or her representative.</li> </ol>

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<sup>11</sup> The text in regard to Council was not discussed by LAP, other than to note that the functions of Council should be complimentary with those of the General Assembly and, in combination, should still facilitate flexibility and timely release of outputs.

<sup>12</sup> Consideration could be given to a new arrangement for representation on Council.



	<p>6. The Council, shall:</p> <p>Note: text to be developed specifying the functions of the Council. May address the following noting that level of specificity is a matter for discussion:</p> <ul style="list-style-type: none"> <li>• Ensure that overall technical and administrative activity of IALA is undertaken in accordance with the directions of General Assembly through development of policy and general regulations and reporting on same</li> <li>• Approve IALA technical guidance documents and recommend standards and convention text to General Assembly</li> <li>• Approve the annual budget and expenditure within General Assembly parameters</li> <li>• Appoint and guide the Secretary General and create [panels] to provide Council with advice</li> </ul>
9	<p style="text-align: center;">Article 7 Committees and Other Subsidiary Bodies<sup>13</sup></p> <p>1. Committees and other subsidiary bodies may be established by the General Assembly or Council to support the endeavours of the Organization and shall operate in accordance with this Agreement and the General Regulations.</p>
10	<p style="text-align: center;">Article 8 Secretariat<sup>14</sup></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.</p> <p>2. The Secretary General shall be appointed for a term of five years and may be reappointed for one additional term not exceeding five years.</p>

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<sup>13</sup> The text in regard to Committees and other subsidiary bodies was not discussed by LAP. It is envisaged that the terms of reference and rules of procedure for committees would be developed by Council for both Committees established by the General Assembly and for other bodies established by Council.

<sup>14</sup> The text in regard to the Secretariat was not discussed by LAP, but the functions of Secretariat should be complimentary with those of the General Assembly and Council.

	<p>3 The Secretary General shall be responsible for the day to management of the Organization, subject to any guidance issued by the Council or the General Assembly.</p> <p>4. The staff of the Secretariat shall be appointed on terms and conditions determined by the Secretary General and approved by the Council and shall, under the leadership of the Secretary General, and in accordance with this Agreement and the General Regulations:</p> <p>Note: text to be developed specifying the functions of the Secretariat. May address the following noting that level of specificity is a matter for discussion:</p> <ul style="list-style-type: none"> <li>• Carry out day to day management of IALA, including invoicing members</li> <li>• Prepare the annual budget and financial statements for submission to Council</li> <li>• Prepare forward estimates</li> <li>• Provide assistance to the organs of IALA</li> <li>• Arrange events that support IALA's aims</li> <li>• Inform all members of the activities of IALA and other appropriate bodies</li> </ul> <p>5. In the performance of their duties the staff of the Secretariat shall not seek or receive instructions from any authority external to the Organization. They shall refrain from any action which might adversely reflect on their position as international officers.</p>
11	<p style="text-align: center;">Article 9<sup>15</sup> Funding and Expenditure</p>

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<sup>15</sup> This article was not reviewed by LAP but should reflect the functions of the General Assembly, Council and the Secretariat.

	<ol style="list-style-type: none"> <li>1. The expenditure available for the functioning of the Organization shall meet the amount of financial resources provided by: <ol style="list-style-type: none"> <li>(a) National member contributions determined in accordance with this Agreement and the General Regulations;</li> <li>(b) Non-national members [annual fees];</li> <li>(c) donations, bequests, grants, gifts; and</li> <li>(d) other sources approved by the Council or a committee established by the Council.</li> </ol> </li> <li>2. The budget estimates and the financial statements on the accounts of the Organization shall be [approved by the Council having regard to the limits approved by the General Assembly].</li> <li>3. After [Council's] approval of the Organization's audited financial statements those statements shall be distributed to all members by the Secretariat in accordance with the General Regulations.</li> </ol>
12	<p style="text-align: center;">Article 10 Legal personality, privileges and immunities</p> <ol style="list-style-type: none"> <li>1. The Organization has international [and domestic)<sup>16</sup> legal personality and has the capacity to: <ol style="list-style-type: none"> <li>(a) contract;</li> <li>(b) acquire and dispose of immovable and movable property; and</li> <li>(c) institute legal proceedings.</li> </ol> </li> <li>2. Subject to the agreement of each Contracting State, the Organization shall enjoy in the territory of the Contracting State such privileges and immunities as may be necessary for the fulfilment of its aim and for the exercise of its functions. The Organization</li> </ol>

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<sup>16</sup> Need to consider appropriate wording regarding legal personality in each Contracting State.

	<p>may cooperate with governments, organisations and other bodies, and conclude agreements with them. In the territory of any National Member which is party to the Convention on the Privileges and Immunities of the Specialized Agencies adopted by the General Assembly of the United Nations on 21 November 1947, such legal capacity, privileges and immunities shall be those defined in the said Convention.</p>
13	<p style="text-align: center;">Article 11 Amendments</p> <ol style="list-style-type: none"> <li>1. Any Contracting party may propose an amendment to this Agreement, in writing, to [the Government of France, in its role as] the Depository.</li> <li>2. The Depository [Government of France] shall circulate the amendment proposal to all Contracting parties and the Secretary General at least six months in advance of its consideration by the General Assembly.</li> <li>3. The proposed amendment shall be accepted by vote of the General Assembly upon approval by a two-thirds majority of National members present and voting. The Depository [Government of France] shall communicate any amendment so accepted to National members and the Secretary General.</li> <li>4. The amendment will enter into force for all Contracting Parties thirty days after two-thirds of the National Members have deposited their instruments of ratification, acceptance or approval of the amendment.</li> </ol>
14	<p style="text-align: center;">Article 12 Interpretation and Disputes</p> <ol style="list-style-type: none"> <li>1. Any question or dispute concerning the interpretation or application of the present Agreement arising between or amongst Contracting Parties which is not settled through consultation or negotiation or by the good offices of the Council may be referred to an independent arbitrator appointed by the Secretary General of the Permanent Court of Arbitration, unless the parties to the dispute agree upon another mode of settlement.</li> </ol>

15	<p style="text-align: center;">Article 13 Signature, Ratification and Accession <sup>17</sup></p> <ol style="list-style-type: none"> <li>1. This Agreement shall open for signature at [xxx] and remain open until [xxx].</li> <li>2. This Agreement is subject to ratification, acceptance or approval by the signatory States.</li> <li>3. This Agreement shall be open for accession by any State which has not signed the Agreement from the day after the date on which the Agreement closes for signature.</li> <li>4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary [Government of France], who shall then notify each National member and the Secretary General thereof.</li> <li>5. Ratification, acceptance, or approval of, or accession to, this Agreement shall be without reservation.</li> </ol>
16	<p style="text-align: center;">Article 14 Entry into force</p> <ol style="list-style-type: none"> <li>1. The present Agreement shall enter into force on the thirtieth day after the date of deposit of the [fifteenth] instrument of ratification, acceptance, approval or accession.</li> <li>2. For each State ratifying, accepting, approving or acceding to the Agreement after its entry into force the Agreement shall enter into force on the thirtieth day after the deposit of its instrument of ratification, acceptance, approval or accession.</li> </ol>
17	<p style="text-align: center;">Article 15 Withdrawal</p> <ol style="list-style-type: none"> <li>1. Any Contracting Party may withdraw from this Agreement by giving at least twelve month written notice to the Depositary [Government of France], who will immediately inform all National members of such notification.</li> </ol>

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<sup>17</sup> To be reviewed for conformity with the Vienna Convention.

	<ol style="list-style-type: none"> <li>2. Notification of withdrawal may be given at any time after the expiration of [twelve months] from the date on which the Agreement has come into force.</li> <li>3. The withdrawal shall take effect [on 31 December] following the expiration of the notice.</li> </ol>
18	<p style="text-align: center;">Article 16 Termination</p> <ol style="list-style-type: none"> <li>1. This Agreement may be terminated by decision of the General Assembly upon a [two-thirds] majority [of National members present and voting].</li> <li>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.</li> </ol>
19	<p style="text-align: center;">Article 17 Transitional Arrangements<sup>18</sup></p> <ol style="list-style-type: none"> <li>1. Upon the entry into force of this Agreement all National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities, who are not Contracting Parties, [shall], [with the approval of the Council], become Affiliate members of the Organization.</li> <li>2. Upon the entry into force of this Agreement all parties holding financial, non-suspended status as an associate member or industrial member or honorary member or other member of the International Association of Marine Aids to Navigation and Lighthouse Authorities, [shall], (with the approval of Council] become Associate or Industrial or other members, respectively, of the Organization, in accordance with the General Regulations.</li> <li>3. Upon the entry into force of this Agreement the Council of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional Council of the Organization and will operate as such until the first General Assembly convened under this Agreement, which must be within a period not exceeding five (5) years.</li> </ol>

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<sup>18</sup> Further consideration of the mechanism for achieving these transition arrangements required. Original drafting intended that these arrangements would operate automatically.

	<p>4. For the duration of the transitional Council Affiliate members will be permitted to engage in the work of the Council for the benefit of the Organization.</p> <p>4bis The Committees of the International Association of the Marine Aids to Navigation and Lighthouse Authorities shall become the transitional Committees of the Organization and will operate until the equivalent Committees are established under this Agreement.</p> <p>5. In the event that a State which has Affiliate membership becomes a Contracting Party the Affiliate membership will cease on the date on which the Agreement enters into force for that State. In the case of a Contracting Party having more than one Affiliate membership it may decide to retain Affiliate memberships in addition to its National Membership.</p> <p>6. Until a sufficient number of Contracting Parties become party to this Agreement, each number specified in Article 6.1 as a requirement for the number of Council members may be applied flexibly as decided by the General Assembly.</p> <p>7. After the entry into force of this Agreement the transitional Council shall initiate negotiations with the [Council] of the International Association of Marine Aids to Navigation and Lighthouse Authorities on the transfer of the latter's activities, records, documents, publications, archives, rights, interests, funds, assets and liabilities to the Organization.<sup>19</sup></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 Council appoints the Secretary General in accordance with Article 6.</p>
20	<p>IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed the present Agreement.</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 [Government of France] Depositary . The Depositary [Government of France] shall transmit certified copies thereof to all the [signatory and acceding]<sup>20</sup> Governments and to the Secretary General of the Organization.</p>

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<sup>19</sup> The requirements in this provision will depend on the final approval of the General Assembly to the proposed change to the IALA Constitution, which is itself subject to a request for French legal advice regarding the termination of a French charity.

<sup>20</sup> Ensure conformity with Art 13.

## **ANNEX D      ROAD MAP FOR THE IMPLEMENTATION OF AN INTERNATIONAL AGREEMENT**

### **May 2014**

- General Assembly elects new Council.
- General Assembly approves new Constitution for the old IALA running until the International Agreement comes into force.
- General Assembly approves the draft text for the International Agreement creating the basis for further international consultations.

### **June 2014**

- France and other interested countries call for a Diplomatic Conference.

### **After June 2014**

- A possible preparatory conference is held with the aim to consider remaining outstanding issues.
- A Diplomatic Conference adopts the International Agreement (no earlier than Nov. 2014).
- The International Agreement comes into force upon the ratification of 15 countries, including France.
- Old IALA is wound up in accordance with the Constitution.
- Money and assets are transferred to the new International Organization.
- The first General Assembly of the new International Organization will take place in May 2018 (at the earliest).



