

DRAFT CONVENTION TEXT FOR CREATION OF IALA AS AN IGO

Development of the Convention for IALA as an International Organization – Version 10 October 2015

| Item | Text of Convention by Article | Reference | <i>Comments by CoS</i> <i>Comments by LAP</i> <i>Council decision</i> |
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| 1 | Convention on the International Organization for Marine Aids to Navigation (IALA) | Vienna Convention Art 1(a) | |
| 2 | <p>Preamble</p> <p>The States party to this Convention, 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>Vienna Convention Art 31</p> <p>UNCLOS – see also Art 21.1 and 43</p> | |

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| | <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 organisation;</p> <p>HAVE AGREED as follows:</p> | Vienna Convention Art 2(i) | |
| 3 | <p style="text-align: center;">Article 1 Establishment of the International Organization</p> <ol style="list-style-type: none"> 1. The International Organization for Marine Aids to Navigation is hereby established as an international organization and shall be known as IALA (hereinafter 'the Organization'). 2. The Organization shall have its seat in France unless otherwise decided by the General Assembly. 3. The official languages of the Organization shall be English, French and Spanish. The working language of the Organization shall be English. 4. The operation of the Organization shall be as set out in the General Regulations. | <p>Constitution Arts 1, 6 EFI Art 1</p> <p>IHO Art XII</p> <p>IHO Art XI</p> | |
| 4 | <p style="text-align: center;">Article 2 Aims</p> <ol style="list-style-type: none"> 1. The Organization shall have a consultative and technical nature. 2. The aims of the Organization are to: <ol style="list-style-type: none"> (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; | <p>Constitution Art 2 IHO Art II</p> | |

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| | <p>(b) bring together governments, services and organisations concerned with the regulation, provision, maintenance or operation of marine aids to navigation and allied activities;</p> <p>(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;</p> <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 Convention 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>UNCLOS Art 266</p> <p>Constitution Art 1</p> | |
| | <p style="text-align: center;">Article 3 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 standards, recommendations, guidelines and manuals or other suitable instruments and to commend these to governments, intergovernmental organizations and members as appropriate;</p> <p>(b) consider and make recommendations on standards, recommendations, 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>Article added by EX LAP 1</p> <p>WMO Art 2 (Purpose) EFI Art 2</p> | <p><i>The function of drafting conventions has been discussed on several occasions:</i></p> <p><i>LAP advice: If IALA wants to make conventions in the future, the legal advice is to keep it in the Convention text (a). Policy decision.</i></p> <p><i>CoS advice: Nothing prevents governments from making conventions if they so wish. The advice is to take Para (a) out.</i></p> <p><i>Council decision: Take “conventions” out (See Council report session 61, Page 8, Para.7.3.2.3)</i></p> |

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| | <p>(c) provide mechanisms for consultation and exchange of information including about the activities of Contracting Parties, members and recent developments;</p> <p>(d) develop international cooperation by promoting close working relationships and assistance between its Contracting Parties and 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 4 Membership</p> <ol style="list-style-type: none"> 1. The Organization shall be comprised of Contracting Parties and members as described in Article 4.2. 2. Members shall include, and the General Regulation may make provision for all matters related to, associate and affiliate members. 3. Any Contracting Party may claim Associate membership for a territory or group of territories for which it has responsibility and which is legally responsible for the regulation, provision, maintenance and/or operation of marine aids to navigation, by notification in writing to the Secretary-General of the Organization. 4. Each Contracting Party shall pay a contribution to the Organization on an annual basis in the amount determined in accordance with in Article 7.6 (e) and Article 10. 5. Contracting Party contributions and member fees shall be due and payable in accordance with the General Regulations. | <p>Constitution Art 5.1 EFI Art 4</p> | <p><i>CoS2: Mention what are the rights of each category in the General Regulations.</i></p> <p><i>Associate members are territories or groups of territories and current IALA national members transferred in accordance with Article 18. Affiliate members are associate and industrial members of the current IALA. Honorary membership is not appropriate in the context of IGOs in accordance with legal advice from Dr. Balkin.</i></p> |

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| | <p>6. Failure to make a contribution when such payment becomes due may result in the Contracting Party being charged interest, the rate of which will be determined by the Council.</p> <p>7. Any Contracting Party which is two years in arrears in making contributions shall, after notification, be denied the rights and benefits conferred on Contracting Parties by this Convention until such time as the outstanding contributions have been paid.</p> <p>8. No Contracting Party or member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.</p> | IHO Art XV | |
| 6 | <p style="text-align: center;">Article 5 Structure of the Organization</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 elected in accordance with Article 7.</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"> (a) Only Contracting Parties have voting rights, which will be executed by the representative designated by each Contracting Party; (b) Except where otherwise specified, decisions are taken on a simple majority of the votes cast. | <p>Constitution Art 7-9 WMO Art 4, IHO Art IV WMO Art 8(h)</p> <p>IHO Art VI EFI Art 6.3</p> <p>WMO Art 8(d)</p> | |

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| | <p>4. The General Regulations shall detail the Rules of Procedure that will apply for each organ.</p> | | |
| <p>7</p> | <p style="text-align: center;">Article 6 The General Assembly</p> <p>1. The General Assembly is the principal decision-making organ of the Organization and attendance shall be open to all Contracting Parties and members.</p> <p>2. Each Contracting Party 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.</p> <p>3. Regular sessions of the General Assembly shall take place at least once every four years.</p> <p>4. Extraordinary sessions shall be convened whenever one third of the Contracting Parties 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>5. A majority of the Contracting Parties excluding any Contracting Party denied by Article 4.7 the rights and benefits conferred on Contracting Parties, shall constitute a quorum for the sessions of the General Assembly.</p> <p>6. The General Assembly shall be chaired by the President or the Vice President and operate in accordance with this Convention and the General Regulations.</p> <p>7. The General Assembly shall:</p> <p style="padding-left: 20px;">(a) Decide the overall policy and the strategic vision of the Organization;</p> | <p>Constitution Art 7</p> <p>WMO Art 7(b)</p> <p>IHO Art VI</p> <p>IHO Art VI WMO Art 10</p> <p>WMO Art 12</p> <p>See for example IHO Art V WMO Art 8 EFI Art 7</p> | |

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| | <ul style="list-style-type: none"> (b) Determine the General Regulations of the Organization and the rules of procedure of the General Assembly, Council, Committees and other subsidiary bodies of the Organization; (c) Elect Council in accordance with Article 7; (d) Determine and review the financial arrangements of the Organization; (e) Consider the reports and proposals put to it by any Contracting Party, the Council or the Secretary-General; (f) Adopt standards; (g) Make recommendations to Contracting Parties and members on matters within the scope of the Organization; (h) Decide on any other matters within the scope of the Organization; and (i) Delegate, where appropriate and necessary, responsibilities to the Council. | WMO Art 23(b) | |
| 8 | <p style="text-align: center;">Article 7 The Council</p> <ol style="list-style-type: none"> 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 up to twenty three (23) Councillors elected from amongst the Contracting Parties and one (1) non-elected Councillor. 3. Elected Councillors shall be elected by ballot by the General Assembly in accordance with the General Regulations. 4. The Contracting Party of the State in which the seat of the Organization is located ("Host Nation") shall be the non-elected Councillor. | <p style="text-align: center;">Constitution</p> <p style="text-align: center;">WMO Art 14</p> | <p style="color: red;"><i>Consider having a provision in the GR to recommend that elected Councillors be, as far as practicable, drawn from different regions of the world.</i></p> <p style="color: red;"><i>Mention in the GR that the non-elected Councillor cannot also be an elected Councillor.</i></p> |

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| | <p>5. At Council Contracting Parties 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 Contracting Party, or his or her representative.</p> <p>6. The Council shall:</p> <ul style="list-style-type: none">(a) Elect the President and the Vice President from amongst its members;(b) Exercise such responsibilities as may be delegated to it by the General Assembly;(c) Coordinate the activities of the Organization within the framework of the overall policy, the strategic vision and the budget estimates, as decided by the General Assembly;(d) Approve the annual budget and accounts and the annual report;(e) Determine the rate of contributions for Contracting Parties and members;(f) Convene the General Assembly;(g) Report to the General Assembly on the work of the Organization;(h) Appoint a Secretary-General in accordance with the General Regulations;(i) Review proposals submitted to it in accordance with the General Regulations;(j) Refer to the General Assembly all matters requiring decision by the General Assembly;(k) Approve recommendations, guidelines, manuals and other appropriate papers;(l) Approve submissions to other organizations; | WMO Art 6 | |
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| | <p>(m) Determine the terms of reference for committees and other subsidiary bodies;</p> <p>(n) Approve and review the work programmes of the Committees; and</p> <p>(o) Decide the venue and the year of the Organization's Conferences and symposia as described in the General Regulations.</p> | | |
| 9 | <p style="text-align: center;">Article 8 Committees and Other Subsidiary Bodies</p> <p>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 Convention and the General Regulations.</p> | Constitution Art 9 | |
| 10 | <p style="text-align: center;">Article 9 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.</p> <p>(a) The Secretary-General shall be appointed for a term of four years and may be reappointed for one additional term not exceeding four years;</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 Council or the General Assembly;</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>Constitution Art 8.2.2 WMO Art 20</p> <p>WMO Art 21 IHO Art X</p> | |

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| | <ul style="list-style-type: none"> (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) Manage the Organization’s finances under the direction of the Council, in accordance with the General Regulations; (c) Prepare the annual budget and accounts for submission to Council; (d) Keep Contracting Parties and members informed with respect to the activities of the Organization; (e) Organize and support meetings of the General Assembly, the Council and Committees and other subsidiary bodies; (f) Organize conferences and symposia, seminars, workshops and other events; and (g) Perform such other tasks as may be assigned by the Convention, the General Regulations, the General Assembly or the Council. | WMO Art 22(b) | <i>Article on authority on secretariat staff moved to General Regulations.</i> |
| 11 | <p style="text-align: center;">Article 10 Funding and Expenditure</p> <ul style="list-style-type: none"> 1. The expenditure available for the functioning of the Organization shall meet the amount of financial resources provided by: <ul style="list-style-type: none"> (a) Contracting Party contributions; (b) member annual fees; (c) donations, bequests, grants, gifts; and (d) other sources approved by the Secretary-General. 2. The budget estimates and the financial statements on the accounts of the Organization shall be approved by the Council. | Constitution Art 11 EFI Art 10, 11 IHO Art XIV | <i>Contributions to be according to the principle of equal sharing (state in General Regulations)</i> |

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| | <p>3. Following Council's approval of the Organization's audited financial statements those statements shall be distributed to all Contracting Parties and members by the Secretariat.</p> | | <i>Financial arrangements are approved by the General Assembly.</i> |
| 12 | <p style="text-align: center;">Article 11 Legal personality, privileges and immunities</p> <p>1. The Organization has international legal personality and has the capacity to:</p> <p>(a) contract;</p> <p>(b) acquire and dispose of immovable and movable property; and</p> <p>(c) institute legal proceedings.</p> <p>2. Subject to the agreement of each Contracting Party, the Organization shall enjoy in the territory of the Contracting Party such privileges and immunities as may be necessary for the fulfilment of its aim and for the exercise of its functions. In the territory of any state 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> <p>3. The Organization may cooperate with governments, organisations and other bodies, and conclude agreements with them.</p> | <p>EFI Art 12</p> <p>WMO Art 27</p> <p>WMO Art 27</p> | |
| 13 | <p style="text-align: center;">Article 12 Amendments</p> <p>1. Any Contracting Party may propose an amendment to this Convention, in writing, to [the Government of France, in its role as] the Depositary.</p> <p>2. The Depositary [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.</p> | <p>Constitution Art 12 and, eg: WMO Art 28 EFI Art 17.2 IHO Art XXI</p> <p>WMO Art 28</p> | <i>Government of France volunteers to be the Depositary subject to interest shown by other countries.</i> |

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| | <p>3. The proposed amendment shall be accepted by vote of the General Assembly upon approval by a two-thirds majority of Contracting Parties present and voting, excluding Contracting Parties denied by Article 4.7.</p> <p>4. Any amendment adopted in accordance with Article 12.3 shall be notified by the Depositary [Government of France] to all Contracting Parties and the Secretary General. The amendment shall be deemed to have been accepted at the end of a period of twelve months after the date of notification, unless within that period not less than one-fourth of the States that were Contracting Parties at the time of the adoption of the amendment have communicated to the Depositary that they do not accept the amendment, in which case the amendment is rejected and shall have no effect.</p> <p>5. An amendment deemed to have been accepted in accordance with Article 12.4 shall enter into force six months after its acceptance.</p> | <p>EFI Art 17 and others</p> <p>SOLAS Part I Art VIII (b) (vi)</p> | |
| 14 | <p style="text-align: center;">Article 13 Interpretation and Disputes</p> <p>Any question or dispute concerning the interpretation or application of the present Convention 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 a panel of three independent arbitrators appointed by the Secretary-General of the Permanent Court of Arbitration, unless the parties to the dispute agree upon another mode of settlement.</p> | <p>IHO Art XVII WMO Art 29</p> | |
| 15 | <p style="text-align: center;">Article 14 Signature, Ratification and Accession</p> <p>1. This Convention shall open for signature by Members 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>IHO Art XVIII WMO Art 32</p> | |

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| | <p>3. This Convention shall be open for accession by any Member of the United Nations which has not signed the Convention from the day after the date on which the Convention closes for signature.</p> <p>4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary [Government of France], who shall then notify each Contracting Party and the Secretary-General thereof.</p> <p>5. Ratification, acceptance, or approval of, or accession to, this Convention shall be without reservation.</p> | | |
| 16 | <p style="text-align: center;">Article 15 Entry into force</p> <p>1. The present Convention shall enter into force on the thirtieth day after the date of deposit of the 30th instrument of ratification, acceptance, approval or accession.</p> <p>2. For each State ratifying, accepting, approving or acceding to the 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> | WMO Art 35 | <i>It was noted by CoS that the minimum number of Contracting Parties should be in accordance with the number of seats on the Council. The participants suggested 30.</i> |
| 17 | <p style="text-align: center;">Article 16 Withdrawal</p> <p>1. Any Contracting Party may withdraw from this Convention by giving at least twelve month written notice to the Depositary [Government of France], who will immediately inform all Contracting Parties of such notification.</p> <p>2. Notification of withdrawal may be given at any time after the expiration of twelve months from the date on which the Convention has come into force.</p> <p>3. The withdrawal shall take effect on 31 December following the expiration of the notice.</p> | | |
| 18 | Article 17 | | |

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| | Termination | EFI Art 19 Constitution Art 13 | |
| 19 | Article 18 Transitional Arrangements | EFI Art 16.1 IOM Art 35 (only allows non-party councillors until next Council meeting – ie 12 months) | |

1. This Convention may be terminated by decision of the General Assembly upon a two-thirds majority of Contracting Parties present and voting, excluding any Contracting Party denied by Article 4.7 the rights and benefits conferred on Contracting Parties.
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.

1. Upon the entry into force of this Convention 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 and subject to their agreement, become Associate members of the Organization.
2. Upon the entry into force of this Convention all parties holding financial, non-suspended status as an associate member or industrial member of the International Association of Marine Aids to Navigation and Lighthouse Authorities, shall, with the approval of Council and subject to their agreement become Affiliate members of the Organization, in accordance with the General Regulations.
3. Upon the entry into force of this Convention 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 Convention, which must be within a period not exceeding six (6) months.
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.

