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Francis Zachariae  
Secretary General  
IALA

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Dear Mr. Zachariae,

Department of Navigation and Oceanography of the Ministry of Defence of the Russian Federation in cooperation with the Ministry of Foreign Affairs have prepared proposals for the documents on the new status of IALA.

Please consider these documents during the LAP meeting and take into account our proposals when working out the new edition of draft IALA Convention, IALA General Regulations and IALA Financial Regulations.

With best regards,

Deputy Head of Department of Navigation and Oceanography  
of the Ministry of Defence of the Russian Federation

Captain 1<sup>st</sup> Rank

O.Osipov

**Proposals**  
**of the Department of Navigation and Oceanography of the Ministry of**  
**Defense of the Russian Federation and the Ministry of Foreign Affairs of**  
**Russia to the draft Convention on the International Organization for Marine**  
**Aids to Navigation (IALA), as well as to the General and Financial**  
**Regulations of the Association.**

**The Convention on the IALA**

1. It is suggested that an additional Article called "Basic concepts of the Convention" is included, in which the definition of the Organization will be provided, as well as the definition of the category "marine aids to navigation", which is now included in Article 2.3 (we believe it is inappropriate to give a definition in this Article).

2. In Article 1.1, it is suggested that not simply a phrase "...the Organization... is hereby established as an international organization" is included in this Article, but it should be mentioned that it will be an "intergovernmental international organization".

3. In the text of the Convention, is important to confirm the legal nature of "General Regulations of the Organization", and to prescribe whether they are an Annex to the Convention or a document to be approved by the General Assembly (Article 1.4).

4. In order to keep uniformity, it is necessary to change the title of Article 2 for "Aims of the Organization", and the title of Article 4 for "Membership in the Organization" (in the titles like that it is appropriate to add the words "organization" or "convention").

5. In Article 3, "Functions of the Organization", it would be reasonable to change the order of Items, particularly, move Item "d" to the beginning of the Article and then in the following order: "e", "c", "b", "a", "g".

6. The definition of "Associate" and "Affiliated" members should be included in Article 4 "Membership" of the Convention, not in the General Regulations of the Organization. In general, the Convention should contain definitions of all the members, including those not to be elected. Grounds for termination and suspension of membership should be stated in a separate Article of the Convention, but not in the General Regulations of the Organization.

7. In Article 4.3, is not clear from the wording "any Contracting Party may claim Associate membership for a territory or group of territories for which it has responsibility" whether it is mandated territories of countries (islands, etc.), or other categories.

8. It would be appropriate to devote a separate Article to contributions. Accordingly, Items 4, 5, 6 and 7 of Article 4 will go to a separate Article "Contributions to the Organization," which will follow Article 10 "Funding and Expenditure".

9. Item 3 of Article 5 could be put in a separate Article "Decision Making Procedures of the Organization."

10. Articles, which are devoted to the powers (authority) of IALA bodies, must contain general provisions for them. It is necessary to distinguish between general provisions for the bodies and the procedural aspects (for example, the procedure for the appointment of extraordinary sessions). The latter should be regulated by General Regulations of the Organization.

11. The problem of distinguishing between issues of substance and procedure is relevant in financial matters as well. For example, both the Convention and the Financial Regulations prescribe the regime of sanctions for nonpayment of fees, which seems to be too rigid: it is charging interest on the amount due (Article 4.6), loss of vote and other rights and privileges granted to the member States of the future Convention (Article 4.7). We believe that Item 6 of Article 4 could be deleted without affecting the new structure.

12. Clarifications are necessary in the issue of relationship between the powers of the General Assembly and of the Council of IALA in the context of the financial management of the General Assembly, including the determination of contribution rates - Article 6.7 (d) (powers of the General Assembly) and Article 7.6 (e) and (d) (powers of Council).

13. In Article 6.7 (f) "General Assembly", it is necessary to clarify, for what kind of issues the General Assembly will adopt standards, and what legal power they will have.

14. It is necessary to specify what will be the range of issues covered by recommendations and guidelines, which are endorsed by the authority of the Council in Article 7, and what legal power they will have. Also, we consider it appropriate to prescribe it in the Article "General Assembly", that these recommendations and guidelines are adopted by the General Assembly, in case it is meant that this is part of the Assembly powers. Otherwise, there is little understanding about which body is the main one in taking the final decision on these issues, and which authority develops these guidelines.

15. We believe that the issue of the election procedure of the Secretary-General, as well as the election of the President an organization should be within the competence of the General Assembly.

16. Function 6 (m) of Article 7 of the Council of determining the terms of reference for committees and other subsidiary bodies seems to be arguable (typically committees and bodies determine it themselves in their documents).

17. The situation with creation of committees and other subsidiary bodies (Article 8) is not clear. In the current edition, the General Assembly and the Council of IALA have equal rights to establish them. We believe that a mechanism of subordination between them, with taking in account provisions of Item 6 (m) of Article 7, should be integrated into the draft Convention.

18. We would suggest to revise the wording of Item 1(b) of Article 9 "Secretariat" and Item 3 "a", and replace the phrase "management of the Organization" by the wording "chief administrative officer", and use derived from this wording formulation of function as "to administer".

19. Regarding privileges and immunities (Article 11 "Legal Personality, Privileges and Immunities"), we believe that in general, reference to the Convention on the Privileges and Immunities of the Specialized Agencies 1947 is valid. However, it is necessary to include in this phrase that the Convention will be applied *mutatis mutandis*. It is also necessary to clarify what was meant by "subject to the agreement of each Contracting Party" (Item 2 of Article 11). If this means that providing the appropriate level of privileges and immunities will be determined on the basis of a separate "agreement" with each member state, it is necessary to prescribe it appropriately.

20. We believe that Item 8 of Article 4 should be included in Article 11.

21. We consider it appropriate to change the title of Article 13 for "Settlement of Disputes over Interpretation and Application of the Convention." Here, it is also important to agree whether the conditions that must be fulfilled before submission of the dispute to independent arbitrators, in the event of any dispute over interpretation or application of the Convention, will alternative, dispositive, or imperative (that is, when a dispute arises, should the parties conduct both consultations and negotiations, and go through the Council mediation procedure, or fulfillment of one of these conditions will be enough). We believe it is extremely important to work out this article, to avoid future disputes of the parties over the fulfillment of all the necessary conditions for submission of a dispute to arbitration.

#### **IALA General Regulations**

1. We believe that detailed work on the General Regulations of the Organization can be started only after approval of the text of the Convention and elimination of duplication of the provisions contained in the Convention and General Regulations.

2. The article about the categories of membership of the Organization should be moved to the Convention. It should be noted that the articles devoted to the application procedure for membership in the Organization, procedure of membership fees, etc. should be included exactly in the General Regulations of the Organization.

3. Articles on bodies of the Organization should be listed in a uniform manner (where possible, e.g. articles on the General Assembly, the Council, Committees, the Secretariat).

#### **IALA Financial Regulations**

1. The provisions contained in the Convention and the Financial Regulations should not be duplicated.

2. In Article 9 of the Financial Regulations "Members' Annual Contributions", it is necessary to incorporate the principles of calculating the contributions of members of the Organization, which should be based on objective indicators.

3. It is necessary to remove reference to specific dates of payment of contributions and interest rate for delay of their payment from Article 10 "Unpaid Contributions".

4. Prescribed in Article 4 “Budget” transfer of allocations between various categories of expenditure according to the decision of the Secretary General of the Organization does not provide any procedures for approval of such transfers by the members of the Organization. This practice actually provides the Secretary General with unlimited powers to manage the assets of the IALA and needs to be reviewed. It should be prescribed that the approval of the proposals of the Secretary-General is carried out by the governing bodies of IALA following an independent peer review, for example by the Financial and Audit Committee.

5. In order to improve the effectiveness of control over the financial activity of the organization, we believe it is appropriate to add a provision about necessity of preparation and submission of its accounting documents in accordance with international accounting standards in the public sector ("International Public Sector Accounting Standards", "IPSAS") to Item 5.3. (Article 5 "Income & Expenditure").

6. The draft Financial Regulations have no prescribed mechanism on the use of the balance of contributions/payments of the members of the Organization. According to the practice in other international organizations, they should be returned to the participants (in proportion to their contributions/payments).

7. In the matter of the suspension of the participation in the organization of Associate and Affiliated members (Item 2.6. "Suspension and Reinstatement of Associate and Affiliated members" of the "General Regulations"), we believe it is necessary to specify the used in this context term "justifiable cause") in order to avoid loose interpretation. The same term, moreover, is found in other articles.